Public Law 100-1
100th Congress

Joint Resolution

Extending the time within which the President may transmit the Economic Report to the Congress.

Jan. 28, 1987
[H.J. Res. 88]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 3 of the Act of February 20, 1946, as amended (15 U.S.C. 1022), the President shall transmit to the Congress not later than January 30, 1987, the Economic Report.

Approved January 28, 1987.

LEGISLATIVE HISTORY—H.J. Res. 88:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Jan. 21, considered and passed House.
Jan. 22, considered and passed Senate.

○

Public Law 100-2
100th Congress

Joint Resolution

Jan. 28, 1987
[H.J. Res. 93]

To provide for a temporary prohibition of strikes or lockouts with respect to the Long Island Rail Road labor-management dispute.

Whereas the labor dispute between the rail carrier, Long Island Rail Road, and certain of the employees of such carrier represented by several labor organizations threatens essential transportation services of the Nation;

Whereas it is essential to the national interest, including the national health and defense, that essential transportation services be maintained;

Whereas the Congress finds that emergency measures are essential to security and continuity of transportation services by such carrier;

Whereas it is desirable to resolve such dispute in a manner which encourages solutions reached through collective bargaining;

Whereas the parties were unable to resolve the dispute according to the recommendations of Presidential Emergency Board No. 210, issued June 25, 1986;

45 USC 151.
51 FR 32777.

Whereas the President, pursuant to the Railway Labor Act, by Executive Order No. 12563 of September 12, 1986, created Presidential Emergency Board No. 212 to investigate the dispute and report findings;

Whereas the recommendations of Presidential Emergency Board No. 212 for settlement of such dispute have not yet resulted in a settlement; and

Whereas all the procedures for resolving such dispute provided for in the Railway Labor Act have been exhausted and have not resulted in settlement of the dispute: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9A(h) of the Railway Labor Act (45 U.S.C. 159a(h)) shall apply and be extended for an additional period of 60 days beginning on January 17, 1987, with respect to the dispute referred to in Executive Order No. 12563 of September 12, 1986, so that no change, except by agreement, shall be made by the rail carrier, Long Island Rail Road, or by the employees of such carrier represented by labor organizations which are party to such dispute, in the conditions out of which such dispute arose as such conditions existed before 12:01 ante meridiem of January 17, 1987.

Reports.

SEC. 2. (a) Not later than 10 days before the expiration of the 60-day period referred to in the first section of this joint resolution, the board established under subsection (b) shall submit to the Congress a full and comprehensive report containing—

(1) the progress, if any, of negotiations between the rail carrier, Long Island Rail Road, and the employees of such carrier represented by labor organizations which are party to such dispute;

(2) findings of fact regarding circumstances related to the dispute described in this joint resolution; and

(3) recommendations for a proposed solution of the dispute described in this joint resolution, including, but not limited to, the issues covered by Presidential Emergency Board No. 212.

Report.

(b) The National Mediation Board shall appoint a three-member board for the purpose of preparing and submitting the report described in subsection (a). No member appointed to such board shall be pecuniarily or otherwise interested in any organization of employees or any carrier. The compensation of such members shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply to the expenses of the board established under this subsection as if such board were a board created under such section 10.

Termination date.

(c) The board appointed under subsection (b) shall terminate upon the submission to the Congress of the report required under subsection (a).

Approved January 28, 1987.

LEGISLATIVE HISTORY—H.J. Res. 93:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Jan. 27, considered and passed House and Senate.

○

Public Law 100-3
100th Congress

Joint Resolution

Jan. 28, 1987
[S.J. Res. 24]

To designate January 28, 1987, as "National Challenger Center Day" to honor the crew of the space shuttle Challenger.

Whereas the crew of the space shuttle Challenger was dedicated to stimulating the interest of American children in space flight and science generally, and in scientific and technological research and advancement;

Whereas the members of the Challenger crew gave their lives trying to benefit the education of American children;

Whereas a fitting tribute to that effort and to the sacrifice of the Challenger crew and their families is needed;

Whereas an appropriate form for such a tribute would be to expand educational opportunities in science by the creation of a center that will offer children and teachers activities and information derived from American space research; and

Whereas the Challenger Center is the only institution expressly established by the immediate families of the crew of the Challenger for the above-named purposes, and is intended to be the living expression of the Nation's commemoration of the Challenger crew: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 28, 1987, is designated as "National Challenger Center Day" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day—

(1) by resolving that in the course of their regular activities the people of the United States will remember both the Challenger astronauts who died while serving their country, and the importance of the Challenger Center in honoring the accomplishments of the Challenger crew by continuing their goal of the expansion of interest and ability in space and science education; and

(2) with other appropriate ceremonies and activities.

Approved January 28, 1987.

LEGISLATIVE HISTORY—S.J. Res. 24:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Jan. 21, considered and passed Senate.
Jan. 27, considered and passed House.

○

Public Law 100-4
100th Congress

An Act

To amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes.

Feb. 4, 1987
[H.R. 1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Water Quality Act of 1987.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENTS TO FEDERAL WATER POLLUTION CONTROL ACT; DEFINITION OF ADMINISTRATOR.

(a) SHORT TITLE.—This Act may be cited as the "Water Quality Act of 1987".

33 USC 1251 note.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; amendments to Federal Water Pollution Control Act; definition of Administrator.
Sec. 2. Limitation on payments.

TITLE I—AMENDMENTS TO TITLE I

Sec. 101. Authorizations of appropriations.
Sec. 102. Small flows clearinghouse.
Sec. 103. Chesapeake Bay.
Sec. 104. Great Lakes.
Sec. 105. Research on effects of pollutants.

TITLE II—CONSTRUCTION GRANTS AMENDMENTS

Sec. 201. Time limit on resolving certain disputes.
Sec. 202. Federal share.
Sec. 203. Agreement on eligible costs.
Sec. 204. Design/build projects.
Sec. 205. Grant conditions; user charges on low-income residential users.
Sec. 206. Allotment formula.
Sec. 207. Rural set aside.
Sec. 208. Innovative and alternative projects.
Sec. 209. Regional organization funding.
Sec. 210. Marine CSO's and estuaries.
Sec. 211. Authorization for construction grants.
Sec. 212. State water pollution control revolving funds.
Sec. 213. Improvement projects.
Sec. 214. Chicago tunnel and reservoir project.
Sec. 215. Ad valorem tax dedication.

TITLE III—STANDARDS AND ENFORCEMENTS

Sec. 301. Compliance dates.
Sec. 302. Modification for nonconventional pollutants.
Sec. 303. Discharges into marine waters.
Sec. 304. Filing deadline for treatment works modification.
Sec. 305. Innovative technology compliance deadlines for direct dischargers.
Sec. 306. Fundamentally different factors.
Sec. 307. Coal remining operations.
Sec. 308. Individual control strategies for toxic pollutants.
Sec. 309. Pretreatment standards.
Sec. 310. Inspection and entry.
Sec. 311. Marine sanitation devices.
Sec. 312. Criminal penalties.
Sec. 313. Civil penalties.
Sec. 314. Administrative penalties.
Sec. 315. Clean lakes.

Sec. 316. Management of nonpoint sources of pollution.
Sec. 317. National estuary program.
Sec. 318. Unconsolidated quaternary aquifer.

TITLE IV—PERMITS AND LICENSES

Sec. 401. Stormwater runoff from oil, gas, and mining operations.
Sec. 402. Additional pretreatment of conventional pollutants not required.
Sec. 403. Partial NPDES program.
Sec. 404. Anti-backsliding.
Sec. 405. Municipal and industrial stormwater discharges.
Sec. 406. Sewage sludge.
Sec. 407. Log transfer facilities.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Audits.
Sec. 502. Commonwealth of the Northern Mariana Islands.
Sec. 503. Agricultural stormwater discharges.
Sec. 504. Protection of interests of United States in citizen suits.
Sec. 505. Judicial review and award of fees.
Sec. 506. Indian tribes.
Sec. 507. Definition of point source.
Sec. 508. Special provisions regarding certain dumping sites.
Sec. 509. Ocean discharge research project.
Sec. 510. San Diego, California.
Sec. 511. Limitation on discharge of raw sewage by New York City.
Sec. 512. Oakwood Beach and Red Hook Projects, New York.
Sec. 513. Boston Harbor and adjacent waters.
Sec. 514. Wastewater reclamation demonstration.
Sec. 515. Des Moines, Iowa.
Sec. 516. Study of de minimis discharges.
Sec. 517. Study of effectiveness of innovative and alternative processes and techniques.
Sec. 518. Study of testing procedures.
Sec. 519. Study of pretreatment of toxic pollutants.
Sec. 520. Studies of water pollution problems in aquifers.
Sec. 521. Great Lakes consumptive use study.
Sec. 522. Sulfide corrosion study.
Sec. 523. Study of rainfall induced infiltration into sewer systems.
Sec. 524. Dam water quality study.
Sec. 525. Study of pollution in Lake Pend Oreille, Idaho.

(c) Amendment of Federal Water Pollution Control Act.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Water Pollution Control Act.

33 USC 1251 note.

33 USC 1251 note.

(d) Definition.—For purposes of this Act, the term "Administrator" means the Administrator of the Environmental Protection Agency.

33 USC 1251 note.

SEC. 2. LIMITATION ON PAYMENTS.

No payments may be made under this Act except to the extent provided in advance in appropriation Acts.

TITLE I—AMENDMENTS TO TITLE I

SEC. 101. AUTHORIZATIONS OF APPROPRIATIONS.

33 USC 1254.

(a) Research and Investigations.—Section 104(u) is amended—

(1) in clause (1) by striking out "and" after "1975,", after "1980,", and after "1981,", and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983

through 1985, and not to exceed $22,770,000 per fiscal year for each of the fiscal years 1986 through 1990,";

(2) in clause (2) by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $3,000,000 per fiscal year for each of the fiscal years 1986 through 1990,"; and

(3) in clause (3) by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $1,500,000 per fiscal year for each of the fiscal years 1986 through 1990,".

(b) **Grants for Program Administration.**—Section 106(a)(2) is amended by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $75,000,000 per fiscal year for each of the fiscal years 1986 through 1990". 33 USC 1256.

(c) **Training Grants and Scholarships.**—Section 112(c) is amended by striking out "and" after "1981," and by inserting after "1982," the following: "such sums as may be necessary for fiscal years 1983 through 1985, and $7,000,000 per fiscal year for each of the fiscal years 1986 through 1990,". 33 USC 1262.

(d) **Areawide Planning.**—Section 208(f)(3) is amended by striking out "and" after "1974," and after "1980," and by inserting after "1982" the following: ", and such sums as may be necessary for fiscal years 1983 through 1990". 33 USC 1288.

(e) **Rural Clean Water.**—Section 208(j)(9) is amended by striking out "and" after "1981," and by inserting after "1982," the following: "and such sums as may be necessary for fiscal years 1983 through 1990,".

(f) **Interagency Agreements.**—Section 304(k)(3) is amended by inserting after "1983" the following: "and such sums as may be necessary for fiscal years 1984 through 1990". 33 USC 1314.

(g) **Clean Lakes.**—Section 314(c)(2) is amended by striking out "and" after "1981," and by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $30,000,000 per fiscal year for each of the fiscal years 1986 through 1990". 33 USC 1324.

(h) **General Authorization.**—Section 517 is amended by striking out "and" after "1981," and by inserting after "1982" the following: ", such sums as may be necessary for fiscal years 1983 through 1985, and $135,000,000 per fiscal year for each of the fiscal years 1986 through 1990". 33 USC 1376.

SEC. 102. SMALL FLOWS CLEARINGHOUSE.

Section 104(q) is amended by adding at the end thereof the following new paragraph: 33 USC 1254.

"(4) **Small flows clearinghouse.**—Notwithstanding section 205(d) of this Act, from amounts that are set aside for a fiscal year under section 205(i) of this Act and are not obligated by the end of the 24-month period of availability for such amounts under section 205(d), the Administrator shall make available $1,000,000 or such unobligated amount, whichever is less, to support a national clearinghouse within the Environmental Protection Agency to collect and disseminate information on small flows of sewage and innovative or alternative wastewater treatment processes and techniques, consistent with paragraph (3). This paragraph shall apply with respect to amounts set aside under section 205(i) for which the 24-month period of 33 USC 1285.

availability referred to in the preceding sentence ends on or after September 30, 1986.".

33 USC 1267.

SEC. 103. CHESAPEAKE BAY.

Title I is amended by adding at the end the following new section:

"SEC. 117. CHESAPEAKE BAY.

"(a) OFFICE.—The Administrator shall continue the Chesapeake Bay Program and shall establish and maintain in the Environmental Protection Agency an office, division, or branch of Chesapeake Bay Programs to—

"(1) collect and make available, through publications and other appropriate means, information pertaining to the environmental quality of the Chesapeake Bay (hereinafter in this subsection referred to as the 'Bay');

"(2) coordinate Federal and State efforts to improve the water quality of the Bay;

"(3) determine the impact of sediment deposition in the Bay and identify the sources, rates, routes, and distribution patterns of such sediment deposition; and

"(4) determine the impact of natural and man-induced environmental changes on the living resources of the Bay and the relationships among such changes, with particular emphasis placed on the impact of pollutant loadings of nutrients, chlorine, acid precipitation, dissolved oxygen, and toxic pollutants, including organic chemicals and heavy metals, and with special attention given to the impact of such changes on striped bass.

"(b) INTERSTATE DEVELOPMENT PLAN GRANTS.—

"(1) AUTHORITY.—The Administrator shall, at the request of the Governor of a State affected by the interstate management plan developed pursuant to the Chesapeake Bay Program (hereinafter in this section referred to as the 'plan'), make a grant for the purpose of implementing the management mechanisms contained in the plan if such State has, within 1 year after the date of the enactment of this section, approved and committed to implement all or substantially all aspects of the plan. Such grants shall be made subject to such terms and conditions as the Administrator considers appropriate.

"(2) SUBMISSION OF PROPOSAL.—A State or combination of States may elect to avail itself of the benefits of this subsection by submitting to the Administrator a comprehensive proposal to implement management mechanisms contained in the plan which shall include (A) a description of proposed abatement actions which the State or combination of States commits to take within a specified time period to reduce pollution in the Bay and to meet applicable water quality standards, and (B) the estimated cost of the abatement actions proposed to be taken during the next fiscal year. If the Administrator finds that such proposal is consistent with the national policies set forth in section 101(a) of this Act and will contribute to the achievement of the national goals set forth in such section, the Administrator shall approve such proposal and shall finance the costs of implementing segments of such proposal.

"(3) FEDERAL SHARE.—Grants under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms contained in the plan in any fiscal year and shall be made on condition that non-Federal sources provide the remainder of the cost of implementing the management mechanisms contained in the plan during such fiscal year.

"(4) ADMINISTRATIVE COSTS.—Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this subsection shall not exceed in any one fiscal year 10 percent of the annual Federal grant made to a State under this subsection.

State and local governments.

"(c) REPORTS.—Any State or combination of States that receives a grant under subsection (b) shall, within 18 months after the date of receipt of such grant and biennially thereafter, report to the Administrator on the progress made in implementing the interstate management plan developed pursuant to the Chesapeake Bay Program. The Administrator shall transmit each such report along with the comments of the Administrator on such report to Congress.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section:

"(1) $3,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, to carry out subsection (a); and

"(2) $10,000,000 per fiscal year for each of the fiscal years 1987, 1988, 1989, and 1990, for grants to States under subsection (b).".

SEC. 104. GREAT LAKES.

Title I is amended by adding at the end the following new section:

"SEC. 118. GREAT LAKES.

33 USC 1268.

"(a) FINDINGS, PURPOSE, AND DEFINITIONS.—

"(1) FINDINGS.—The Congress finds that—

"(A) the Great Lakes are a valuable national resource, continuously serving the people of the United States and other nations as an important source of food, fresh water, recreation, beauty, and enjoyment;

"(B) the United States should seek to attain the goals embodied in the Great Lakes Water Quality Agreement of 1978 with particular emphasis on goals related to toxic pollutants; and

"(C) the Environmental Protection Agency should take the lead in the effort to meet those goals, working with other Federal agencies and State and local authorities.

"(2) PURPOSE.—It is the purpose of this section to achieve the goals embodied in the Great Lakes Water Quality Agreement of 1978 through improved organization and definition of mission on the part of the Agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such agreement.

"(3) DEFINITIONS.—For purposes of this section, the term—

"(A) 'Agency' means the Environmental Protection Agency;

"(B) 'Great Lakes' means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, and Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border);

"(C) 'Great Lakes System' means all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes;

"(D) 'Program Office' means the Great Lakes National Program Office established by this section; and

"(E) 'Research Office' means the Great Lakes Research Office established by subsection (d).

"(b) GREAT LAKES NATIONAL PROGRAM OFFICE.—The Great Lakes National Program Office (previously established by the Administrator) is hereby established within the Agency. The Program Office shall be headed by a Director who, by reason of management experience and technical expertise relating to the Great Lakes, is highly qualified to direct the development of programs and plans on a variety of Great Lakes issues. The Great Lakes National Program Office shall be located in a Great Lakes State.

"(c) GREAT LAKES MANAGEMENT.—

"(1) FUNCTIONS.—The Program Office shall—

"(A) in cooperation with appropriate Federal, State, tribal, and international agencies, and in accordance with section 101(e) of this Act, develop and implement specific action plans to carry out the responsibilities of the United States under the Great Lakes Water Quality Agreement of 1978;

33 USC 1251.

"(B) establish a Great Lakes system-wide surveillance network to monitor the water quality of the Great Lakes, with specific emphasis on the monitoring of toxic pollutants;

"(C) serve as the liaison with, and provide information to, the Canadian members of the International Joint Commission and the Canadian counterpart to the Agency;

"(D) coordinate actions of the Agency (including actions by headquarters and regional offices thereof) aimed at improving Great Lakes water quality; and

"(E) coordinate actions of the Agency with the actions of other Federal agencies and State and local authorities, so as to ensure the input of those agencies and authorities in developing water quality strategies and obtain the support of those agencies and authorities in achieving the objectives of such agreement.

"(2) 5-YEAR PLAN AND PROGRAM.—The Program Office shall develop, in consultation with the States, a five-year plan and program for reducing the amount of nutrients introduced into the Great Lakes. Such program shall incorporate any management program for reducing nutrient runoff from nonpoint sources established under section 319 of this Act and shall include a program for monitoring nutrient runoff into, and ambient levels in, the Great Lakes.

Pollution.
Michigan.
Wisconsin.
Indiana.
Ohio.
New York.

"(3) 5-YEAR STUDY AND DEMONSTRATION PROJECTS.—The Program Office shall carry out a five-year study and demonstration projects relating to the control and removal of toxic pollutants in the Great Lakes, with emphasis on the removal of toxic pollutants from bottom sediments. In selecting locations for conducting demonstration projects under this paragraph, priority consideration shall be given to projects at the following locations: Saginaw Bay, Michigan; Sheboygan Harbor, Wisconsin; Grand Calumet River, Indiana; Ashtabula River, Ohio; and Buffalo River, New York.

"(4) ADMINISTRATOR'S RESPONSIBILITY.—The Administrator shall ensure that the Program Office enters into agreements with the various organizational elements of the Agency involved in Great Lakes activities and the appropriate State agencies specifically delineating—

"(A) the duties and responsibilities of each such element in the Agency with respect to the Great Lakes;

"(B) the time periods for carrying out such duties and responsibilities; and

"(C) the resources to be committed to such duties and responsibilities.

"(5) BUDGET ITEM.—The Administrator shall, in the Agency's annual budget submission to Congress, include a funding request for the Program Office as a separate budget line item.

"(6) COMPREHENSIVE REPORT.—Within 90 days after the end of each fiscal year, the Administrator shall submit to Congress a comprehensive report which—

Research and development.
State and local governments.

"(A) describes the achievements in the preceding fiscal year in implementing the Great Lakes Water Quality Agreement of 1978 and shows by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amounts expended on Great Lakes water quality initiatives in such preceding fiscal year;

"(B) describes the progress made in such preceding fiscal year in implementing the system of surveillance of the water quality in the Great Lakes System, including the monitoring of groundwater and sediment, with particular reference to toxic pollutants;

"(C) describes the long-term prospects for improving the condition of the Great Lakes; and

"(D) provides a comprehensive assessment of the planned efforts to be pursued in the succeeding fiscal year for implementing the Great Lakes Water Quality Agreement of 1978, which assessment shall—

Research and development.
State and local govenments.

"(i) show by categories (including judicial enforcement, research, State cooperative efforts, and general administration) the amount anticipated to be expended on Great Lakes water quality initiatives in the fiscal year to which the assessment relates; and

"(ii) include a report of current programs administered by other Federal agencies which make available resources to the Great Lakes water quality management efforts.

"(d) GREAT LAKES RESEARCH.—

"(1) ESTABLISHMENT OF RESEARCH OFFICE.—There is established within the National Oceanic and Atmospheric Administration the Great Lakes Research Office.

Reports.

"(2) IDENTIFICATION OF ISSUES.—The Research Office shall identify issues relating to the Great Lakes resources on which research is needed. The Research Office shall submit a report to Congress on such issues before the end of each fiscal year which shall identify any changes in the Great Lakes system with respect to such issues.

State and local governments.
Schools and colleges.

"(3) INVENTORY.—The Research Office shall identify and inventory Federal, State, university, and tribal environmental research programs (and, to the extent feasible, those of private organizations and other nations) relating to the Great Lakes system, and shall update that inventory every four years.

"(4) RESEARCH EXCHANGE.—The Research Office shall establish a Great Lakes research exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning research projects which are ongoing or completed and which affect the Great Lakes System.

Fish and fishing.

"(5) RESEARCH PROGRAM.—The Research Office shall develop, in cooperation with the Coordination Office, a comprehensive environmental research program and data base for the Great Lakes system. The data base shall include, but not be limited to, data relating to water quality, fisheries, and biota.

"(6) MONITORING.—The Research Office shall conduct, through the Great Lakes Environmental Research Laboratory, the National Sea Grant College program, other Federal laboratories, and the private sector, appropriate research and monitoring activities which address priority issues and current needs relating to the Great Lakes.

"(7) LOCATION.—The Research Office shall be located in a Great Lakes State.

"(e) RESEARCH AND MANAGEMENT COORDINATION.—

"(1) JOINT PLAN.—Before October 1 of each year, the Program Office and the Research Office shall prepare a joint research plan for the fiscal year which begins in the following calendar year.

"(2) CONTENTS OF PLAN.—Each plan prepared under paragraph (1) shall—

"(A) identify all proposed research dedicated to activities conducted under the Great Lakes Water Quality Agreement of 1978;

"(B) include the Agency's assessment of priorities for research needed to fulfill the terms of such Agreement; and

"(C) identify all proposed research that may be used to develop a comprehensive environmental data base for the Great Lakes System and establish priorities for development of such data base.

Reports.

"(f) INTERAGENCY COOPERATION.—The head of each department, agency, or other instrumentality of the Federal Government which is engaged in, is concerned with, or has authority over programs relating to research, monitoring, and planning to maintain, enhance, preserve, or rehabilitate the environmental quality and natural resources of the Great Lakes, including the Chief of Engineers of the Army, the Chief of the Soil Conservation Service, the Commandant of the Coast Guard, the Director of the Fish and Wildlife Service, and the Administrator of the National Oceanic and Atmospheric Administration, shall submit an annual report to the Administrator with respect to the activities of that agency or office affecting compliance with the Great Lakes Water Quality Agreement of 1978.

"(g) RELATIONSHIP TO EXISTING FEDERAL AND STATE LAWS AND INTERNATIONAL TREATIES.—Nothing in this section shall be construed to affect the jurisdiction, powers, or prerogatives of any department, agency, or officer of the Federal Government or of any State government, or of any tribe, nor any powers, jurisdiction, or prerogatives of any international body created by treaty with authority relating to the Great Lakes.

"(h) Authorizations of Great Lakes Appropriations.—There are authorized to be appropriated to the Administrator to carry out this section not to exceed $11,000,000 per fiscal year for the fiscal years 1987, 1988, 1989, 1990, and 1991. Of the amounts appropriated each fiscal year—

"(1) 40 percent shall be used by the Great Lakes National Program Office on demonstration projects on the feasibility of controlling and removing toxic pollutants;

"(2) 7 percent shall be used by the Great Lakes National Program Office for the program of nutrient monitoring; and

"(3) 30 percent shall be transferred to the National Oceanic and Atmospheric Administration for use by the Great Lakes Research Office.".

SEC. 105. RESEARCH ON EFFECTS OF POLLUTANTS.

33 USC 1254a.

In carrying out the provisions of section 104(a) of the Federal Water Pollution Control Act, the Administrator shall conduct research on the harmful effects on the health and welfare of persons caused by pollutants in water, in conjunction with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and other Federal, State, and interstate agencies carrying on such research. Such research shall include, and shall place special emphasis on, the effect that bioaccumulation of these pollutants in aquatic species has upon reducing the value of aquatic commercial and sport industries. Such research shall further study methods to reduce and remove these pollutants from the relevant affected aquatic species so as to restore and enhance these valuable resources.

33 USC 1254.

TITLE II—CONSTRUCTION GRANTS AMENDMENTS

SEC. 201. TIME LIMIT ON RESOLVING CERTAIN DISPUTES.

Section 201 is amended by adding at the end thereof the following new subsection:

33 USC 1281.

"(p) Time Limit on Resolving Certain Disputes.—In any case in which a dispute arises with respect to the awarding of a contract for construction of treatment works by a grantee of funds under this title and a party to such dispute files an appeal with the Administrator under this title for resolution of such dispute, the Administrator shall make a final decision on such appeal within 90 days of the filing of such appeal.".

Contracts.

SEC. 202. FEDERAL SHARE.

(a) Limitation on Eligibility After 1990.—The last sentence of section 202(a)(1) is amended by inserting before the period at the end the following: "for any grant made pursuant to a State obligation which obligation occurred before October 1, 1990".

33 USC 1282.

(b) Projects Under Judicial Injunction.—Section 202(a)(1) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this paragraph, in the case of a project for which an application for a grant under this title has been made to the Administrator before October 1, 1984, and which project is under judicial injunction on such date prohibiting its construction, such project shall be eligible for grants at 75 percent of the cost of construction thereof.".

Pennsylvania.
33 USC 1282.

(c) PROJECTS UNDER JUDICIAL ORDER AND OTHER PROJECTS.—Section 202(a)(1) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this paragraph, in the case of the Wyoming Valley Sanitary Authority project mandated by judicial order under a proceeding begun prior to October 1, 1984, and a project for wastewater treatment for Altoona, Pennsylvania, such projects shall be eligible for grants at 75 percent of the cost of construction thereof.".

(d) BIODISC EQUIPMENT.—Section 202(a)(3) is amended by adding at the end thereof the following: "In addition, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of biodisc equipment (rotating biological contactors) in any publicly owned treatment works if the Administrator finds that such equipment has failed to meet design performance specifications, unless such failure is attributable to negligence on the part of any person, and if such failure has significantly increased capital or operating and maintenance expenditures.".

Minnesota.

(e) INNOVATIVE PROCESS.—The activated bio-filter feature of the project for treatment works of the city of Little Falls, Minnesota, shall be deemed to be an innovative wastewater process and technique for purposes of section 202(a)(2) of the Federal Water Pollution Control Act and the amount of any grant under such Act for such feature shall be 85 percent of the cost thereof.

33 USC 1281b.
State and local governments.

(f) AVAILABILITY OF CERTAIN FUNDS FOR NON-FEDERAL SHARE.—Notwithstanding any other provision of law, Federal assistance made available by the Farmers Home Administration to any political subdivision of a State may be used to provide the non-Federal share of the cost of any construction project carried out under section 201 of the Federal Water Pollution Control Act.

33 USC 1281.

Contracts.

SEC. 203. AGREEMENT ON ELIGIBLE COSTS.

33 USC 1283.

Section 203(a) is amended by inserting "(1)" after "(a)", by designating the last sentence as paragraph (3) and indenting such sentence as a paragraph, and by inserting before paragraph (3) as so designated the following:

"(2) AGREEMENT ON ELIGIBLE COSTS.—

"(A) LIMITATION ON MODIFICATIONS.—Before taking final action on any plans, specifications, and estimates submitted under this subsection after the 60th day following the date of the enactment of the Water Quality Act of 1987, the Administrator shall enter into a written agreement with the applicant which establishes and specifies which items of the proposed project are eligible for Federal payments under this section. The Administrator may not later modify such eligibility determinations unless they are found to have been made in violation of applicable Federal statutes and regulations.

"(B) LIMITATION ON EFFECT.—Eligibility determinations under this paragraph shall not preclude the Administrator from auditing a project pursuant to section 501 of this Act, or other authority, or from withholding or recovering Federal funds for costs which are found to be unreasonable, unsupported by adequate documentation, or otherwise unallowable under applicable Federal cost principles, or which are incurred on a project which fails to meet the design

33 USC 1361.

specifications or effluent limitations contained in the grant agreement and permit pursuant to section 402 of this Act for such project.". 33 USC 1342.

SEC. 204. DESIGN/BUILD PROJECTS.

Section 203 is amended by adding at the end the following new subsection: 33 USC 1283.

"(f) DESIGN/BUILD PROJECTS.—

State and local governments. Contracts.

"(1) AGREEMENT.—Consistent with State law, an applicant who proposes to construct waste water treatment works may enter into an agreement with the Administrator under this subsection providing for the preparation of construction plans and specifications and the erection of such treatment works, in lieu of proceeding under the other provisions of this section.

"(2) LIMITATION ON PROJECTS.—Agreements under this subsection shall be limited to projects under an approved facility plan which projects are—

"(A) treatment works that have an estimated total cost of $8,000,000 or less; and

"(B) any of the following types of waste water treatment systems: aerated lagoons, trickling filters, stabilization ponds, land application systems, sand filters, and subsurface disposal systems.

"(3) REQUIRED TERMS.—An agreement entered into under this subsection shall—

"(A) set forth an amount agreed to as the maximum Federal contribution to the project, based upon a competitively bid document of basic design data and applicable standard construction specifications and a determination of the federally eligible costs of the project at the applicable Federal share under section 202 of this Act; 33 USC 1282.

"(B) set forth dates for the start and completion of construction of the treatment works by the applicant and a schedule of payments of the Federal contribution to the project;

"(C) contain assurances by the applicant that (i) engineering and management assistance will be provided to manage the project; (ii) the proposed treatment works will be an operable unit and will meet all the requirements of this title; and (iii) not later than 1 year after the date specified as the date of completion of construction of the treatment works, the treatment works will be operating so as to meet the requirements of any applicable permit for such treatment works under section 402 of this Act; 33 USC 1342.

"(D) require the applicant to obtain a bond from the contractor in an amount determined necessary by the Administrator to protect the Federal interest in the project; and

"(E) contain such other terms and conditions as are necessary to assure compliance with this title (except as provided in paragraph (4) of this subsection).

"(4) LIMITATION ON APPLICATION.—Subsections (a), (b), and (c) of this section shall not apply to grants made pursuant to this subsection.

"(5) RESERVATION TO ASSURE COMPLIANCE.—The Administrator shall reserve a portion of the grant to assure contract compliance until final project approval as defined by the Adminis- Grants.

trator. If the amount agreed to under paragraph (3)(A) exceeds the cost of designing and constructing the treatment works, the Administrator shall reallot the amount of the excess to the State in which such treatment works are located for the fiscal year in which such audit is completed.

33 USC 1285.

"(6) Limitation on obligations.—The Administrator shall not obligate more than 20 percent of the amount allotted to a State for a fiscal year under section 205 of this Act for grants pursuant to this subsection.

33 USC 1281.

"(7) Allowance.—The Administrator shall determine an allowance for facilities planning for projects constructed under this subsection in accordance with section 201(l).

"(8) Limitation on federal contributions.—In no event shall the Federal contribution for the cost of preparing construction plans and specifications and the building and erection of treatment works pursuant to this subsection exceed the amount agreed upon under paragraph (3).

Grants.

"(9) Recovery action.—In any case in which the recipient of a grant made pursuant to this subsection does not comply with the terms of the agreement entered into under paragraph (3), the Administrator is authorized to take such action as may be necessary to recover the amount of the Federal contribution to the project.

Grants.

"(10) Prevention of double benefits.—A recipient of a grant made pursuant to this subsection shall not be eligible for any other grants under this title for the same project.".

SEC. 205. GRANT CONDITIONS; USER CHARGES ON LOW-INCOME RESIDENTIAL USERS.

33 USC 1284.

(a) Inclusion of Project in Areawide Plan.—Section 204(a)(1) is amended to read as follows:

33 USC 1288.

"(1) that any required areawide waste treatment management plan under section 208 of this Act (A) is being implemented for such area and the proposed treatment works are included in such plan, or (B) is being developed for such area and reasonable progress is being made toward its implementation and the proposed treatment works will be included in such plan;".

(b) Continuing Planning Process.—Section 204(a)(2) is amended to read as follows:

State and local governments.
33 USC 1313.

"(2) that (A) the State in which the project is to be located (i) is implementing any required plan under section 303(e) of this Act and the proposed treatment works are in conformity with such plan, or (ii) is developing such a plan and the proposed treatment works will be in conformity with such plan, and (B) such State is in compliance with section 305(b) of this Act;".

33 USC 1315.

(c) User Charges on Low-Income Residential Users.—Section 204(b)(1) is amended by adding at the end thereof the following: "A system of user charges which imposes a lower charge for low-income residential users (as defined by the Administrator) shall be deemed to be a user charge system meeting the requirements of clause (A) of this paragraph if the Administrator determines that such system was adopted after public notice and hearing.".

33 USC 1284 note.

(d) Effective Date.—This section shall take effect on the date of the enactment of this Act, except that the amendments made by subsections (a) and (b) shall take effect on the last day of the two-year period beginning on such date of enactment.

SEC. 206. ALLOTMENT FORMULA.

(a) FORMULA.—

(1) EXTENSION OF EXISTING FORMULA FOR 1986.—Section 205(c)(2) is amended by striking out "and September 30, 1985," and inserting in lieu thereof "September 30, 1985, and September 30, 1986,".

33 USC 1285.

(2) FISCAL YEARS 1987-1990.—Section 205(c) is amended by adding at the end the following new paragraph:

"(3) FISCAL YEARS 1987-1990.—Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1987, 1988, 1989, and 1990 shall be allotted for each such year by the Administrator not later than the 10th day which begins after the date of the enactment of this paragraph. Sums authorized for such fiscal years shall be allotted in accordance with the following table:

33 USC 1287.

"States:

Alabama	.011309
Alaska	.006053
Arizona	.006831
Arkansas	.006616
California	.072333
Colorado	.008090
Connecticut	.012390
Delaware	.004965
District of Columbia	.004965
Florida	.034139
Georgia	.017100
Hawaii	.007833
Idaho	.004965
Illinois	.045741
Indiana	.024374
Iowa	.013688
Kansas	.009129
Kentucky	.012872
Louisiana	.011118
Maine	.007829
Maryland	.024461
Massachusetts	.034338
Michigan	.043487
Minnesota	.018589
Mississippi	.009112
Missouri	.028037
Montana	.004965
Nebraska	.005173
Nevada	.004965
New Hampshire	.010107
New Jersey	.041329
New Mexico	.004965
New York	.111632
North Carolina	.018253
North Dakota	.004965
Ohio	.056936
Oklahoma	.008171
Oregon	.011425
Pennsylvania	.040062
Rhode Island	.006791
South Carolina	.010361
South Dakota	.004965
Tennessee	.014692
Texas	.046226
Utah	.005329
Vermont	.004965
Virginia	.020698
Washington	.017588
West Virginia	.015766

Wisconsin	.027342
Wyoming	.004965
American Samoa	.000908
Guam	.000657
Northern Marianas	.000422
Puerto Rico	.013191
Pacific Trust Territories	.001295
Virgin Islands	.000527".

33 USC 1285.

(b) EXTENSION OF MINIMUM ALLOTMENTS.—Section 205(e) is amended by striking out "and 1985" each place it appears and inserting in lieu thereof "1985, 1986, 1987, 1988, 1989, and 1990".

(c) COSTS OF ADMINISTRATION.—Section 205(g)(1) is amended by striking out "October 1, 1985" and inserting in lieu thereof "October 1, 1994".

33 USC 1291.

(d) CONTROL OF POLLUTANTS FROM STORM SEWERS.—Section 211(c) is amended by striking out "1985," and inserting in lieu thereof "1990,".

SEC. 207. RURAL SET ASIDE.

(a) INCREASE IN MANDATORY SET ASIDE FOR RURAL STATES.—The first sentence of section 205(h) is amended by striking out "four per centum" and inserting in lieu thereof "a total (as determined by the Governor of the State) of not less than 4 percent nor more than 7½ percent".

(b) INCREASE IN AUTHORIZED SET ASIDE FOR OTHER STATES.—The second sentence of section 205(h) is amended by striking out "four per centum" and inserting in lieu thereof "7½ percent".

SEC. 208. INNOVATIVE AND ALTERNATIVE PROJECTS.

Section 205(i) is amended to read as follows:

State and local governments.

33 USC 1282.

"(i) SET-ASIDE FOR INNOVATIVE AND ALTERNATIVE PROJECTS.—Not less than ½ of 1 percent of funds allotted to a State for each of the fiscal years ending September 30, 1979, through September 30, 1990, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the preceding sentence, a total of 2 percent of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 percent of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (c) of this section shall be expended only for increasing grants for construction of treatment works pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 4 percent nor more than 7½ percent of the funds allotted to such State under subsection (c) of this section for each of the fiscal years ending September 30, 1982, through September 30, 1990, shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 202(a)(2) of this Act.".

SEC. 209. REGIONAL ORGANIZATION FUNDING.

State and local governments.

Section 205(j)(3) is amended by adding at the end thereof the following: "In giving such priority, the State shall allocate at least 40 percent of the amount granted to such State for a fiscal year under paragraph (2) of this subsection to regional public comprehensive planning organizations in such State and appropriate interstate organizations for the development and implementation of the plan described in this paragraph. In any fiscal year for which the Governor, in consultation with such organizations and with the approval of the Administrator, determines that allocation of at least 40 percent of such amount to such organizations will not result in significant participation by such organizations in water quality management planning and not significantly assist in development and implementation of the plan described in this paragraph and achieving the goals of this Act, the allocation to such organization may be less than 40 percent of such amount.".

SEC. 210. MARINE CSO'S AND ESTUARIES.

Section 205 is amended by adding at the end thereof the following new subsection: 33 USC 1285.

"(l) MARINE ESTUARY RESERVATION.—

"(1) RESERVATION OF FUNDS.—

"(A) GENERAL RULE.—Prior to making allotments among the States under subsection (c) of this section, the Administrator shall reserve funds from sums appropriated pursuant to section 207 for each fiscal year beginning after September 30, 1986. 33 USC 1287.

"(B) FISCAL YEARS 1987 AND 1988.—For each of fiscal years 1987 and 1988 the reservation shall be 1 percent of the sums appropriated pursuant to section 207 for such fiscal year.

"(C) FISCAL YEARS 1989 AND 1990.—For each of fiscal years 1989 and 1990 the reservation shall be 1½ percent of the funds appropriated pursuant to section 207 for such fiscal year.

"(2) USE OF FUNDS.—Of the sums reserved under this subsection, two-thirds shall be available to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, and one-third shall be available for the implementation of section 320 of this Act, relating to the national estuary program. Urban areas.

"(3) PERIOD OF AVAILABILITY.—Sums reserved under this subsection shall be subject to the period of availability for obligation established by subsection (d) of this section.

"(4) TREATMENT OF CERTAIN BODY OF WATER.—For purposes of this section and section 201(n), Newark Bay, New Jersey, and the portion of the Passaic River up to Little Falls, in the vicinity of Beatties Dam, shall be treated as a marine bay and estuary.". New Jersey. 33 USC 1281.

SEC. 211. AUTHORIZATIONS FOR CONSTRUCTION GRANTS.

Section 207 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; and for each of the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988, not to exceed $2,400,000,000; and for each of the fiscal years ending September 30, 1989, and September 30, 1990, not to exceed $1,200,000,000.". 33 USC 1287.

SEC. 212. STATE WATER POLLUTION CONTROL REVOLVING FUNDS.

(a) ESTABLISHMENT OF PROGRAM.—The Act is amended by adding at the end thereof the following new title:

"TITLE VI—STATE WATER POLLUTION CONTROL REVOLVING FUNDS

33 USC 1381.

"SEC. 601. GRANTS TO STATES FOR ESTABLISHMENT OF REVOLVING FUNDS.

"(a) General Authority.—Subject to the provisions of this title, the Administrator shall make capitalization grants to each State for the purpose of establishing a water pollution control revolving fund for providing assistance (1) for construction of treatment works (as defined in section 212 of this Act) which are publicly owned, (2) for implementing a management program under section 319, and (3) for developing and implementing a conservation and management plan under section 320.

33 USC 1292. *Post*, p. 52. *Post*, p. 61.

"(b) Schedule of Grant Payments.—The Administrator and each State shall jointly establish a schedule of payments under which the Administrator will pay to the State the amount of each grant to be made to the State under this title. Such schedule shall be based on the State's intended use plan under section 606(c) of this Act, except that—

Post, p. 25.

"(1) such payments shall be made in quarterly installments, and

"(2) such payments shall be made as expeditiously as possible, but in no event later than the earlier of—

"(A) 8 quarters after the date such funds were obligated by the State, or

"(B) 12 quarters after the date such funds were allotted to the State.

33 USC 1382.

"SEC. 602. CAPITALIZATION GRANT AGREEMENTS.

"(a) General Rule.—To receive a capitalization grant with funds made available under this title and section 205(m) of this Act, a State shall enter into an agreement with the Administrator which shall include but not be limited to the specifications set forth in subsection (b) of this section.

Post, p. 27.

"(b) Specific Requirements.—The Administrator shall enter into an agreement under this section with a State only after the State has established to the satisfaction of the Administrator that—

"(1) the State will accept grant payments with funds to be made available under this title and section 205(m) of this Act in accordance with a payment schedule established jointly by the Administrator under section 601(b) of this Act and will deposit all such payments in the water pollution control revolving fund established by the State in accordance with this title;

"(2) the State will deposit in the fund from State moneys an amount equal to at least 20 percent of the total amount of all capitalization grants which will be made to the State with funds to be made available under this title and section 205(m) of this Act on or before the date on which each quarterly grant payment will be made to the State under this title;

"(3) the State will enter into binding commitments to provide assistance in accordance with the requirements of this title in an amount equal to 120 percent of the amount of each such grant payment within 1 year after the receipt of such grant payment;

"(4) all funds in the fund will be expended in an expeditious and timely manner;

"(5) all funds in the fund as a result of capitalization grants under this title and section 205(m) of this Act will first be used to assure maintenance of progress, as determined by the Governor of the State, toward compliance with enforceable deadlines, goals, and requirements of this Act, including the municipal compliance deadline;

Post, p. 27.

"(6) treatment works eligible under section 603(c)(1) of this Act which will be constructed in whole or in part before fiscal year 1995 with funds directly made available by capitalization grants under this title and section 205(m) of this Act will meet the requirements of, or otherwise be treated (as determined by the Governor of the State) under sections 201(b), 201(g)(1), 201(g)(2), 201(g)(3), 201(g)(5), 201(g)(6), 201(n)(1), 201(o), 204(a)(1), 204(a)(2), 204(b)(1), 204(d)(2), 211, 218, 511(c)(1), and 513 of this Act in the same manner as treatment works constructed with assistance under title II of this Act;

33 USC 1281, 1284, 1291, 1298, 1371, 1372.

"(7) in addition to complying with the requirements of this title, the State will commit or expend each quarterly grant payment which it will receive under this title in accordance with laws and procedures applicable to the commitment or expenditure of revenues of the State;

33 USC 1281.

"(8) in carrying out the requirements of section 606 of this Act, the State will use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

Post; p. 25.

"(9) the State will require as a condition of making a loan or providing other assistance, as described in section 603(d) of this Act, from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards; and

Loans.

"(10) the State will make annual reports to the Administrator on the actual use of funds in accordance with section 606(d) of this Act.

Reports.

Post, p. 26.

"SEC. 603. WATER POLLUTION CONTROL REVOLVING LOAN FUNDS.

33 USC 1383.

"(a) REQUIREMENTS FOR OBLIGATION OF GRANT FUNDS.—Before a State may receive a capitalization grant with funds made available under this title and section 205(m) of this Act, the State shall first establish a water pollution control revolving fund which complies with the requirements of this section.

"(b) ADMINISTRATION.—Each State water pollution control revolving fund shall be administered by an instrumentality of the State with such powers and limitations as may be required to operate such fund in accordance with the requirements and objectives of this Act.

"(c) PROJECTS ELIGIBLE FOR ASSISTANCE.—The amounts of funds available to each State water pollution control revolving fund shall be used only for providing financial assistance (1) to any municipality, intermunicipal, interstate, or State agency for construction of publicly owned treatment works (as defined in section 212 of this Act), (2) for the implementation of a management program established under section 319 of this Act, and (3) for development and implementation of a conservation and management plan under section 320 of this Act. The fund shall be established, maintained, and credited with repayments, and the fund balance shall be available in perpetuity for providing such financial assistance.

33 USC 1292.

Post, p. 52.

Post, p. 61.

"(d) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, a water pollution control revolving fund of a State under this section may be used only—

"(1) to make loans, on the condition that—

"(A) such loans are made at or below market interest rates, including interest free loans, at terms not to exceed 20 years;

"(B) annual principal and interest payments will commence not later than 1 year after completion of any project and all loans will be fully amortized not later than 20 years after project completion;

"(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

"(D) the fund will be credited with all payments of principal and interest on all loans;

"(2) to buy or refinance the debt obligation of municipalities and intermunicipal and interstate agencies within the State at or below market rates, where such debt obligations were incurred after March 7, 1985;

Insurance.

"(3) to guarantee, or purchase insurance for, local obligations where such action would improve credit market access or reduce interest rates;

Securities.

"(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of such bonds will be deposited in the fund;

"(5) to provide loan guarantees for similar revolving funds established by municipalities or intermunicipal agencies;

"(6) to earn interest on fund accounts; and

"(7) for the reasonable costs of administering the fund and conducting activities under this title, except that such amounts shall not exceed 4 percent of all grant awards to such fund under this title.

"(e) LIMITATION TO PREVENT DOUBLE BENEFITS.—If a State makes, from its water pollution revolving fund, a loan which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works, the State shall ensure that if the recipient of such loan receives a grant under section 201(g) of this Act for construction of such treatment works and an allowance under section 201(l)(1) of this Act for non-Federal funds expended for such planning and preparation, such recipient will promptly repay such loan to the extent of such allowance.

33 USC 1281.

"(f) CONSISTENCY WITH PLANNING REQUIREMENTS.—A State may provide financial assistance from its water pollution control revolving fund only with respect to a project which is consistent with plans, if any, developed under sections 205(j), 208, 303(e), 319, and 320 of this Act.

33 USC 1285, 1288, 1313; *post*, pp. 52, 61.

"(g) PRIORITY LIST REQUIREMENT.—The State may provide financial assistance from its water pollution control revolving fund only with respect to a project for construction of a treatment works described in subsection (c)(1) if such project is on the State's priority list under section 216 of this Act. Such assistance may be provided regardless of the rank of such project on such list.

33 USC 1296.

"(h) ELIGIBILITY OF NON-FEDERAL SHARE OF CONSTRUCTION GRANT PROJECTS.—A State water pollution control revolving fund may provide assistance (other than under subsection (d)(1) of this section) to a municipality or intermunicipal or interstate agency with respect to the non-Federal share of the costs of a treatment works project for which such municipality or agency is receiving assistance from the Administrator under any other authority only if such assistance is necessary to allow such project to proceed.

"SEC. 604. ALLOTMENT OF FUNDS.

33 USC 1384.

"(a) FORMULA.—Sums authorized to be appropriated to carry out this section for each of fiscal years 1989 and 1990 shall be allotted by the Administrator in accordance with section 205(c) of this Act.

33 USC 1285.

"(b) RESERVATION OF FUNDS FOR PLANNING.—Each State shall reserve each fiscal year 1 percent of the sums allotted to such State under this section for such fiscal year, or $100,000, whichever amount is greater, to carry out planning under sections 205(j) and 303(e) of this Act.

33 USC 1313.

"(c) ALLOTMENT PERIOD.—

"(1) PERIOD OF AVAILABILITY FOR GRANT AWARD.—Sums allotted to a State under this section for a fiscal year shall be available for obligation by the State during the fiscal year for which sums are authorized and during the following fiscal year.

"(2) REALLOTMENT OF UNOBLIGATED FUNDS.—The amount of any allotment not obligated by the State by the last day of the 2-year period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under title II of this Act for the second fiscal year of such 2-year period. None of the funds reallotted by the Administrator shall be reallotted to any State which has not obligated all sums allotted to such State in the first fiscal year of such 2-year period.

33 USC 1281.

"SEC. 605. CORRECTIVE ACTION.

33 USC 1385.

"(a) NOTIFICATION OF NONCOMPLIANCE.—If the Administrator determines that a State has not complied with its agreement with the Administrator under section 602 of this Act or any other requirement of this title, the Administrator shall notify the State of such noncompliance and the necessary corrective action.

Ante, p. 22.

"(b) WITHHOLDING OF PAYMENTS.—If a State does not take corrective action within 60 days after the date a State receives notification of such action under subsection (a), the Administrator shall withhold additional payments to the State until the Administrator is satisfied that the State has taken the necessary corrective action.

"(c) REALLOTMENT OF WITHHELD PAYMENTS.—If the Administrator is not satisfied that adequate corrective actions have been taken by the State within 12 months after the State is notified of such actions under subsection (a), the payments withheld from the State by the Administrator under subsection (b) shall be made available for reallotment in accordance with the most recent formula for allotment of funds under this title.

"SEC. 606. AUDITS, REPORTS, AND FISCAL CONTROLS; INTENDED USE PLAN.

33 USC 1386.

"(a) FISCAL CONTROL AND AUDITING PROCEDURES.—Each State electing to establish a water pollution control revolving fund under this title shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for—

"(1) payments received by the fund;

"(2) disbursements made by the fund; and

"(3) fund balances at the beginning and end of the accounting period.

"(b) ANNUAL FEDERAL AUDITS.—The Administrator shall, at least on an annual basis, conduct or require each State to have independently conducted reviews and audits as may be deemed necessary or appropriate by the Administrator to carry out the objectives of this section. Audits of the use of funds deposited in the water pollution revolving fund established by such State shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code. 31 USC 7501 *et seq.*

"(c) INTENDED USE PLAN.—After providing for public comment and review, each State shall annually prepare a plan identifying the intended uses of the amounts available to its water pollution control revolving fund. Such intended use plan shall include, but not be limited to—

"(1) a list of those projects for construction of publicly owned treatment works on the State's priority list developed pursuant to section 216 of this Act and a list of activities eligible for assistance under sections 319 and 320 of this Act; 33 USC 1296. *Post*, pp. 52, 62.

"(2) a description of the short- and long-term goals and objectives of its water pollution control revolving fund;

"(3) information on the activities to be supported, including a description of project categories, discharge requirements under titles III and IV of this Act, terms of financial assistance, and communities served; 33 USC 1311, 1341.

"(4) assurances and specific proposals for meeting the requirements of paragraphs (3), (4), (5), and (6) of section 602(b) of this Act; and *Ante*, p. 22.

"(5) the criteria and method established for the distribution of funds.

Loans.

"(d) ANNUAL REPORT.—Beginning the first fiscal year after the receipt of payments under this title, the State shall provide an annual report to the Administrator describing how the State has met the goals and objectives for the previous fiscal year as identified in the plan prepared for the previous fiscal year pursuant to subsection (c), including identification of loan recipients, loan amounts, and loan terms and similar details on other forms of financial assistance provided from the water pollution control revolving fund.

Loans.

"(e) ANNUAL FEDERAL OVERSIGHT REVIEW.—The Administrator shall conduct an annual oversight review of each State plan prepared under subsection (c), each State report prepared under subsection (d), and other such materials as are considered necessary and appropriate in carrying out the purposes of this title. After reasonable notice by the Administrator to the State or the recipient of a loan from a water pollution control revolving fund, the State or loan recipient shall make available to the Administrator such records as the Administrator reasonably requires to review and determine compliance with this title.

"(f) APPLICABILITY OF TITLE II PROVISIONS.—Except to the extent provided in this title, the provisions of title II shall not apply to grants under this title. 33 USC 1281.

33 USC 1387.

"SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out the purposes of this title the following sums:

"(1) $1,200,000,000 per fiscal year for each of fiscal years 1989 and 1990;

"(2) $2,400,000,000 for fiscal year 1991;

"(3) $1,800,000,000 for fiscal year 1992;

"(4) $1,200,000,000 for fiscal year 1993; and

"(5) $600,000,000 for fiscal year 1994.".

(b) STATE-OPTION TO USE TITLE II FUNDS.—Section 205 is amended by adding at the end thereof the following new subsection: 33 USC 1285.

"(m) DISCRETIONARY DEPOSITS INTO STATE WATER POLLUTION CONTROL REVOLVING FUNDS.—

"(1) FROM CONSTRUCTION GRANT ALLOTMENTS.—In addition to any amounts deposited in a water pollution control revolving fund established by a State under title VI, upon request of the Governor of such State, the Administrator shall make available to the State for deposit, as capitalization grants, in such fund in any fiscal year beginning after September 30, 1986, such portion of the amounts allotted to such State under this section for such fiscal year as the Governor considers appropriate; except that (A) in fiscal year 1987, such deposit may not exceed 50 percent of the amounts allotted to such State under this section for such fiscal year, and (B) in fiscal year 1988, such deposit may not exceed 75 percent of the amounts allotted to such State under this section for this fiscal year. *Ante*, p. 22.

"(2) NOTICE REQUIREMENT.—The Governor of a State may make a request under paragraph (1) for a deposit into the water pollution control revolving fund of such State—

"(A) in fiscal year 1987 only if no later than 90 days after the date of the enactment of this subsection, and

"(B) in each fiscal year thereafter only if 90 days before the first day of such fiscal year,

the State provides notice of its intent to make such deposit.

"(3) EXCEPTION.—Sums reserved under section 205(j) of this Act shall not be available for obligation under this subsection.".

(c) REPORT TO CONGRESS.—Section 516 is amended by adding at the end thereof the following new subsection: 33 USC 1375.

"(g) STATE REVOLVING FUND REPORT.—

"(1) IN GENERAL.—Not later than February 10, 1990, the Administrator shall submit to Congress a report on the financial status and operations of water pollution control revolving funds established by the States under title VI of this Act. The Administrator shall prepare such report in cooperation with the States, including water pollution control agencies and other water pollution control planning and financing agencies.

"(2) CONTENTS.—The report under this subsection shall also include the following:

"(A) an inventory of the facilities that are in significant noncompliance with the enforceable requirements of this Act;

"(B) an estimate of the cost of construction necessary to bring such facilities into compliance with such requirements;

"(C) an assessment of the availability of sources of funds for financing such needed construction, including an estimate of the amount of funds available for providing assistance for such construction through September 30, 1999, from the water pollution control revolving funds established by the States under title VI of this Act;

Loans. "(D) an assessment of the operations, loan portfolio, and loan conditions of such revolving funds;

"(E) an assessment of the effect on user charges of the assistance provided by such revolving funds compared to the assistance provided with funds appropriated pursuant to section 207 of this Act; and 33 USC 1287.

"(F) an assessment of the efficiency of the operation and maintenance of treatment works constructed with assistance provided by such revolving funds compared to the efficiency of the operation and maintenance of treatment works constructed with assistance provided under section 201 of this Act.". 33 USC 1281.

SEC. 213. IMPROVEMENT PROJECTS.

(a) AVALON, CALIFORNIA.—The Administrator shall make a grant of $3,000,000 from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of California for fiscal year 1987 to the city of Avalon, California, for improvements to the publicly owned treatment works of such city. 33 USC 1285.

(b) WALKER AND SMITHFIELD TOWNSHIPS, PENNSYLVANIA.—Out of funds available for grants in the State of Pennsylvania under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make grants—

(1) to Walker Township, Pennsylvania, for developing a collector system and connecting its wastewater treatment system into the Huntingdon Borough, Pennsylvania, sewage treatment plant, and

(2) to Smithfield Township, Pennsylvania, for rehabilitating and extending its collector system.

(c) TAYLOR MILL, KENTUCKY.—Notwithstanding section 201(g)(1) of the Federal Water Pollution Control Act or any other provision of law, the Administrator shall make a grant of $250,000 from funds allotted under section 205 of such Act to the State of Kentucky for fiscal year 1986 to the city of Taylor Mill, Kentucky, for the repair and reconstruction, as necessary, of the publicly owned treatment works of such city.

(d) NEVADA COUNTY, CALIFORNIA.—Out of funds available for grants in the State of California under the third sentence of section 201(g)(1) of the Federal Water Pollution Control Act in fiscal year 1987, the Administrator shall make a grant for the construction of a collection system serving the Glenshire/Devonshire area of Nevada County, California, to deliver waste to the Tahoe-Truckee Sanitary District's regional wastewater treatment facility.

(e) TREATMENT WORKS FOR WANAQUE, NEW JERSEY.—In fiscal year 1987 and succeeding fiscal years, the Administrator shall make grants to the Wanaque Valley Regional Sewerage Authority, New Jersey, from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of New Jersey for such fiscal year, for the construction of treatment works with a total treatment capacity of 1,050,000 gallons per day (including a treatment module with a treatment capacity of 350,000 gallons per day). Notwithstanding section 202 of such Act, the Federal share of the cost of construction of such treatment works shall be 75 percent. 33 USC 1282.

(f) TREATMENT WORKS FOR LENA, ILLINOIS.—The Administrator shall make grants to the village of Lena, Illinois, from funds allotted under section 205 of the Federal Water Pollution Control Act to the

State of Illinois for fiscal years beginning after September 30, 1986, for the construction of a replacement moving bed filter press for the treatment works of such village. Notwithstanding section 202 of the Federal Water Pollution Control Act, the Federal share of the cost of construction of such project shall be 75 percent. 33 USC 1282.

(g) PRIORITY FOR COURT-ORDERED AND OTHER PROJECTS.—The State of Pennsylvania, from funds allotted to it under section 205 of the Federal Water Pollution Control Act, shall give priority for construction of— Pennsylvania. Wyoming. 33 USC 1285.

(1) the Wyoming Valley Sanitary Authority Secondary Treatment project mandated under Federal court order, regardless of the date of start of construction made pursuant to the court order; and

(2) a project for wastewater treatment for Altoona, Pennsylvania.

SEC. 214. CHICAGO TUNNEL AND RESERVOIR PROJECT.

The Chicago tunnel and reservoir project may receive grants under the last sentence of section 201(g)(1) of the Federal Water Pollution Control Act without regard to the limitation contained in such sentence if the Administrator determines that such project meets the cost-effectiveness requirements of sections 217 and 218 of such Act without any redesign or reconstruction and if the Governor of the affected State demonstrates to the satisfaction of the Administrator the water quality benefits of such project. 33 USC 1281. 33 USC 1297, 1298.

SEC. 215. AD VALOREM TAX DEDICATION.

For the purposes of complying with section 204(b)(1) of the Federal Water Pollution Control Act, the ad valorem tax user charge systems of the town of Hampton and the city of Nashua, New Hampshire, shall be deemed to have been dedicated as of December 27, 1977. The Administrator shall review such ad valorem tax user charge systems for compliance with the remaining requirements of such section and related regulations of the Environmental Protection Agency. New Hampshire. *Ante*, p. 18.

TITLE III—STANDARDS AND ENFORCEMENTS

SEC. 301. COMPLIANCE DATES.

(a) PRIORITY TOXIC POLLUTANTS.—Section 301(b)(2)(C) is amended by striking out "not later than July 1, 1984," and inserting after "of this paragraph" the following: "as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989". 33 USC 1311. 33 USC 1314.

(b) OTHER TOXIC POLLUTANTS.—Section 301(b)(2)(D) is amended by striking out "not later than three years after the date such limitations are established" and inserting in lieu thereof "as expeditiously as practicable, but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989".

(c) CONVENTIONAL POLLUTANTS.—Section 301(b)(2)(E) is amended by striking "not later than July 1, 1984," and inserting in lieu thereof "as expeditiously as practicable but in no case later than

33 USC 1314. three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989, compliance with".

33 USC 1311. (d) Other Pollutants.—Section 301(b)(2)(F) is amended by striking "not" after "subparagraph (A) of this paragraph" and inserting in lieu thereof "as expeditiously as practicable but in no case", and by striking "or not later than July 1, 1984," and all that follows through the end of the sentence and inserting in lieu thereof "and in no case later than March 31, 1989.".

(e) Stricter BPT.—Section 301(b) is amended by adding at the end the following new paragraph:

"(3)(A) for effluent limitations under paragraph (1)(A)(i) of this subsection promulgated after January 1, 1982, and requiring a level of control substantially greater or based on fundamentally different control technology than under permits for an industrial category issued before such date, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated under section 304(b), and in no case later than March 31, 1989; and

"(B) for any effluent limitation in accordance with paragraph (1)(A)(i), (2)(A)(i), or (2)(E) of this subsection established only on the basis of section 402(a)(1) in a permit issued after enactment of the Water Quality Act of 1987, compliance as expeditiously as practicable but in no case later than three years after the date such limitations are established, and in no case later than March 31, 1989.".

33 USC 1311 note. 33 USC 1317. (f) Deadlines for Regulations for Certain Toxic Pollutants.—The Administrator shall promulgate final regulations establishing effluent limitations in accordance with sections 301(b)(2)(A) and 307(b)(1) of the Federal Water Pollution Control Act for all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives which are discharged from the categories of point sources in accordance with the following table:

Category	Date by which the final regulation shall be promulgated
Organic chemicals and plastics and synthetic fibers	December 31, 1986.
Pesticides	December 31, 1986.

SEC. 302. MODIFICATION FOR NONCONVENTIONAL POLLUTANTS.

(a) Listing of Pollutants.—Section 301(g) is amended by redesignating paragraph (2) (and any references thereto) as paragraph (3) and by striking out all that precedes subparagraph (A) of paragraph (1) and inserting in lieu thereof the following:

"(g) Modifications for Certain Nonconventional Pollutants.—

State and local governments. "(1) General authority.—The Administrator, with the concurrence of the State, may modify the requirements of subsection (b)(2)(A) of this section with respect to the discharge from any point source of ammonia, chlorine, color, iron, and total phenols (4AAP) (when determined by the Administrator to be a pollutant covered by subsection (b)(2)(F)) and any other pollutant which the Administrator lists under paragraph (4) of this subsection.

"(2) Requirements for granting modifications.—A modification under this subsection shall be granted only upon a showing by the owner or operator of a point source satisfactory to the Administrator that—".

(b) Procedure for Listing Additional Pollutants; Removal.—Section 301(g) is further amended by adding at the end thereof the following new paragraphs: *Ante*, p. 30.

"(4) Procedures for listing additional pollutants.—

"(A) General authority.—Upon petition of any person, the Administrator may add any pollutant to the list of pollutants for which modification under this section is authorized (except for pollutants identified pursuant to section 304(a)(4) of this Act, toxic pollutants subject to section 307(a) of this Act, and the thermal component of discharges) in accordance with the provisions of this paragraph. 33 USC 1314. 33 USC 1317.

"(B) Requirements for listing.—

"(i) Sufficient information.—The person petitioning for listing of an additional pollutant under this subsection shall submit to the Administrator sufficient information to make the determinations required by this subparagraph.

"(ii) Toxic criteria determination.—The Administrator shall determine whether or not the pollutant meets the criteria for listing as a toxic pollutant under section 307(a) of this Act.

"(iii) Listing as toxic pollutant.—If the Administrator determines that the pollutant meets the criteria for listing as a toxic pollutant under section 307(a), the Administrator shall list the pollutant as a toxic pollutant under section 307(a).

"(iv) Nonconventional criteria determination.—If the Administrator determines that the pollutant does not meet the criteria for listing as a toxic pollutant under such section and determines that adequate test methods and sufficient data are available to make the determinations required by paragraph (2) of this subsection with respect to the pollutant, the Administrator shall add the pollutant to the list of pollutants specified in paragraph (1) of this subsection for which modifications are authorized under this subsection.

"(C) Requirements for filing of petitions.—A petition for listing of a pollutant under this paragraph—

"(i) must be filed not later than 270 days after the date of promulgation of an applicable effluent guideline under section 304;

"(ii) may be filed before promulgation of such guideline; and

"(iii) may be filed with an application for a modification under paragraph (1) with respect to the discharge of such pollutant.

"(D) Deadline for approval of petition.—A decision to add a pollutant to the list of pollutants for which modifications under this subsection are authorized must be made within 270 days after the date of promulgation of an applicable effluent guideline under section 304.

"(E) BURDEN OF PROOF.—The burden of proof for making the determinations under subparagraph (B) shall be on the petitioner.

"(5) REMOVAL OF POLLUTANTS.—The Administrator may remove any pollutant from the list of pollutants for which modifications are authorized under this subsection if the Administrator determines that adequate test methods and sufficient data are no longer available for determining whether or not modifications may be granted with respect to such pollutant under paragraph (2) of this subsection.".

33 USC 1311.

(c) DEADLINE FOR APPROVAL OF MODIFICATIONS.—Section 301(j) is amended—

(1) in paragraph (2) by striking out "Any" and inserting in lieu thereof "Subject to paragraph (3) of this section, any"; and

(2) by adding at the end thereof the following new paragraphs:

"(3) COMPLIANCE REQUIREMENTS UNDER SUBSECTION (g).—

"(A) EFFECT OF FILING.—An application for a modification under subsection (g) and a petition for listing of a pollutant as a pollutant for which modifications are authorized under such subsection shall not stay the requirement that the person seeking such modification or listing comply with effluent limitations under this Act for all pollutants not the subject of such application or petition.

"(B) EFFECT OF DISAPPROVAL.—Disapproval of an application for a modification under subsection (g) shall not stay the requirement that the person seeking such modification comply with all applicable effluent limitations under this Act.

"(4) DEADLINE FOR SUBSECTION (g) DECISION.—An application for a modification with respect to a pollutant filed under subsection (g) must be approved or disapproved not later than 365 days after the date of such filing; except that in any case in which a petition for listing such pollutant as a pollutant for which modifications are authorized under such subsection is approved, such application must be approved or disapproved not later than 365 days after the date of approval of such petition.".

(d) CONFORMING AMENDMENTS.—(1) Paragraph (3) of section 301(g), as redesignated by subsection (a) of this section, is amended by inserting "LIMITATION ON AUTHORITY TO APPLY FOR SUBSECTION (c) MODIFICATION.—" before "If an owner" and by aligning such paragraph with paragraph (4) of such section, as added by subsection (b) of this section.

(2) Paragraph (2) of section 301(g) (as designated by subsection (a) of this section) is amended by realigning subparagraphs (A), (B), and (C) with subparagraph (A) of paragraph (4), as added by subsection (b) of this section.

33 USC 1311 note.

(e) APPLICATION.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall apply to all requests for modifications under section 301(g) of the Federal Water Pollution Control Act pending on the date of the enactment of this Act and shall not have the effect of extending the deadline established in section 301(j)(1)(B) of such Act.

(2) EXCEPTION.—The amendments made by this section shall not affect any application for a modification with respect to the discharge of ammonia, chlorine, color, iron, or total phenols (4AAP) under section 301(g) of the Federal Water Pollution

Control Act pending on the date of the enactment of this Act; except that the Administrator must approve or disapprove such application not later than 365 days after the date of such enactment.

SEC. 303. DISCHARGES INTO MARINE WATERS.

(a) **Consideration of Other Sources of Pollutants.**—Section 301(h)(2) is amended by striking out "such modified requirements will not interfere" and inserting in lieu thereof the following: "the discharge of pollutants in accordance with such modified requirements will not interfere, alone or in combination with pollutants from other sources,". 33 USC 1311.

(b) **Limitation on Scope of Monitoring.**—

(1) **General rule.**—Section 301(h)(3) is amended by inserting before the semicolon at the end thereof the following: ", and the scope of such monitoring is limited to include only those scientific investigations which are necessary to study the effects of the proposed discharge".

(2) **Limitation on applicability.**—The amendment made by subsection (b) shall only apply to modifications and renewals of modifications which are tentatively or finally approved after the date of the enactment of this Act. 33 USC 1311 note.

(c) **Urban Area Pretreatment Program.**—Section 301(h) is amended by redesignating paragraphs (6) and (7), and any references thereto, as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) in the case of any treatment works serving a population of 50,000 or more, with respect to any toxic pollutant introduced into such works by an industrial discharger for which pollutant there is no applicable pretreatment requirement in effect, sources introducing waste into such works are in compliance with all applicable pretreatment requirements, the applicant will enforce such requirements, and the applicant has in effect a pretreatment program which, in combination with the treatment of discharges from such works, removes the same amount of such pollutant as would be removed if such works were to apply secondary treatment to discharges and if such works had no pretreatment program with respect to such pollutant;".

(d) **Primary Treatment for Effluent.**—

(1) **General rule.**—Section 301(h) is amended by striking out the period at the end of paragraph (8) (as redesignated by subsection (c) of this section) and inserting in lieu thereof a semicolon and by inserting after such paragraph (8) the following new paragraph:

"(9) the applicant at the time such modification becomes effective will be discharging effluent which has received at least primary or equivalent treatment and which meets the criteria established under section 304(a)(1) of this Act after initial mixing in the waters surrounding or adjacent to the point at which such effluent is discharged.". 33 USC 1314.

(2) **Primary or equivalent treatment defined.**—Such section is further amended by inserting after the second sentence the following new sentence: "For the purposes of paragraph (9), 'primary or equivalent treatment' means treatment by screening, sedimentation, and skimming adequate to remove at least 30 percent of the biological oxygen demanding material and of

the suspended solids in the treatment works influent, and disinfection, where appropriate.".

Fish and fishing.
Wildlife.
Ante, p. 33.

(e) LIMITATIONS ON ISSUANCE OF PERMITS.—Section 301(h) is further amended by adding at the end thereof the following new sentences: "In order for a permit to be issued under this subsection for the discharge of a pollutant into marine waters, such marine waters must exhibit characteristics assuring that water providing dilution does not contain significant amounts of previously discharged effluent from such treatment works. No permit issued under this subsection shall authorize the discharge of any pollutant into saline estuarine waters which at the time of application do not support a balanced indigenous population of shellfish, fish and wildlife, or allow recreation in and on the waters or which exhibit ambient water quality below applicable water quality standards adopted for the protection of public water supplies, shellfish, fish and wildlife or recreational activities or such other standards necessary to assure support and protection of such uses. The prohibition contained in the preceding sentence shall apply without regard to the presence or absence of a causal relationship between such characteristics and the applicant's current or proposed discharge. Notwithstanding any other provisions of this subsection, no permit may be issued under this subsection for discharge of a pollutant into the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.".

Contracts.

(f) APPLICATION FOR OCEAN DISCHARGE MODIFICATION.—Section 301(j)(1)(A) is amended by inserting before the semicolon at the end thereof the following: ", except that a publicly owned treatment works which prior to December 31, 1982, had a contractual arrangement to use a portion of the capacity of an ocean outfall operated by another publicly owned treatment works which has applied for or received modification under subsection (h), may apply for a modification of subsection (h) in its own right not later than 30 days after the date of the enactment of the Water Quality Act of 1987".

33 USC 1311 note.

(g) GRANDFATHER OF CERTAIN APPLICANTS.—The amendments made by subsections (a), (c), (d), and (e) of this section shall not apply to an application for a permit under section 301(h) of the Federal Water Pollution Control Act which has been tentatively or finally approved by the Administrator before the date of the enactment of this Act; except that such amendments shall apply to all renewals of such permits after such date of enactment.

SEC. 304. FILING DEADLINE FOR TREATMENT WORKS MODIFICATION.

33 USC 1311.

(a) EXTENSION.—The second sentence of section 301(i)(1) is amended by striking out "of this subsection." and inserting in lieu thereof "of the Water Quality Act of 1987.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to those treatment works which are subject to a compliance schedule established before the date of the enactment of this Act by a court order or a final administrative order.

SEC. 305. INNOVATIVE TECHNOLOGY COMPLIANCE DEADLINES FOR DIRECT DISCHARGERS.

(a) EXTENSION OF DEADLINE.—Section 301(k) is amended by striking out "July 1, 1987," and inserting in lieu thereof "two years after the date for compliance with such effluent limitation which would otherwise be applicable under such subsection,".

(b) EXTENSION TO CONVENTIONAL POLLUTANTS.—Section 301(k) is amended by inserting "or (b)(2)(E)" after "(b)(2)(A)" each place it appears.

33 USC 1311.

SEC. 306. FUNDAMENTALLY DIFFERENT FACTORS.

(a) GENERAL RULE.—Section 301 is amended by adding at the end the following new subsections:

"(n) FUNDAMENTALLY DIFFERENT FACTORS.—

State and local governments.
33 USC 1317.

"(1) GENERAL RULE.—The Administrator, with the concurrence of the State, may establish an alternative requirement under subsection (b)(2) or section 307(b) for a facility that modifies the requirements of national effluent limitation guidelines or categorical pretreatment standards that would otherwise be applicable to such facility, if the owner or operator of such facility demonstrates to the satisfaction of the Administrator that—

33 USC 1314.

"(A) the facility is fundamentally different with respect to the factors (other than cost) specified in section 304(b) or 304(g) and considered by the Administrator in establishing such national effluent limitation guidelines or categorical pretreatment standards;

"(B) the application—

"(i) is based solely on information and supporting data submitted to the Administrator during the rulemaking for establishment of the applicable national effluent limitation guidelines or categorical pretreatment standard specifically raising the factors that are fundamentally different for such facility; or

"(ii) is based on information and supporting data referred to in clause (i) and information and supporting data the applicant did not have a reasonable opportunity to submit during such rulemaking;

"(C) the alternative requirement is no less stringent than justified by the fundamental difference; and

"(D) the alternative requirement will not result in a non-water quality environmental impact which is markedly more adverse than the impact considered by the Administrator in establishing such national effluent limitation guideline or categorical pretreatment standard.

"(2) TIME LIMIT FOR APPLICATIONS.—An application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection must be submitted to the Administrator within 180 days after the date on which such limitation or standard is established or revised, as the case may be.

"(3) TIME LIMIT FOR DECISION.—The Administrator shall approve or deny by final agency action an application submitted under this subsection within 180 days after the date such application is filed with the Administrator.

"(4) SUBMISSION OF INFORMATION.—The Administrator may allow an applicant under this subsection to submit information and supporting data until the earlier of the date the application is approved or denied or the last day that the Administrator has to approve or deny such application.

"(5) TREATMENT OF PENDING APPLICATIONS.—For the purposes of this subsection, an application for an alternative requirement based on fundamentally different factors which is pending on the date of the enactment of this subsection shall be treated as having been submitted to the Administrator on the 180th day following such date of enactment. The applicant may amend the application to take into account the provisions of this subsection.

"(6) EFFECT OF SUBMISSION OF APPLICATION.—An application for an alternative requirement under this subsection shall not stay the applicant's obligation to comply with the effluent limitation guideline or categorical pretreatment standard which is the subject of the application.

"(7) EFFECT OF DENIAL.—If an application for an alternative requirement which modifies the requirements of an effluent limitation or pretreatment standard under this subsection is denied by the Administrator, the applicant must comply with such limitation or standard as established or revised, as the case may be.

"(8) REPORTS.—Every 6 months after the date of the enactment of this subsection, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the status of applications for alternative requirements which modify the requirements of effluent limitations under section 301 or 304 of this Act or any national categorical pretreatment standard under section 307(b) of this Act filed before, on, or after such date of enactment.

33 USC 1311, 1314.
33 USC 1317.

"(o) APPLICATION FEES.—The Administrator shall prescribe and collect from each applicant fees reflecting the reasonable administrative costs incurred in reviewing and processing applications for modifications submitted to the Administrator pursuant to subsections (c), (g), (i), (k), (m), and (n) of section 301, section 304(d)(4), and section 316(a) of this Act. All amounts collected by the Administrator under this subsection shall be deposited into a special fund of the Treasury entitled 'Water Permits and Related Services' which shall thereafter be available for appropriation to carry out activities of the Environmental Protection Agency for which such fees were collected.".

33 USC 1326.

33 USC 1311.

(b) CONFORMING AMENDMENT.—Section 301(l) is amended by striking out "The" and inserting in lieu thereof "Other than as provided in subsection (n) of this section, the".

Ante, p. 35.

33 USC 1342 note.

(c) PHOSPHATE FERTILIZER EFFLUENT LIMITATION.—

(1) ISSUANCE OF PERMIT.—As soon as possible after the date of the enactment of this Act, but not later than 180 days after such date of enactment, the Administrator shall issue permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act with respect to facilities—

(A) which were under construction on or before April 8, 1974, and

(B) for which the Administrator is proposing to revise the applicability of the effluent limitation established under section 301(b) of such Act for phosphate subcategory of the fertilizer manufacturing point source category to exclude such facilities.

(2) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

(A) to require the Administrator to permit the discharge of gypsum or gypsum waste into the navigable waters,

(B) to affect the procedures and standards applicable to the Administrator in issuing permits under section 402(a)(1)(B) of the Federal Water Pollution Control Act, and 33 USC 1342.

(C) to affect the authority of any State to deny or condition certification under section 401 of such Act with respect to the issuance of permits under section 402(a)(1)(B) of such Act. 33 USC 1341.

SEC. 307. COAL REMINING OPERATIONS.

Section 301 is amended by adding at the end thereof the following: *Ante*, p. 35.

"(p) MODIFIED PERMIT FOR COAL REMINING OPERATIONS.—

"(1) IN GENERAL.—Subject to paragraphs (2) through (4) of this subsection, the Administrator, or the State in any case which the State has an approved permit program under section 402(b), may issue a permit under section 402 which modifies the requirements of subsection (b)(2)(A) of this section with respect to the pH level of any pre-existing discharge, and with respect to pre-existing discharges of iron and manganese from the remined area of any coal remining operation or with respect to the pH level or level of iron or manganese in any pre-existing discharge affected by the remining operation. Such modified requirements shall apply the best available technology economically achievable on a case-by-case basis, using best professional judgment, to set specific numerical effluent limitations in each permit. State and local governments. 33 USC 1342.

"(2) LIMITATIONS.—The Administrator or the State may only issue a permit pursuant to paragraph (1) if the applicant demonstrates to the satisfaction of the Administrator or the State, as the case may be, that the coal remining operation will result in the potential for improved water quality from the remining operation but in no event shall such a permit allow the pH level of any discharge, and in no event shall such a permit allow the discharges of iron and manganese, to exceed the levels being discharged from the remined area before the coal remining operation begins. No discharge from, or affected by, the remining operation shall exceed State water quality standards established under section 303 of this Act. State and local governments. 33 USC 1313.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) COAL REMINING OPERATION.—The term 'coal remining operation' means a coal mining operation which begins after the date of the enactment of this subsection at a site on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977. 30 USC 1201 note.

"(B) REMINED AREA.—The term 'remined area' means only that area of any coal remining operation on which coal mining was conducted before the effective date of the Surface Mining Control and Reclamation Act of 1977.

"(C) PRE-EXISTING DISCHARGE.—The term 'pre-existing discharge' means any discharge at the time of permit application under this subsection.

"(4) APPLICABILITY OF STRIP MINING LAWS.—Nothing in this subsection shall affect the application of the Surface Mining Control and Reclamation Act of 1977 to any coal remining operation, including the application of such Act to suspended solids.".

SEC. 308. INDIVIDUAL CONTROL STRATEGIES FOR TOXIC POLLUTANTS.

33 USC 1314.

(a) In General.—Section 304 is amended by adding at the end thereof the following new subsection:

"(l) Individual Control Strategies for Toxic Pollutants.—

"(1) State list of navigable waters and development of strategies.—Not later than 2 years after the date of the enactment of this subsection, each State shall submit to the Administrator for review, approval, and implementation under this subsection—

Agriculture and agricultural commodities. Fish and fishing. Wildlife. 33 USC 1311. 33 USC 1313.

"(A) a list of those waters within the State which after the application of effluent limitations required under section 301(b)(2) of this Act cannot reasonably be anticipated to attain or maintain (i) water quality standards for such waters reviewed, revised, or adopted in accordance with section 303(c)(2)(B) of this Act, due to toxic pollutants, or (ii) that water quality which shall assure protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water;

33 USC 1316, 1317.

"(B) a list of all navigable waters in such State for which the State does not expect the applicable standard under section 303 of this Act will be achieved after the requirements of sections 301(b), 306, and 307(b) are met, due entirely or substantially to discharges from point sources of any toxic pollutants listed pursuant to section 307(a);

"(C) for each segment of the navigable waters included on such lists, a determination of the specific point sources discharging any such toxic pollutant which is believed to be preventing or impairing such water quality and the amount of each such toxic pollutant discharged by each such source; and

33 USC 1342.

"(D) for each such segment, an individual control strategy which the State determines will produce a reduction in the discharge of toxic pollutants from point sources identified by the State under this paragraph through the establishment of effluent limitations under section 402 of this Act and water quality standards under section 303(c)(2)(B) of this Act, which reduction is sufficient, in combination with existing controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than 3 years after the date of the establishment of such strategy.

State and local governments.

"(2) Approval or disapproval.—Not later than 120 days after the last day of the 2-year period referred to in paragraph (1), the Administrator shall approve or disapprove the control strategies submitted under paragraph (1) by any State.

"(3) Administrator's action.—If a State fails to submit control strategies in accordance with paragraph (1) or the Administrator does not approve the control strategies submitted by such State in accordance with paragraph (1), then, not later than 1 year after the last day of the period referred to in paragraph (2), the Administrator, in cooperation with such State and after notice and opportunity for public comment, shall implement the requirements of paragraph (1) in such State. In the implementation of such requirements, the Administrator shall, at a minimum, consider for listing under this subsection any navigable waters for which any person submits a petition to the Administrator for listing not later than 120 days after such last day.".

(b) Judicial Review.—Section 509(b)(1) is amended—

33 USC 1369.

(1) by striking out "and (F)" and inserting in lieu thereof "(F)"; and

(2) by inserting after "any permit under section 402," the following: "and (G) in promulgating any individual control strategy under section 304(l),".

33 USC 1342.

Ante, p. 38.

(c) Guidance to States; Information on Water Quality Criteria for Toxics.—Section 304(a) is amended by adding at the end the following new paragraphs:

33 USC 1314.

"(7) Guidance to states.—The Administrator, after consultation with appropriate State agencies and on the basis of criteria and information published under paragraphs (1) and (2) of this subsection, shall develop and publish, within 9 months after the date of the enactment of the Water Quality Act of 1987, guidance to the States on performing the identification required by section 304(l)(1) of this Act.

"(8) Information on water quality criteria.—The Administrator, after consultation with appropriate State agencies and within 2 years after the date of the enactment of the Water Quality Act of 1987, shall develop and publish information on methods for establishing and measuring water quality criteria for toxic pollutants on other bases than pollutant-by-pollutant criteria, including biological monitoring and assessment methods.".

(d) Water Quality Criteria for Toxic Pollutants.—Section 303(c)(2) is amended by inserting "(A)" after "(2)" and by adding the following new subparagraph:

33 USC 1313.

State and local governments.

33 USC 1317.

33 USC 1314.

"(B) Whenever a State reviews water quality standards pursuant to paragraph (1) of this subsection, or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria for all toxic pollutants listed pursuant to section 307(a)(1) of this Act for which criteria have been published under section 304(a), the discharge or presence of which in the affected waters could reasonably be expected to interfere with those designated uses adopted by the State, as necessary to support such designated uses. Such criteria shall be specific numerical criteria for such toxic pollutants. Where such numerical criteria are not available, whenever a State reviews water quality standards pursuant to paragraph (1), or revises or adopts new standards pursuant to this paragraph, such State shall adopt criteria based on biological monitoring or assessment methods consistent with information published pursuant to section 304(a)(8). Nothing in this section shall be construed to limit or delay the use of effluent limitations or other permit conditions based on or involving biological monitoring or assessment methods or previously adopted numerical criteria.".

(e) Modifications of Effluent Limitations.—

(1) In general.—Section 302(b) is amended to read as follows:

33 USC 1312.

"(b) Modifications of Effluent Limitations.—

"(1) Notice and hearing.—Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the Administrator shall publish such proposed limitation and within 90 days of such publication hold a public hearing.

"(2) Permits.—

"(A) NO REASONABLE RELATIONSHIP.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for pollutants other than toxic pollutants if the applicant demonstrates at such hearing that (whether or not technology or other alternative control strategies are available) there is no reasonable relationship between the economic and social costs and the benefits to be obtained (including attainment of the objective of this Act) from achieving such limitation.

"(B) REASONABLE PROGRESS.—The Administrator, with the concurrence of the State, may issue a permit which modifies the effluent limitations required by subsection (a) of this section for toxic pollutants for a single period not to exceed 5 years if the applicant demonstrates to the satisfaction of the Administrator that such modified requirements (i) will represent the maximum degree of control within the economic capability of the owner and operator of the source, and (ii) will result in reasonable further progress beyond the requirements of section 301(b)(2) toward the requirements of subsection (a) of this section.". 33 USC 1311.

33 USC 1312. *Ante*, p. 38.

(2) CONFORMING AMENDMENTS.—Section 302(a) is amended—

(A) by inserting "or as identified under section 304(l)" after "in the judgment of the Administrator"; and

(B) by inserting "public health," after "protection of".

(f) SCHEDULE FOR REVIEW OF GUIDELINES.—Section 304 is amended by adding at the end the following new subsection:

"(m) SCHEDULE FOR REVIEW OF GUIDELINES.—

Federal Register, publication.

"(1) PUBLICATION.—Within 12 months after the date of the enactment of the Water Quality Act of 1987, and biennially thereafter, the Administrator shall publish in the Federal Register a plan which shall—

"(A) establish a schedule for the annual review and revision of promulgated effluent guidelines, in accordance with subsection (b) of this section;

"(B) identify categories of sources discharging toxic or nonconventional pollutants for which guidelines under subsection (b)(2) of this section and section 306 have not previously been published; and 33 USC 1316.

"(C) establish a schedule for promulgation of effluent guidelines for categories identified in subparagraph (B), under which promulgation of such guidelines shall be no later than 4 years after such date of enactment for categories identified in the first published plan or 3 years after the publication of the plan for categories identified in later published plans.

"(2) PUBLIC REVIEW.—The Administrator shall provide for public review and comment on the plan prior to final publication.".

33 USC 1375 note.

(g) WATER QUALITY IMPROVEMENT STUDY.—

(1) STUDY.—The Administrator shall study the water quality improvements which have been achieved by application of best available technology economically achievable pursuant to section 301(b)(2) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the effectiveness of the application of best available technology economically achievable pursuant to such section in attaining

applicable water quality standards (including the standard specified in section 302(a) of such Act) and an analysis of the effectiveness of the water quality program under such Act and methods of improving such program, including site specific levels of treatment which will achieve the water quality goals of such Act.

Ante, p. 40.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under subsection (a) together with recommendations for improving the water quality program and its effectiveness to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 309. PRETREATMENT STANDARDS.

(a) EXTENSION OF COMPLIANCE DATE BY POTW.—Section 307 is amended by adding at the end the following:

33 USC 1317.

"(e) COMPLIANCE DATE EXTENSION FOR INNOVATIVE PRETREATMENT SYSTEMS.—In the case of any existing facility that proposes to comply with the pretreatment standards of subsection (b) of this section by applying an innovative system that meets the requirements of section 301(k) of this Act, the owner or operator of the publicly owned treatment works receiving the treated effluent from such facility may extend the date for compliance with the applicable pretreatment standard established under this section for a period not to exceed 2 years—

Ante, p. 34.

"(1) if the Administrator determines that the innovative system has the potential for industrywide application, and

"(2) if the Administrator (or the State in consultation with the Administrator, in any case in which the State has a pretreatment program approved by the Administrator)—

State and local governments.

"(A) determines that the proposed extension will not cause the publicly owned treatment works to be in violation of its permit under section 402 or of section 405 or to contribute to such a violation, and

33 USC 1342, 1345.

"(B) concurs with the proposed extension.".

(b) INCREASE IN EPA EMPLOYEES.—The Administrator shall take such actions as may be necessary to increase the number of employees of the Environmental Protection Agency in order to effectively implement pretreatment requirements under section 307 of the Federal Water Pollution Control Act.

33 USC 1317 note.

SEC. 310. INSPECTION AND ENTRY.

(a) UNAUTHORIZED DISCLOSURE.—

Confidentiality. Records. 33 USC 1318.

(1) IN GENERAL.—Section 308(b) is amended by striking out all that follows "Code" and inserting in lieu thereof a period and the following: "Any authorized representative of the Administrator (including an authorized contractor acting as a representative of the Administrator) who knowingly or willfully publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information which is required to be considered confidential under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both. Nothing in this subsection shall prohibit the Administrator or an authorized representative of the Administrator (including any authorized contractor acting as a representative of the Administrator) from disclosing records,

reports, or information to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.".

33 USC 1318.

(2) CONFORMING AMENDMENT.—Section 308(a)(B) is amended by inserting "(including an authorized contractor acting as a representative of the Administrator)" after "or his authorized representative".

(b) ACCESS BY CONGRESS.—Section 308 is amended by adding at the end the following new subsection:

"(d) ACCESS BY CONGRESS.—Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of Congress, to such committee.".

SEC. 311. MARINE SANITATION DEVICES.

33 USC 1322.

(a) STATE REGULATION OF HOUSEBOATS.—Section 312(f)(1) is amended by striking out "After" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), after" and by adding at the end thereof the following:

"(B) A State may adopt and enforce a statute or regulation with respect to the design, manufacture, or installation or use of any marine sanitation device on a houseboat, if such statute or regulation is more stringent than the standards and regulations promulgated under this section. For purposes of this paragraph, the term 'houseboat' means a vessel which, for a period of time determined by the State in which the vessel is located, is used primarily as a residence and is not used primarily as a means of transportation.".

(b) STATE ENFORCEMENT.—Section 312(k) is amended by adding at the end the following: "The provisions of this section may also be enforced by a State.".

SEC. 312. CRIMINAL PENALTIES.

33 USC 1319.

Section 309(c) is amended to read as follows:

"(c) CRIMINAL PENALTIES.—

"(1) NEGLIGENT VIOLATIONS.—Any person who—

State and local governments.
33 USC 1311, 1312, 1316, 1317, 1318, 1328, 1345.
33 USC 1342.

"(A) negligently violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

33 USC 1344.

Hazardous materials.
State and local governments.

"(B) negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or by both.

"(2) KNOWING VIOLATIONS.—Any person who—

State and local governments. 33 USC 1311, 1312, 1316, 1317, 1318, 1328, 1345. 33 USC 1342.

33 USC 1344.

"(A) knowingly violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State; or

Hazardous materials.

"(B) knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable Federal, State, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $100,000 per day of violation, or by imprisonment of not more than 6 years, or by both.

"(3) KNOWING ENDANGERMENT.—

State and local governments.

"(A) GENERAL RULE.—Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than $1,000,000. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(B) ADDITIONAL PROVISIONS.—For the purpose of subparagraph (A) of this paragraph—

"(i) in determining whether a defendant who is an individual knew that his conduct placed another person in imminent danger of death or serious bodily injury—

"(I) the person is responsible only for actual awareness or actual belief that he possessed; and

"(II) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant;

except that in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information;

"(ii) it is an affirmative defense to prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

"(I) an occupation, a business, or a profession; or

"(II) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent;

and such defense may be established under this subparagraph by a preponderance of the evidence;

"(iii) the term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons; and

"(iv) the term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

Records.

"(4) False statements.—Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or by both.

"(5) Treatment of single operational upset.—For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

"(6) Responsible corporate officer as 'person'.—For the purpose of this subsection, the term 'person' means, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.

33 USC 1362.

"(7) Hazardous substance defined.—For the purpose of this subsection, the term 'hazardous substance' means (A) any substance designated pursuant to section 311(b)(2)(A) of this Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of this Act, and (E) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act.". 33 USC 1321. 42 USC 9602. 42 USC 6921. 33 USC 1317. 15 USC 2606.

SEC. 313. CIVIL PENALTIES.

(a) VIOLATIONS OF PRETREATMENT REQUIREMENTS.—

(1) GENERAL RULE.—Section 309(d) is amended by inserting ", or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of this Act," after "section 404 of this Act by a State,". 33 USC 1319. 33 USC 1342. 33 USC 1344.

(2) SAVINGS PROVISION.—No State shall be required before July 1, 1988, to modify a permit program approved or submitted under section 402 of the Federal Water Pollution Control Act as a result of the amendment made by paragraph (1). State and local governments. 33 USC 1319 note.

(b) INCREASED PENALTY.—

(1) GENERAL RULE.—Section 309(d) is amended by striking out "$10,000 per day of such violation" and inserting in lieu thereof "$25,000 per day for each violation".

(2) INCREASED PENALTIES NOT REQUIRED UNDER STATE PROGRAMS.—The Federal Water Pollution Control Act shall not be construed as requiring a State to have a civil penalty for violations described in section 309(d) of such Act which has the same monetary amount as the civil penalty established by such section, as amended by paragraph (1). Nothing in this paragraph shall affect the Administrator's authority to establish or adjust by regulation a minimum acceptable State civil penalty. 33 USC 1319 note. 33 USC 1251 note.

(c) FACTORS TO CONSIDER IN DETERMINING PENALTY AMOUNT.—Section 309(d) is amended by adding at the end thereof the following: "In determining the amount of a civil penalty the court shall consider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.". Courts, U.S.

(d) VIOLATIONS OF SECTION 404 PERMITS.—Section 404(s) is amended— 33 USC 1344.

(1) by striking out paragraph (4);

(2) by redesignating paragraph (5) as paragraph (4); and

(3) in paragraph (4), as so redesignated—

(A) by striking out "$10,000 per day of such violation" and inserting in lieu thereof "$25,000 per day for each violation";

(B) by adding at the end thereof the following: "In determining the amount of a civil penalty the court shall con- Courts, U.S.

sider the seriousness of the violation or violations, the economic benefit (if any) resulting from the violation, any history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require.".

SEC. 314. ADMINISTRATIVE PENALTIES.

33 USC 1319.

(a) General Rule.—Section 309 is amended by adding at the end thereof the following:

"(g) Administrative Penalties.—

"(1) Violations.—Whenever on the basis of any information available—

33 USC 1311, 1312, 1316, 1317, 1318, 1328, 1345.

33 USC 1342.

33 USC 1344.

"(A) the Administrator finds that any person has violated section 301, 302, 306, 307, 308, 318, or 405 of this Act, or has violated any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 by a State, or

"(B) the Secretary of the Army (hereinafter in this subsection referred to as the 'Secretary') finds that any person has violated any permit condition or limitation in a permit issued under section 404 of this Act by the Secretary,

the Administrator or Secretary, as the case may be, may, after consultation with the State in which the violation occurs, assess a class I civil penalty or a class II civil penalty under this subsection.

"(2) Classes of penalties.—

"(A) Class i.—The amount of a class I civil penalty under paragraph (1) may not exceed $10,000 per violation, except that the maximum amount of any class I civil penalty under this subparagraph shall not exceed $25,000. Before issuing an order assessing a civil penalty under this subparagraph, the Administrator or the Secretary, as the case may be, shall give to the person to be assessed such penalty written notice of the Administrator's or Secretary's proposal to issue such order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed order. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(B) Class ii.—The amount of a class II civil penalty under paragraph (1) may not exceed $10,000 per day for each day during which the violation continues; except that the maximum amount of any class II civil penalty under this subparagraph shall not exceed $125,000. Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. The Administrator and the Secretary may issue rules for discovery procedures for hearings under this subparagraph.

"(3) DETERMINING AMOUNT.—In determining the amount of any penalty assessed under this subsection, the Administrator or the Secretary, as the case may be, shall take into account the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any) resulting from the violation, and such other matters as justice may require. For purposes of this subsection, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

"(4) RIGHTS OF INTERESTED PERSONS.—

"(A) PUBLIC NOTICE.—Before issuing an order assessing a civil penalty under this subsection the Administrator or Secretary, as the case may be, shall provide public notice of and reasonable opportunity to comment on the proposed issuance of such order.

"(B) PRESENTATION OF EVIDENCE.—Any person who comments on a proposed assessment of a penalty under this subsection shall be given notice of any hearing held under this subsection and of the order assessing such penalty. In any hearing held under this subsection, such person shall have a reasonable opportunity to be heard and to present evidence.

"(C) RIGHTS OF INTERESTED PERSONS TO A HEARING.—If no hearing is held under paragraph (2) before issuance of an order assessing a penalty under this subsection, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such order, the Administrator or Secretary, as the case may be, to set aside such order and to provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Administrator or Secretary shall immediately set aside such order and provide a hearing in accordance with paragraph (2)(A) in the case of a class I civil penalty and paragraph (2)(B) in the case of a class II civil penalty. If the Administrator or Secretary denies a hearing under this subparagraph, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for such denial.

Federal Register, publication.

"(5) FINALITY OF ORDER.—An order issued under this subsection shall become final 30 days after its issuance unless a petition for judicial review is filed under paragraph (8) or a hearing is requested under paragraph (4)(C). If such a hearing is denied, such order shall become final 30 days after such denial.

"(6) EFFECT OF ORDER.—

"(A) LIMITATION ON ACTIONS UNDER OTHER SECTIONS.—Action taken by the Administrator or the Secretary, as the case may be, under this subsection shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this Act; except that any violation—

"(i) with respect to which the Administrator or the Secretary has commenced and is diligently prosecuting an action under this subsection,

State and local governments.

"(ii) with respect to which a State has commenced and is diligently prosecuting an action under a State law comparable to this subsection, or

"(iii) for which the Administrator, the Secretary, or the State has issued a final order not subject to further judicial review and the violator has paid a penalty assessed under this subsection, or such comparable State law, as the case may be,

shall not be the subject of a civil penalty action under subsection (d) of this section or section 311(b) or section 505 of this Act.

33 USC 1321, 1365.

"(B) Applicability of limitation with respect to citizen suits.—The limitations contained in subparagraph (A) on civil penalty actions under section 505 of this Act shall not apply with respect to any violation for which—

"(i) a civil action under section 505(a)(1) of this Act has been filed prior to commencement of an action under this subsection, or

"(ii) notice of an alleged violation of section 505(a)(1) of this Act has been given in accordance with section 505(b)(1)(A) prior to commencement of an action under this subsection and an action under section 505(a)(1) with respect to such alleged violation is filed before the 120th day after the date on which such notice is given.

"(7) Effect of action on compliance.—No action by the Administrator or the Secretary under this subsection shall affect any person's obligation to comply with any section of this Act or with the terms and conditions of any permit issued pursuant to section 402 or 404 of this Act.

33 USC 1342, 1344.

"(8) Judicial review.—Any person against whom a civil penalty is assessed under this subsection or who commented on the proposed assessment of such penalty in accordance with paragraph (4) may obtain review of such assessment—

"(A) in the case of assessment of a class I civil penalty, in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred, or

"(B) in the case of assessment of a class II civil penalty, in United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business,

by filing a notice of appeal in such court within the 30-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice by certified mail to the Administrator or the Secretary, as the case may be, and the Attorney General. The Administrator or the Secretary shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion.

Records.

"(9) Collection.—If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become final, or

"(B) after a court in an action brought under paragraph (8) has entered a final judgment in favor of the Administrator or the Secretary, as the case may be,

the Administrator or the Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

"(10) SUBPOENAS.—The Administrator or Secretary, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this subsection. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(11) PROTECTION OF EXISTING PROCEDURES.—Nothing in this subsection shall change the procedures existing on the day before the date of the enactment of the Water Quality Act of 1987 under other subsections of this section for issuance and enforcement of orders by the Administrator.".

(b) REPORTS ON ENFORCEMENT MECHANISMS.—The Secretary of the Army and the Administrator shall each prepare and submit a report to the Congress, not later than December 1, 1988, which shall examine and analyze various enforcement mechanisms for use by the Secretary or Administrator, as the case may be, including an administrative civil penalty mechanism. Each of such reports shall also include an examination, prepared in consultation with the Comptroller General, of the efficacy of the Secretary's or the Administrator's existing enforcement authorities and shall include recommendations for improvements in their operation. 33 USC 1375 note.

(c) CONFORMING AMENDMENT.—Section 505(a) is amended by inserting "and section 309(g)(6)" after "Except as provided in subsection (b) of this section". 33 USC 1365. 33 USC 1319.

SEC. 315. CLEAN LAKES.

(a) ESTABLISHMENT AND SCOPE OF PROGRAM.—Section 314(a) is amended to read as follows: 33 USC 1324.

"(a) ESTABLISHMENT AND SCOPE OF PROGRAM.—

"(1) STATE PROGRAM REQUIREMENTS.—Each State on a biennial basis shall prepare and submit to the Administrator for his approval—

"(A) an identification and classification according to eutrophic condition of all publicly owned lakes in such State;

"(B) a description of procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes;

"(C) a description of methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes;

"(D) methods and procedures to mitigate the harmful effects of high acidity, including innovative methods of neutralizing and restoring buffering capacity of lakes and methods of removing from lakes toxic metals and other toxic substances mobilized by high acidity;

"(E) a list and description of those publicly owned lakes in such State for which uses are known to be impaired, including those lakes which are known not to meet applicable water quality standards or which require implementation of control programs to maintain compliance with applicable standards and those lakes in which water quality has deteriorated as a result of high acidity that may reasonably be due to acid deposition; and

"(F) an assessment of the status and trends of water quality in lakes in such State, including but not limited to, the nature and extent of pollution loading from point and nonpoint sources and the extent to which the use of lakes is impaired as a result of such pollution, particularly with respect to toxic pollution.

33 USC 1315.

"(2) SUBMISSION AS PART OF 305(b)(1) REPORT.—The information required under paragraph (1) shall be included in the report required under section 305(b)(1) of this Act, beginning with the report required under such section by April 1, 1988.

"(3) REPORT OF ADMINISTRATOR.—Not later than 180 days after receipt from the States of the biennial information required under paragraph (1), the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the status of water quality in lakes in the United States, including the effectiveness of the methods and procedures described in paragraph (1)(D).

Effective date.
State and local governments.
Grants.

"(4) ELIGIBILITY REQUIREMENT.—Beginning after April 1, 1988, a State must have submitted the information required under paragraph (1) in order to receive grant assistance under this section.".

33 USC 1324.

(b) DEMONSTRATION PROGRAM.—Section 314 is amended by adding at the end thereof the following new subsections:

"(d) DEMONSTRATION PROGRAM.—

"(1) GENERAL REQUIREMENTS.—The Administrator is authorized and directed to establish and conduct at locations throughout the Nation a lake water quality demonstration program. The program shall, at a minimum—

"(A) develop cost effective technologies for the control of pollutants to preserve or enhance lake water quality while optimizing multiple lakes uses;

"(B) control nonpoint sources of pollution which are contributing to the degradation of water quality in lakes;

"(C) evaluate the feasibility of implementing regional consolidated pollution control strategies;

"(D) demonstrate environmentally preferred techniques for the removal and disposal of contaminated lake sediments;

"(E) develop improved methods for the removal of silt, stumps, aquatic growth, and other obstructions which impair the quality of lakes;

"(F) construct and evaluate silt traps and other devices or equipment to prevent or abate the deposit of sediment in lakes; and

"(G) demonstrate the costs and benefits of utilizing dredged material from lakes in the reclamation of despoiled land.

Texas.
Arkansas.
New Jersey.
Rhode Island.
Vermont.
Minnesota.

"(2) GEOGRAPHICAL REQUIREMENTS.—Demonstration projects authorized by this subsection shall be undertaken to reflect a variety of geographical and environmental conditions. As a priority, the Administrator shall undertake demonstration projects at Lake Houston, Texas; Beaver Lake, Arkansas; Greenwood Lake and Belcher Creek, New Jersey; Deal Lake, New Jersey; Alcyon Lake, New Jersey; Gorton's Pond, Rhode Island; Lake Washington, Rhode Island; Lake Bomoseen, Vermont; Sauk Lake, Minnesota; and Lake Worth, Texas.

"(3) REPORTS.—The Administrator shall report annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate on work undertaken pursuant to this subsection. Upon completion of the program authorized by this subsection, the Administrator shall submit to such committees a final report on the results of such program, along with recommendations for further measures to improve the water quality of the Nation's lakes.

"(4) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection not to exceed $40,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

"(B) SPECIAL AUTHORIZATIONS.—

"(i) AMOUNT.—There is authorized to be appropriated to carry out subsection (b) with respect to subsection (a)(1)(D) not to exceed $15,000,000 for fiscal years beginning after September 30, 1986, to remain available until expended.

State and local governments.

"(ii) DISTRIBUTION OF FUNDS.—The Administrator shall provide for an equitable distribution of sums appropriated pursuant to this subparagraph among States carrying out approved methods and procedures. Such distribution shall be based on the relative needs of each such State for the mitigation of the harmful effects on lakes and other surface waters of high acidity that may reasonably be due to acid deposition or acid mine drainage.

State and local governments.

"(iii) GRANTS AS ADDITIONAL ASSISTANCE.—The amount of any grant to a State under this subparagraph shall be in addition to, and not in lieu of, any other Federal financial assistance.".

33 USC 1314.

(c) LAKE RESTORATION GUIDANCE MANUAL.—Section 304(j) is amended to read as follows:

State and local governments.

"(j) LAKE RESTORATION GUIDANCE MANUAL.—The Administrator shall, within 1 year after the date of the enactment of the Water Quality Act of 1987 and biennially thereafter, publish and disseminate a lake restoration guidance manual describing methods, procedures, and processes to guide State and local efforts to improve, restore, and enhance water quality in the Nation's publicly owned lakes.".

33 USC 1324.

(d) CONFORMING AMENDMENTS.—Section 314 is further amended—

(1) in subsection (b) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (a) of this section";

(2) in subsection (c)(1) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section"; and

(3) in subsection (c)(2) by striking out "this section" the first place it appears and inserting in lieu thereof "subsection (b) of this section" and by striking out "this section" the second place it appears and inserting in lieu thereof "subsection (a) of this section".

SEC. 316. MANAGEMENT OF NONPOINT SOURCES OF POLLUTION.

(a) IN GENERAL.—Title III is amended by adding at the end the following new section:

33 USC 1329.

"SEC. 319. NONPOINT SOURCE MANAGEMENT PROGRAMS.

"(a) STATE ASSESSMENT REPORTS.—

"(1) CONTENTS.—The Governor of each State shall, after notice and opportunity for public comment, prepare and submit to the Administrator for approval, a report which—

"(A) identifies those navigable waters within the State which, without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain applicable water quality standards or the goals and requirements of this Act;

"(B) identifies those categories and subcategories of nonpoint sources or, where appropriate, particular nonpoint sources which add significant pollution to each portion of the navigable waters identified under subparagraph (A) in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;

"(C) describes the process, including intergovernmental coordination and public participation, for identifying best management practices and measures to control each category and subcategory of nonpoint sources and, where appropriate, particular nonpoint sources identified under subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such category, subcategory, or source; and

"(D) identifies and describes State and local programs for controlling pollution added from nonpoint sources to, and improving the quality of, each such portion of the navigable waters, including but not limited to those programs which are receiving Federal assistance under subsections (h) and (i).

"(2) INFORMATION USED IN PREPARATION.—In developing the report required by this section, the State (A) may rely upon information developed pursuant to sections 208, 303(e), 304(f), 305(b), and 314, and other information as appropriate, and (B) may utilize appropriate elements of the waste treatment management plans developed pursuant to sections 208(b) and 303, to the extent such elements are consistent with and fulfill the requirements of this section.

33 USC 1288, 1313, 1314, 1315, 1324.

"(b) STATE MANAGEMENT PROGRAMS.—

"(1) IN GENERAL.—The Governor of each State, for that State or in combination with adjacent States, shall, after notice and opportunity for public comment, prepare and submit to the Administrator for approval a management program which such State proposes to implement in the first four fiscal years beginning after the date of submission of such management program for controlling pollution added from nonpoint sources to the navigable waters within the State and improving the quality of such waters.

"(2) SPECIFIC CONTENTS.—Each management program proposed for implementation under this subsection shall include each of the following:

"(A) An identification of the best management practices and measures which will be undertaken to reduce pollutant loadings resulting from each category, subcategory, or particular nonpoint source designated under paragraph (1)(B), taking into account the impact of the practice on ground water quality.

"(B) An identification of programs (including, as appropriate, nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects) to achieve implementation of the best management practices by the categories, subcategories, and particular nonpoint sources designated under subparagraph (A).

"(C) A schedule containing annual milestones for (i) utilization of the program implementation methods identified in subparagraph (B), and (ii) implementation of the best management practices identified in subparagraph (A) by the categories, subcategories, or particular nonpoint sources designated under paragraph (1)(B). Such schedule shall provide for utilization of the best management practices at the earliest practicable date.

"(D) A certification of the attorney general of the State or States (or the chief attorney of any State water pollution control agency which has independent legal counsel) that the laws of the State or States, as the case may be, provide adequate authority to implement such management program or, if there is not such adequate authority, a list of such additional authorities as will be necessary to implement such management program. A schedule and commitment by the State or States to seek such additional authorities as expeditiously as practicable.

"(E) Sources of Federal and other assistance and funding (other than assistance provided under subsections (h) and (i)) which will be available in each of such fiscal years for supporting implementation of such practices and measures and the purposes for which such assistance will be used in each of such fiscal years.

3 CFR, 1982 Comp., p. 197.

"(F) An identification of Federal financial assistance programs and Federal development projects for which the State will review individual assistance applications or development projects for their effect on water quality pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983, to determine whether such assistance applications or development projects would be consistent with the program prepared under this subsection; for the purposes of this subparagraph, identification shall not be limited to the assistance programs or development projects subject to Executive Order 12372 but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the State's nonpoint source pollution management program.

"(3) UTILIZATION OF LOCAL AND PRIVATE EXPERTS.—In developing and implementing a management program under this subsection, a State shall, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in control of nonpoint sources of pollution.

"(4) DEVELOPMENT ON WATERSHED BASIS.—A State shall, to the maximum extent practicable, develop and implement a management program under this subsection on a watershed-by-watershed basis within such State.

"(c) ADMINISTRATIVE PROVISIONS.—

Reports. State and local governments.

"(1) COOPERATION REQUIREMENT.—Any report required by subsection (a) and any management program and report required by subsection (b) shall be developed in cooperation with local, substate regional, and interstate entities which are actively planning for the implementation of nonpoint source pollution controls and have either been certified by the Administrator in accordance with section 208, have worked jointly with the State on water quality management planning under section 205(j), or have been designated by the State legislative body or Governor as water quality management planning agencies for their geographic areas.

33 USC 1288.

33 USC 1285.

"(2) TIME PERIOD FOR SUBMISSION OF REPORTS AND MANAGEMENT PROGRAMS.—Each report and management program shall be submitted to the Administrator during the 18-month period beginning on the date of the enactment of this section.

"(d) APPROVAL OR DISAPPROVAL OF REPORTS AND MANAGEMENT PROGRAMS.—

"(1) DEADLINE.—Subject to paragraph (2), not later than 180 days after the date of submission to the Administrator of any report or management program under this section (other than subsections (h), (i), and (k)), the Administrator shall either approve or disapprove such report or management program, as the case may be. The Administrator may approve a portion of a management program under this subsection. If the Administrator does not disapprove a report, management program, or portion of a management program in such 180-day period, such report, management program, or portion shall be deemed approved for purposes of this section.

"(2) PROCEDURE FOR DISAPPROVAL.—If, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies and other interested persons, the Administrator determines that—

"(A) the proposed management program or any portion thereof does not meet the requirements of subsection (b)(2) of this section or is not likely to satisfy, in whole or in part, the goals and requirements of this Act;

"(B) adequate authority does not exist, or adequate resources are not available, to implement such program or portion;

"(C) the schedule for implementing such program or portion is not sufficiently expeditious; or

"(D) the practices and measures proposed in such program or portion are not adequate to reduce the level of pollution in navigable waters in the State resulting from nonpoint sources and to improve the quality of navigable waters in the State;

the Administrator shall within 6 months of the receipt of the proposed program notify the State of any revisions or modifications necessary to obtain approval. The State shall thereupon have an additional 3 months to submit its revised management program and the Administrator shall approve or disapprove such revised program within three months of receipt.

State and local governments.

"(3) FAILURE OF STATE TO SUBMIT REPORT.—If a Governor of a State does not submit the report required by subsection (a) within the period specified by subsection (c)(2), the Administrator shall, within 30 months after the date of the enactment of this section, prepare a report for such State which makes the identifications required by paragraphs (1)(A) and (1)(B) of subsection (a). Upon completion of the requirement of the preceding sentence and after notice and opportunity for comment, the Administrator shall report to Congress on his actions pursuant to this section.

"(e) LOCAL MANAGEMENT PROGRAMS; TECHNICAL ASSISTANCE.—If a State fails to submit a management program under subsection (b) or the Administrator does not approve such a management program, a local public agency or organization which has expertise in, and authority to, control water pollution resulting from nonpoint sources in any area of such State which the Administrator determines is of sufficient geographic size may, with approval of such State, request the Administrator to provide, and the Administrator shall provide, technical assistance to such agency or organization in developing for such area a management program which is described in subsection (b) and can be approved pursuant to subsection (d). After development of such management program, such agency or organization shall submit such management program to the Administrator for approval. If the Administrator approves such management program, such agency or organization shall be eligible to receive financial assistance under subsection (h) for implementation of such management program as if such agency or organization were a State for which a report submitted under subsection (a) and a management program submitted under subsection (b) were approved under this section. Such financial assistance shall be subject to the same terms and conditions as assistance provided to a State under subsection (h).

"(f) Technical Assistance for States.—Upon request of a State, the Administrator may provide technical assistance to such State in developing a management program approved under subsection (b) for those portions of the navigable waters requested by such State.

"(g) Interstate Management Conference.—

State and local governments.

"(1) Convening of conference; notification; purpose.—If any portion of the navigable waters in any State which is implementing a management program approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of pollution from nonpoint sources in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute significant pollution resulting from nonpoint sources to such portion. If, on the basis of information available, the Administrator determines that a State is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or in part, of significant pollution from nonpoint sources in another State, the Administrator shall notify such States. The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification, whether or not the State which is not meeting such standards requests such conference. The purpose of such conference shall be to develop an agreement among such States to reduce the level of pollution in such portion resulting from nonpoint sources and to improve the water quality of such portion. Nothing in such agreement shall supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws. This subsection shall not apply to any pollution which is subject to the Colorado River Basin Salinity Control Act. The requirement that the Administrator convene a management conference shall not be subject to the provisions of section 505 of this Act.

43 USC 1571 note.

33 USC 1365.

"(2) State management program requirement.—To the extent that the States reach agreement through such conference, the management programs of the States which are parties to such agreements and which contribute significant pollution to the navigable waters or portions thereof not meeting applicable water quality standards or goals and requirements of this Act will be revised to reflect such agreement. Such management programs shall be consistent with Federal and State law.

State and local governments.

"(h) Grant Program.—

"(1) Grants for implementation of management programs.—Upon application of a State for which a report submitted under subsection (a) and a management program submitted under subsection (b) is approved under this section, the Administrator shall make grants, subject to such terms and conditions as the Administrator considers appropriate, under this subsection to such State for the purpose of assisting the State in implementing such management program. Funds reserved pursuant to section 205(j)(5) of this Act may be used to develop and implement such management program.

33 USC 1285.

"(B) Municipal discharge.—Permits for discharges from municipal storm sewers—

"(i) may be issued on a system- or jurisdiction-wide basis;

"(ii) shall include a requirement to effectively prohibit non-stormwater discharges into the storm sewers; and

"(iii) shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants.

"(4) Permit application requirements.—

Regulations.

"(A) Industrial and large municipal discharges.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraphs (2)(B) and (2)(C). Applications for permits for such discharges shall be filed no later than 3 years after such date of enactment. Not later than 4 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

Regulations.

"(B) Other municipal discharges.—Not later than 4 years after the date of the enactment of this subsection, the Administrator shall establish regulations setting forth the permit application requirements for stormwater discharges described in paragraph (2)(D). Applications for permits for such discharges shall be filed no later than 5 years after such date of enactment. Not later than 6 years after such date of enactment, the Administrator or the State, as the case may be, shall issue or deny each such permit. Any such permit shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the date of issuance of such permit.

"(5) Studies.—The Administrator, in consultation with the States, shall conduct a study for the purposes of—

"(A) identifying those stormwater discharges or classes of stormwater discharges for which permits are not required pursuant to paragraphs (1) and (2) of this subsection;

"(B) determining, to the maximum extent practicable, the nature and extent of pollutants in such discharges; and

"(C) establishing procedures and methods to control stormwater discharges to the extent necessary to mitigate impacts on water quality.

Reports.

Reports.

Not later than October 1, 1988, the Administrator shall submit to Congress a report on the results of the study described in subparagraphs (A) and (B). Not later than October 1, 1989, the Administrator shall submit to Congress a report on the results of the study described in subparagraph (C).

State and local governments.

"(6) Regulations.—Not later than October 1, 1992, the Administrator, in consultation with State and local officials,

---

(e) Cooperation.—The Administrator shall work with the city of New York to eliminate the discharge of raw sewage by such city at the earliest practicable date.

(f) Savings Clause.—Nothing in this section shall be construed as modifying the terms of the consent decree.

(g) Sense of Congress.—It is the sense of Congress that the Administrator should not agree to any further modification of the consent decree with respect to the schedule for achieving advanced preliminary treatment.

(h) Termination Dates.—

(1) North river plant.—The provisions of this section shall remain in effect with respect to the North River drainage area until such time as the North River plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(2) Red hook plant.—The provisions of this section shall remain in effect with respect to the Red Hook drainage area until such time as the Red Hook plant has achieved advanced preliminary treatment (as defined in the consent decree) for a period of six consecutive months.

(i) Monitoring Activities.—The Administrator shall promptly establish and carry out a program within available funds to implement the monitoring activities which may be required under subsection (a).

(j) Establishment of Methodologies.—The Administrator shall establish the methodologies, data base, and any other information required for making determinations under subsection (b)—

(1) for the North River drainage area (as defined in the consent decree) by July 31, 1986, unless the requirements of subsection (h)(1) have been satisfied, and

(2) for the Red Hook drainage area (as defined by the consent decree) by July 31, 1987, unless the requirements of subsection (h)(2) have been satisfied.

(k) Violations.—In carrying out this section, if the Administrator finds that a violation of subsection (a) has occurred, the Administrator shall also determine, within 30 days after such finding, whether a provision of subsection (b) applies. If the Administrator requires information from the city of New York in order to determine whether a provision of subsection (b) applies, the Administrator shall request such information. If the city of New York does not supply the information requested by the Administrator, the Administrator shall determine that subsection (b) does not apply. The city of New York shall be responsible only for such expenses as are necessary to provide such requested information. Enforcement action pursuant to subsection (c) shall be commenced at the end of such 30 days unless a provision of subsection (b) applies.

SEC. 512. OAKWOOD BEACH AND RED HOOK PROJECTS, NEW YORK.

33 USC 1251 note.

(a) Relocation of Natural Gas Facilities.—Notwithstanding any provision of the Federal Water Pollution Control Act, the Administrator shall pay, to the extent provided in appropriation Acts, in the same proportion as the Federal share of other project costs, all expenses for the relocation of facilities for the distribution of natural gas with respect to the entire wastewater treatment works known as the Oakwood Beach (EPA Grant Numbered 360392) and Red Hook (EPA Grant Numbered 360394) projects, New York.

"(2) Applications.—An application for a grant under this subsection in any fiscal year shall be in such form and shall contain such other information as the Administrator may require, including an identification and description of the best management practices and measures which the State proposes to assist, encourage, or require in such year with the Federal assistance to be provided under the grant.

"(3) Federal share.—The Federal share of the cost of each management program implemented with Federal assistance under this subsection in any fiscal year shall not exceed 60 percent of the cost incurred by the State in implementing such management program and shall be made on condition that the non-Federal share is provided from non-Federal sources.

"(4) Limitation on grant amounts.—Notwithstanding any other provision of this subsection, not more than 15 percent of the amount appropriated to carry out this subsection may be used to make grants to any one State, including any grants to any local public agency or organization with authority to control pollution from nonpoint sources in any area of such State.

"(5) Priority for effective mechanisms.—For each fiscal year beginning after September 30, 1987, the Administrator may give priority in making grants under this subsection, and shall give consideration in determining the Federal share of any such grant, to States which have implemented or are proposing to implement management programs which will—

Mines and mining.

"(A) control particularly difficult or serious nonpoint source pollution problems, including, but not limited to, problems resulting from mining activities;

"(B) implement innovative methods or practices for controlling nonpoint sources of pollution, including regulatory programs where the Administrator deems appropriate;

"(C) control interstate nonpoint source pollution problems; or

Research and development. Education.

"(D) carry out ground water quality protection activities which the Administrator determines are part of a comprehensive nonpoint source pollution control program, including research, planning, ground water assessments, demonstration programs, enforcement, technical assistance, education, and training to protect ground water quality from nonpoint sources of pollution.

"(6) Availability for obligation.—The funds granted to each State pursuant to this subsection in a fiscal year shall remain available for obligation by such State for the fiscal year for which appropriated. The amount of any such funds not obligated by the end of such fiscal year shall be available to the Administrator for granting to other States under this subsection in the next fiscal year.

"(7) Limitation on use of funds.—States may use funds from grants made pursuant to this section for financial assistance to persons only to the extent that such assistance is related to the costs of demonstration projects.

"(8) Satisfactory progress.—No grant may be made under this subsection in any fiscal year to a State which in the preceding fiscal year received a grant under this subsection unless the Administrator determines that such State made satisfactory progress in such preceding fiscal year in meeting the schedule specified by such State under subsection (b)(2).

"(9) MAINTENANCE OF EFFORT.—No grant may be made to a State under this subsection in any fiscal year unless such State enters into such agreements with the Administrator as the Administrator may require to ensure that such State will maintain its aggregate expenditures from all other sources for programs for controlling pollution added to the navigable waters in such State from nonpoint sources and improving the quality of such waters at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this subsection.

Reports.

"(10) REQUEST FOR INFORMATION.—The Administrator may request such information, data, and reports as he considers necessary to make the determination of continuing eligibility for grants under this section.

"(11) REPORTING AND OTHER REQUIREMENTS.—Each State shall report to the Administrator on an annual basis concerning (A) its progress in meeting the schedule of milestones submitted pursuant to subsection (b)(2)(C) of this section, and (B) to the extent that appropriate information is available, reductions in nonpoint source pollutant loading and improvements in water quality for those navigable waters or watersheds within the State which were identified pursuant to subsection (a)(1)(A) of this section resulting from implementation of the management program.

Education.
Science and technology.

"(12) LIMITATION ON ADMINISTRATIVE COSTS.—For purposes of this subsection, administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with a grant under this subsection shall not exceed in any fiscal year 10 percent of the amount of the grant in such year, except that costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs shall not be subject to this limitation.

State and local governments.
Research and development.
Education.

"(i) GRANTS FOR PROTECTING GROUNDWATER QUALITY.—

"(1) ELIGIBLE APPLICANTS AND ACTIVITIES.—Upon application of a State for which a report submitted under subsection (a) and a plan submitted under subsection (b) is approved under this section, the Administrator shall make grants under this subsection to such State for the purpose of assisting such State in carrying out groundwater quality protection activities which the Administrator determines will advance the State toward implementation of a comprehensive nonpoint source pollution control program. Such activities shall include, but not be limited to, research, planning, groundwater assessments, demonstration programs, enforcement, technical assistance, education and training to protect the quality of groundwater and to prevent contamination of groundwater from nonpoint sources of pollution.

"(2) APPLICATIONS.—An application for a grant under this subsection shall be in such form and shall contain such information as the Administrator may require.

"(3) FEDERAL SHARE; MAXIMUM AMOUNT.—The Federal share of the cost of assisting a State in carrying out groundwater protection activities in any fiscal year under this subsection shall be 50 percent of the costs incurred by the State in carrying out such activities, except that the maximum amount of Federal assistance which any State may receive under this subsection in any fiscal year shall not exceed $150,000.

"(4) REPORT.—The Administrator shall include in each report transmitted under subsection (m) a report on the activities and programs implemented under this subsection during the preceding fiscal year.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsections (h) and (i) not to exceed $70,000,000 for fiscal year 1988, $100,000,000 per fiscal year for each of fiscal years 1989 and 1990, and $130,000,000 for fiscal year 1991; except that for each of such fiscal years not to exceed $7,500,000 may be made available to carry out subsection (i). Sums appropriated pursuant to this subsection shall remain available until expended.

State and local governments.

"(k) CONSISTENCY OF OTHER PROGRAMS AND PROJECTS WITH MANAGEMENT PROGRAMS.—The Administrator shall transmit to the Office of Management and Budget and the appropriate Federal departments and agencies a list of those assistance programs and development projects identified by each State under subsection (b)(2)(F) for which individual assistance applications and projects will be reviewed pursuant to the procedures set forth in Executive Order 12372 as in effect on September 17, 1983. Beginning not later than sixty days after receiving notification by the Administrator, each Federal department and agency shall modify existing regulations to allow States to review individual development projects and assistance applications under the identified Federal assistance programs and shall accommodate, according to the requirements and definitions of Executive Order 12372, as in effect on September 17, 1983, the concerns of the State regarding the consistency of such applications or projects with the State nonpoint source pollution management program.

3 CFR, 1982 Comp., p. 197.
Regulations.

"(l) COLLECTION OF INFORMATION.—The Administrator shall collect and make available, through publications and other appropriate means, information pertaining to management practices and implementation methods, including, but not limited to, (1) information concerning the costs and relative efficiencies of best management practices for reducing nonpoint source pollution; and (2) available data concerning the relationship between water quality and implementation of various management practices to control nonpoint sources of pollution.

"(m) REPORTS OF ADMINISTRATOR.—

"(1) ANNUAL REPORTS.—Not later than January 1, 1988, and each January 1 thereafter, the Administrator shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from nonpoint sources and improving the quality of such waters.

"(2) FINAL REPORT.—Not later than January 1, 1990, the Administrator shall transmit to Congress a final report on the activities carried out under this section. Such report, at a minimum, shall—

"(A) describe the management programs being implemented by the States by types and amount of affected navigable waters, categories and subcategories of nonpoint sources, and types of best management practices being implemented;

"(B) describe the experiences of the States in adhering to schedules and implementing best management practices;

"(C) describe the amount and purpose of grants awarded pursuant to subsections (h) and (i) of this section;

"(D) identify, to the extent that information is available, the progress made in reducing pollutant loads and improving water quality in the navigable waters;

"(E) indicate what further actions need to be taken to attain and maintain in those navigable waters (i) applicable water quality standards, and (ii) the goals and requirements of this Act;

"(F) include recommendations of the Administrator concerning future programs (including enforcement programs) for controlling pollution from nonpoint sources; and

"(G) identify the activities and programs of departments, agencies, and instrumentalities of the United States which are inconsistent with the management programs submitted by the States and recommend modifications so that such activities and programs are consistent with and assist the States in implementation of such management programs.

"(n) SET ASIDE FOR ADMINISTRATIVE PERSONNEL.—Not less than 5 percent of the funds appropriated pursuant to subsection (j) for any fiscal year shall be available to the Administrator to maintain personnel levels at the Environmental Protection Agency at levels which are adequate to carry out this section in such year.".

33 USC 1251.

(b) POLICY FOR CONTROL OF NONPOINT SOURCES OF POLLUTION.—Section 101(a) is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(7) it is the national policy that programs for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.".

33 USC 1281.

(c) ELIGIBILITY OF NONPOINT SOURCES.—The last sentence of section 201(g)(1) is amended by—

(1) striking out "sentence," the first place it appears and inserting in lieu thereof "sentences,";

(2) inserting "(A)" after "October 1, 1984, for"; and

Grants.

Ante, p. 52.

(3) inserting before "except that" the following: "and (B) any purpose for which a grant may be made under sections 319 (h) and (i) of this Act (including any innovative and alternative approaches for the control of nonpoint sources of pollution),".

33 USC 1285.

(d) RESERVATION OF FUNDS.—Section 205(j) is amended by adding at the end the following new paragraph:

State and local governments.

Ante, p. 52.

"(5) NONPOINT SOURCE RESERVATION.—In addition to the sums reserved under paragraph (1), the Administrator shall reserve each fiscal year for each State 1 percent of the sums allotted and available for obligation to such State under this section for each fiscal year beginning on or after October 1, 1986, or $100,000, whichever is greater, for the purpose of carrying out section 319 of this Act. Sums so reserved in a State in any fiscal year for which such State does not request the use of such sums, to the extent such sums exceed $100,000, may be used by such State for other purposes under this title.".

(e) CONFORMING AMENDMENT.—Section 304(k)(1) is amended by inserting "and nonpoint source pollution management programs approved under section 319 of this Act" after "208 of this Act".

33 USC 1314.

Ante, p. 52; 33 USC 1288.

33 USC 1330 note.

SEC. 317. NATIONAL ESTUARY PROGRAM.

(a) PURPOSES AND POLICIES.—

(1) FINDINGS.—Congress finds and declares that—

(A) the Nation's estuaries are of great importance for fish and wildlife resources and recreation and economic opportunity;

(B) maintaining the health and ecological integrity of these estuaries is in the national interest;

(C) increasing coastal population, development, and other direct and indirect uses of these estuaries threaten their health and ecological integrity;

(D) long-term planning and management will contribute to the continued productivity of these areas, and will maximize their utility to the Nation; and

(E) better coordination among Federal and State programs affecting estuaries will increase the effectiveness and efficiency of the national effort to protect, preserve, and restore these areas.

(2) PURPOSES.—The purposes of this section are to—

(A) identify nationally significant estuaries that are threatened by pollution, development, or overuse;

(B) promote comprehensive planning for, and conservation and management of, nationally significant estuaries;

(C) encourage the preparation of management plans for estuaries of national significance; and

(D) enhance the coordination of estuarine research.

(b) MANAGEMENT PROGRAM.—Title III is amended by adding at the end thereof the following new section:

"SEC. 320. NATIONAL ESTUARY PROGRAM.

33 USC 1330.

"(a) MANAGEMENT CONFERENCE.—

State and local governments.

"(1) NOMINATION OF ESTUARIES.—The Governor of any State may nominate to the Administrator an estuary lying in whole or in part within the State as an estuary of national significance and request a management conference to develop a comprehensive management plan for the estuary. The nomination shall document the need for the conference, the likelihood of success, and information relating to the factors in paragraph (2).

"(2) CONVENING OF CONFERENCE.—

Fish and fishing. Wildlife.

"(A) IN GENERAL.—In any case where the Administrator determines, on his own initiative or upon nomination of a State under paragraph (1), that the attainment or maintenance of that water quality in an estuary which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on the water, requires the control of point and nonpoint sources of pollution to supplement existing controls of pollution in more than one State, the Administrator shall select such estuary and convene a management conference.

New York.
Connecticut.
Rhode Island.
Massachusetts.
Washington.
New Jersey.
Delaware.
North Carolina.
Florida.
California.
Texas.

"(B) PRIORITY CONSIDERATION.—The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Puget Sound, Washington; New York-New Jersey Harbor, New York and New Jersey; Delaware Bay, Delaware and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; and Galveston Bay, Texas.

"(3) BOUNDARY DISPUTE EXCEPTION.—In any case in which a boundary between two States passes through an estuary and such boundary is disputed and is the subject of an action in any court, the Administrator shall not convene a management conference with respect to such estuary before a final adjudication has been made of such dispute.

"(b) PURPOSES OF CONFERENCE.—The purposes of any management conference convened with respect to an estuary under this subsection shall be to—

"(1) assess trends in water quality, natural resources, and uses of the estuary;

"(2) collect, characterize, and assess data on toxics, nutrients, and natural resources within the estuarine zone to identify the causes of environmental problems;

"(3) develop the relationship between the inplace loads and point and nonpoint loadings of pollutants to the estuarine zone and the potential uses of the zone, water quality, and natural resources;

"(4) develop a comprehensive conservation and management plan that recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the estuary, including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish and wildlife, and recreational activities in the estuary, and assure that the designated uses of the estuary are protected;

"(5) develop plans for the coordinated implementation of the plan by the States as well as Federal and local agencies participating in the conference;

"(6) monitor the effectiveness of actions taken pursuant to the plan; and

"(7) review all Federal financial assistance programs and Federal development projects in accordance with the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes and objectives of the plan prepared under this section.

3 CFR, 1982
Comp., p. 197.

For purposes of paragraph (7), such programs and projects shall not be limited to the assistance programs and development projects subject to Executive Order 12372, but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the plan developed under this section.

"(c) MEMBERS OF CONFERENCE.—The members of a management conference convened under this section shall include, at a minimum, the Administrator and representatives of—

"(1) each State and foreign nation located in whole or in part in the estuarine zone of the estuary for which the conference is convened;

"(2) international, interstate, or regional agencies or entities having jurisdiction over all or a significant part of the estuary;

"(3) each interested Federal agency, as determined appropriate by the Administrator;

"(4) local governments having jurisdiction over any land or water within the estuarine zone, as determined appropriate by the Administrator; and

"(5) affected industries, public and private educational institutions, and the general public, as determined appropriate by the Administrator.

Conservation.
State and local governments.

"(d) UTILIZATION OF EXISTING DATA.—In developing a conservation and management plan under this section, the management conference shall survey and utilize existing reports, data, and studies relating to the estuary that have been developed by or made available to Federal, interstate, State, and local agencies.

"(e) PERIOD OF CONFERENCE.—A management conference convened under this section shall be convened for a period not to exceed 5 years. Such conference may be extended by the Administrator, and if terminated after the initial period, may be reconvened by the Administrator at any time thereafter, as may be necessary to meet the requirements of this section.

"(f) APPROVAL AND IMPLEMENTATION OF PLANS.—

"(1) APPROVAL.—Not later than 120 days after the completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve such plan if the plan meets the requirements of this section and the affected Governor or Governors concur.

"(2) IMPLEMENTATION.—Upon approval of a conservation and management plan under this section, such plan shall be implemented. Funds authorized to be appropriated under titles II and VI and section 319 of this Act may be used in accordance with the applicable requirements of this Act to assist States with the implementation of such plan.

33 USC 1281; *ante*, p. 52.

State and local governments.

"(g) GRANTS.—

"(1) RECIPIENTS.—The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

"(2) PURPOSES.—Grants under this subsection shall be made to pay for assisting research, surveys, studies, and modeling and other technical work necessary for the development of a conservation and management plan under this section.

"(3) FEDERAL SHARE.—The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 percent of the costs of such research, survey, studies, and work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources.

"(h) GRANT REPORTING.—Any person (including a State, interstate, or regional agency or entity) that receives a grant under subsection (g) shall report to the Administrator not later than 18 months after receipt of such grant and biennially thereafter on the progress being made under this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator not to exceed $12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 for—

"(1) expenses related to the administration of management conferences under this section, not to exceed 10 percent of the amount appropriated under this subsection;

"(2) making grants under subsection (g); and

"(3) monitoring the implementation of a conservation and management plan by the management conference or by the Administrator, in any case in which the conference has been terminated.

The Administrator shall provide up to $5,000,000 per fiscal year of the sums authorized to be appropriated under this subsection to the Administrator of the National Oceanic and Atmospheric Administration to carry out subsection (j).

"(j) RESEARCH.—

"(1) PROGRAMS.—In order to determine the need to convene a management conference under this section or at the request of such a management conference, the Administrator shall coordinate and implement, through the National Marine Pollution Program Office and the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, as appropriate, for one or more estuarine zones—

"(A) a long-term program of trend assessment monitoring measuring variations in pollutant concentrations, marine ecology, and other physical or biological environmental parameters which may affect estuarine zones, to provide the Administrator the capacity to determine the potential and actual effects of alternative management strategies and measures;

"(B) a program of ecosystem assessment assisting in the development of (i) baseline studies which determine the state of estuarine zones and the effects of natural and anthropogenic changes, and (ii) predictive models capable of translating information on specific discharges or general pollutant loadings within estuarine zones into a set of probable effects on such zones;

"(C) a comprehensive water quality sampling program for the continuous monitoring of nutrients, chlorine, acid precipitation dissolved oxygen, and potentially toxic pollutants (including organic chemicals and metals) in estuarine zones, after consultation with interested State, local, interstate, or international agencies and review and analysis of all environmental sampling data presently collected from estuarine zones; and

"(D) a program of research to identify the movements of nutrients, sediments and pollutants through estuarine zones and the impact of nutrients, sediments, and pollutants on water quality, the ecosystem, and designated or potential uses of the estuarine zones.

"(2) REPORTS.—The Administrator, in cooperation with the Administrator of the National Oceanic and Atmospheric Administration, shall submit to the Congress no less often than biennially a comprehensive report on the activities authorized under this subsection including—

"(A) a listing of priority monitoring and research needs;

"(B) an assessment of the state and health of the Nation's estuarine zones, to the extent evaluated under this subsection;

"(C) a discussion of pollution problems and trends in pollutant concentrations with a direct or indirect effect on water quality, the ecosystem, and designated or potential uses of each estuarine zone, to the extent evaluated under this subsection; and

"(D) an evaluation of pollution abatement activities and management measures so far implemented to determine the degree of improvement toward the objectives expressed in subsection (b)(4) of this section.

"(k) DEFINITIONS.—For purposes of this section, the terms 'estuary' and 'estuarine zone' have the meanings such terms have in section 104(n)(4) of this Act, except that the term 'estuarine zone' shall also include associated aquatic ecosystems and those portions of tributaries draining into the estuary up to the historic height of migration of anadromous fish or the historic head of tidal influence, whichever is higher.". 33 USC 1254.

SEC. 318. UNCONSOLIDATED QUATERNARY AQUIFER.

New Jersey.

Notwithstanding any other provision of law, no person may—

(1) locate or authorize the location of a landfill, surface impoundment, waste pile, injection well, or land treatment facility over the Unconsolidated Quaternary Aquifer, or the recharge zone or streamflow source zone of such aquifer, in the Rockaway River Basin, New Jersey (as such aquifer and zones are described in the Federal Register, January 24, 1984, pages 2946–2948); or 49 FR 2946–2948.

(2) place or authorize the placement of solid waste in a landfill, surface impoundment, waste pile, injection well, or land treatment facility over such aquifer or zone.

This section may be enforced under sections 309 (a) and (b) of the Federal Water Pollution Control Act. For purposes of section 309(c) of such Act, a violation of this section shall be considered a violation of section 301 of the Federal Water Pollution Control Act. 33 USC 1319. 33 USC 1311.

TITLE IV—PERMITS AND LICENSES

SEC. 401. STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.

(a) LIMITATION ON PERMIT REQUIREMENT.—Section 402(l) is amended by inserting "(1) AGRICULTURAL RETURN FLOWS.—" before "The Administrator" and by adding at the end thereof the following: 33 USC 1342.

State and local governments.

"(2) STORMWATER RUNOFF FROM OIL, GAS, AND MINING OPERATIONS.—The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require a permit, for discharges of stormwater runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with, any overburden, raw material, intermediate products, finished product, byproduct. or waste products located on the site of such operations.".

Ante, p. 65.

(b) CONFORMING AMENDMENTS.—Section 402(l) is further amended—

(1) by inserting "LIMITATION ON PERMIT REQUIREMENT.—" after "(l)"; and

(2) by indenting paragraph (1) of such section, as designated by subsection (a) of this section, and aligning such paragraph with paragraph (2) of such section, as added by such subsection (a).

SEC. 402. ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED.

Section 402 is amended by adding at the end thereof the following new subsection:

"(m) ADDITIONAL PRETREATMENT OF CONVENTIONAL POLLUTANTS NOT REQUIRED.—To the extent a treatment works (as defined in section 212 of this Act) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a person introducing conventional pollutants identified pursuant to section 304(a)(4) of this Act into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 307(b)(1) of this Act. Nothing in this subsection shall affect the Administrator's authority under sections 307 and 309 of this Act, affect State and local authority under sections 307(b)(4) and 510 of this Act, relieve such treatment works of its obligations to meet requirements established under this Act, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.".

33 USC 1292.
33 USC 1314.
33 USC 1317.
33 USC 1319.
33 USC 1370.

SEC. 403. PARTIAL NPDES PROGRAM.

Supra.

(a) PARTIAL PERMIT PROGRAM.—Section 402 is amended by adding at the end the following:

"(n) PARTIAL PERMIT PROGRAM.—

"(1) STATE SUBMISSION.—The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

"(2) MINIMUM COVERAGE.—A partial permit program under this subsection shall cover, at a minimum, administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

"(3) APPROVAL OF MAJOR CATEGORY PARTIAL PERMIT PROGRAMS.—The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

"(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

"(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

"(4) APPROVAL OF MAJOR COMPONENT PARTIAL PERMIT PROGRAMS.—The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) if—

"(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

"(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than 5 years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.".

(b) RETURN OF STATE PERMIT PROGRAM TO ADMINISTRATOR.—

(1) IN GENERAL.—Section 402(c) is amended by adding at the end thereof the following new paragraph: 33 USC 1342.

"(4) LIMITATIONS ON PARTIAL PERMIT PROGRAM RETURNS AND WITHDRAWALS.—A State may return to the Administrator administration, and the Administrator may withdraw under paragraph (3) of this subsection approval, of—

"(A) a State partial permit program approved under subsection (n)(3) only if the entire permit program being administered by the State department or agency at the time is returned or withdrawn; and *Ante*, p. 66.

"(B) a State partial permit program approved under subsection (n)(4) only if an entire phased component of the permit program being administered by the State at the time is returned or withdrawn.".

(2) CONFORMING AMENDMENT.—Section 402(c)(1) is amended by striking out "as to those navigable waters" and inserting in lieu thereof "as to those discharges".

SEC. 404. ANTI-BACKSLIDING.

(a) GENERAL RULE.—Section 402 is amended by adding at the end thereof the following new subsection: *Ante*, p. 66.

"(o) ANTI-BACKSLIDING.—

"(1) GENERAL PROHIBITION.—In the case of effluent limitations established on the basis of subsection (a)(1)(B) of this section, a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under section 304(b) subsequent to the original issuance of such permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit. In the case of effluent limitations established on the basis of section 301(b)(1)(C) or section 303 (d) or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except in compliance with section 303(d)(4). 33 USC 1314. 33 USC 1311. 33 USC 1313.

"(2) EXCEPTIONS.—A permit with respect to which paragraph (1) applies may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant if— Pollution.

"(A) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation;

"(B)(i) information is available which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or

"(ii) the Administrator determines that technical mistakes or mistaken interpretations of law were made in issuing the permit under subsection (a)(1)(B);

"(C) a less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy;

Ante, pp. 30, 35; 33 USC 1326.

"(D) the permittee has received a permit modification under section 301(c), 301(g), 301(h), 301(i), 301(k), 301(n), or 316(a); or

"(E) the permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations, in which case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification).

Subparagraph (B) shall not apply to any revised waste load allocations or any alternative grounds for translating water quality standards into effluent limitations, except where the cumulative effect of such revised allocations results in a decrease in the amount of pollutants discharged into the concerned waters, and such revised allocations are not the result of a discharger eliminating or substantially reducing its discharge of pollutants due to complying with the requirements of this Act or for reasons otherwise unrelated to water quality.

"(3) LIMITATIONS.—In no event may a permit with respect to which paragraph (1) applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters be renewed, reissued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under section 303 applicable to such waters.".

33 USC 1313.

(b) LIMITATIONS ON REVISION OF CERTAIN EFFLUENT LIMITATIONS.—Section 303(d) of the Act is amended by adding at the end thereof the following new paragraph:

"(4) LIMITATIONS ON REVISION OF CERTAIN EFFLUENT LIMITATIONS.—

"(A) STANDARD NOT ATTAINED.—For waters identified under paragraph (1)(A) where the applicable water quality standard has not yet been attained, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section may be revised only if (i) the cumulative effect of all such revised effluent limitations based on such total maximum daily load or waste load allocation will assure the attainment of such water quality standard, or (ii) the designated use which is not being attained is removed in accordance with regulations established under this section.

"(B) STANDARD ATTAINED.—For waters identified under paragraph (1)(A) where the quality of such waters equals or exceeds levels necessary to protect the designated use for such waters or otherwise required by applicable water quality standards, any effluent limitation based on a total maximum daily load or other waste load allocation established under this section, or any water quality standard established under this section, or any other permitting standard may be revised only if such revision is subject to and consistent with the antidegradation policy established under this section.".

33 USC 1375 note.
State and local governments.

(c) STUDY.—The Administrator shall study—

(1) the extent to which States have reviewed, revised, and adopted water quality standards in accordance with section 24 of the Municipal Wastewater Treatment Construction Grant Amendments of 1981; and

33 USC 1313a.

(2) the extent to which modifications of permits issued under section 402(a)(1)(B) of the Federal Water Pollution Control Act for the purpose of reflecting any revisions to water quality standards should be encouraged or discouraged.

33 USC 1342.

Reports.

The Administrator shall submit a report on such study, together with recommendations, to Congress not later than 2 years after the date of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 402(a)(1) is amended by inserting "(A)" after "either" and by inserting "(B)" after "this Act, or".

SEC. 405. MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.

Section 402 is amended by adding at the end thereof the following new subsection:

State and local governments.

"(p) MUNICIPAL AND INDUSTRIAL STORMWATER DISCHARGES.—

"(1) GENERAL RULE.—Prior to October 1, 1992, the Administrator or the State (in the case of a permit program approved under section 402 of this Act) shall not require a permit under this section for discharges composed entirely of stormwater.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to the following stormwater discharges:

"(A) A discharge with respect to which a permit has been issued under this section before the date of the enactment of this subsection.

"(B) A discharge associated with industrial activity.

"(C) A discharge from a municipal separate storm sewer system serving a population of 250,000 or more.

"(D) A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000.

"(E) A discharge for which the Administrator or the State, as the case may be, determines that the stormwater discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States.

"(3) PERMIT REQUIREMENTS.—

"(A) INDUSTRIAL DISCHARGES.—Permits for discharges associated with industrial activity shall meet all applicable provisions of this section and section 301.

33 USC 1311.

shall issue regulations (based on the results of the studies conducted under paragraph (5)) which designate stormwater discharges, other than those discharges described in paragraph (2), to be regulated to protect water quality and shall establish a comprehensive program to regulate such designated sources. The program shall, at a minimum, (A) establish priorities, (B) establish requirements for State stormwater management programs, and (C) establish expeditious deadlines. The program may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate.".

SEC. 406. SEWAGE SLUDGE.

(a) IDENTIFICATION AND REGULATION OF TOXIC POLLUTANTS.—Section 405(d) is amended— 33 USC 1345.

(1) by inserting "(1) REGULATIONS.—" before "The Administrator, after";

(2) by striking "(1)", "(2)", and "(3)" and inserting in lieu thereof "(A)", "(B)", and "(C)", respectively; and

(3) by adding at the end the following new paragraphs:

"(2) IDENTIFICATION AND REGULATION OF TOXIC POLLUTANTS.—

"(A) ON BASIS OF AVAILABLE INFORMATION.—

"(i) PROPOSED REGULATIONS.—Not later than November 30, 1986, the Administrator shall identify those toxic pollutants which, on the basis of available information on their toxicity, persistence, concentration, mobility, or potential for exposure, may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each such pollutant for each use identified under paragraph (1)(A).

"(ii) FINAL REGULATIONS.—Not later than August 31, 1987, and after opportunity for public hearing, the Administrator shall promulgate the regulations required by subparagraph (A)(i).

"(B) OTHERS.—

"(i) PROPOSED REGULATIONS.—Not later than July 31, 1987, the Administrator shall identify those toxic pollutants not identified under subparagraph (A)(i) which may be present in sewage sludge in concentrations which may adversely affect public health or the environment, and propose regulations specifying acceptable management practices for sewage sludge containing each such toxic pollutant and establishing numerical limitations for each pollutant for each such use identified under paragraph (1)(A).

"(ii) FINAL REGULATIONS.—Not later than June 15, 1988, the Administrator shall promulgate the regulations required by subparagraph (B)(i).

"(C) REVIEW.—From time to time, but not less often than every 2 years, the Administrator shall review the regulations promulgated under this paragraph for the purpose of identifying additional toxic pollutants and promulgating regulations for such pollutants consistent with the requirements of this paragraph.

"(D) MINIMUM STANDARDS; COMPLIANCE DATE.—The management practices and numerical criteria established under subparagraphs (A), (B), and (C) shall be adequate to protect public health and the environment from any reasonably anticipated adverse effects of each pollutant. Such regulations shall require compliance as expeditiously as practicable but in no case later than 12 months after their publication, unless such regulations require the construction of new pollution control facilities, in which case the regulations shall require compliance as expeditiously as practicable but in no case later than two years from the date of their publication.

"(3) ALTERNATIVE STANDARDS.—For purposes of this subsection, if, in the judgment of the Administrator, it is not feasible to prescribe or enforce a numerical limitation for a pollutant identified under paragraph (2), the Administrator may instead promulgate a design, equipment, management practice, or operational standard, or combination thereof, which in the Administrator's judgment is adequate to protect public health and the environment from any reasonably anticipated adverse effects of such pollutant. In the event the Administrator promulgates a design or equipment standard under this subsection, the Administrator shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(4) CONDITIONS ON PERMITS.—Prior to the promulgation of the regulations required by paragraph (2), the Administrator shall impose conditions in permits issued to publicly owned treatment works under section 402 of this Act or take such other measures as the Administrator deems appropriate to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge.

33 USC 1342.

"(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section is intended to waive more stringent requirements established by this Act or any other law.".

33 USC 1345.

(b) MANNER OF SLUDGE DISPOSAL.—Section 405(e) is amended to read as follows:

"(e) MANNER OF SLUDGE DISPOSAL.—The determination of the manner of disposal or use of sludge is a local determination, except that it shall be unlawful for any person to dispose of sludge from a publicly owned treatment works or any other treatment works treating domestic sewage for any use for which regulations have been established pursuant to subsection (d) of this section, except in accordance with such regulations.".

(c) IMPLEMENTATION THROUGH PERMITS.—Section 405 is further amended by adding at the end thereof the following:

"(f) IMPLEMENTATION OF REGULATIONS.—

State and local governments.

"(1) THROUGH SECTION 402 PERMITS.—Any permit issued under section 402 of this Act to a publicly owned treatment works or any other treatment works treating domestic sewage shall include requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section, unless such requirements have been included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, part C of the Safe Drinking

42 USC 6921.

Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under State permit programs approved by the Administrator, where the Administrator determines that such programs assure compliance with any applicable requirements of this section. Not later than December 15, 1986, the Administrator shall promulgate procedures for approval of State programs pursuant to this paragraph.

42 USC 300h. 33 USC 1401 note; 42 USC 7401 note.

"(2) THROUGH OTHER PERMITS.—In the case of a treatment works described in paragraph (1) that is not subject to section 402 of this Act and to which none of the other above listed permit programs nor approved State permit authority apply, the Administrator may issue a permit to such treatment works solely to impose requirements for the use and disposal of sludge that implement the regulations established pursuant to subsection (d) of this section. The Administrator shall include in the permit appropriate requirements to assure compliance with the regulations established pursuant to subsection (d) of this section. The Administrator shall establish procedures for issuing permits pursuant to this paragraph.

State and local governments.

33 USC 1342.

"(g) STUDIES AND PROJECTS.—

"(1) GRANT PROGRAM; INFORMATION GATHERING.—The Administrator is authorized to conduct or initiate scientific studies, demonstration projects, and public information and education projects which are designed to promote the safe and beneficial management or use of sewage sludge for such purposes as aiding the restoration of abandoned mine sites, conditioning soil for parks and recreation areas, agricultural and horticultural uses, and other beneficial purposes. For the purposes of carrying out this subsection, the Administrator may make grants to State water pollution control agencies, other public or nonprofit agencies, institutions, organizations, and individuals. In cooperation with other Federal departments and agencies, other public and private agencies, institutions, and organizations, the Administrator is authorized to collect and disseminate information pertaining to the safe and beneficial use of sewage sludge.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out the scientific studies, demonstration projects, and public information and education projects authorized in this section, there is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $5,000,000."

(d) ENFORCEMENT.—(1) Section 308(a)(4) is amended by inserting "405," before "and 504".

33 USC 1318.

(2) Section 505(f) is amended by striking out "or" before "(6)" and by inserting before the period "; or (7) a regulation under section 405(d) of this Act,".

33 USC 1365.

Ante, p. 71.

(3) Section 509(b)(1)(E) is amended by striking out "or 306" and inserting in lieu thereof "306, or 405".

33 USC 1369.

(e) REMOVAL CREDITS.—The part of the decision of Natural Resources Defense Council, Inc. v. U.S. Environmental Protection Agency, No. 84-3530 (3d. Cir. 1986), which addresses section 405(d) of the Federal Water Pollution Control Act is stayed until August 31, 1987, with respect to—

33 USC 1345 note.

(1) those publicly owned treatment works the owner or operator of which received authority to revise pretreatment require-

33 USC 1317.

ments under section 307(b)(1) of such Act before the date of the enactment of this section, and

(2) those publicly owned treatment works the owner or operator of which has submitted an application for authority to revise pretreatment requirements under such section 307(b)(1) which application is pending on such date of enactment and is approved before August 31, 1987.

Ante, p. 71.

The Administrator shall not authorize any other removal credits under such Act until the Administrator issues the regulations required by paragraph (2)(A)(ii) of section 405(d) of such Act, as amended by subsection (a) of this section.

(f) CONFORMING AMENDMENTS.—Section 405(d) is further amended—

(1) by inserting "REGULATIONS.—" after "(d)";

(2) by indenting paragraph (1) (as designated by subsection (a)(1) of this section) and aligning such paragraph with paragraph (3), as added by subsection (a)(3); and

(3) in such paragraph (1) by aligning subparagraphs (A), (B), and (C) (as designated by subsection (a)(2) of this section) with subparagraph (C) of paragraph (2), as added by subsection (a)(3) of this section.

33 USC 1342 note.
State and local governments.

SEC. 407. LOG TRANSFER FACILITIES.

(a) AGREEMENT.—The Administrator and Secretary of the Army shall enter into an agreement regarding coordination of permitting for log transfer facilities to designate a lead agency and to process permits required under sections 402 and 404 of the Federal Water Pollution Control Act, where both such sections apply, for discharges associated with the construction and operation of log transfer facilities. The Administrator and Secretary are authorized to act in accordance with the terms of such agreement to assure that, to the maximum extent practicable, duplication, needless paperwork and delay in the issuance of permits, and inequitable enforcement between and among facilities in different States, shall be eliminated.

33 USC 1342, 1344.

(b) APPLICATIONS AND PERMITS BEFORE OCTOBER 22, 1985.—Where both of sections 402 and 404 of the Federal Water Pollution Control Act apply, log transfer facilities which have received a permit under section 404 of such Act before October 22, 1985, shall not be required to submit a new application for a permit under section 402 of such Act. If the Administrator determines that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act satisfies the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, a separate application for a permit under section 402 of such Act shall not thereafter be required. In any case where the Administrator demonstrates, after an opportunity for a hearing, that the terms of a permit issued on or before October 22, 1985, under section 404 of such Act do not satisfy the applicable requirements of sections 301, 302, 306, 307, 308, and 403 of such Act, modifications to the existing permit under section 404 of such Act to incorporate such applicable requirements shall be issued by the Administrator as an alternative to issuance of a separate new permit under section 402 of such Act.

33 USC 1311, 1312, 1316, 1317, 1318, 1343.

(c) LOG TRANSFER FACILITY DEFINED.—For the purposes of this section, the term "log transfer facility" means a facility which is constructed in whole or in part in waters of the United States and which is utilized for the purpose of transferring commercially harvested logs to or from a vessel or log raft, including the formation of a log raft.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. AUDITS.

Section 501(d) is amended by inserting at the end the following new sentences: "For the purpose of carrying out audits and examinations with respect to recipients of Federal assistance under this Act, the Administrator is authorized to enter into noncompetitive procurement contracts with independent State audit organizations, consistent with chapter 75 of title 31, United States Code. Such contracts may only be entered into to the extent and in such amounts as may be provided in advance in appropriation Acts.".

Contracts.
State and local governments.
33 USC 1361.
31 USC 7501 *et seq*.

SEC. 502. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) DEFINED AS A STATE.—Section 502(3) is amended by inserting "the Commonwealth of the Northern Mariana Islands," after "Samoa,".

33 USC 1362.

(b) DEFINED AS PART OF UNITED STATES.—Section 311(a)(5) is amended by striking out "the Canal Zone," and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands,".

33 USC 1321.

SEC. 503. AGRICULTURAL STORMWATER DISCHARGES.

Section 502(14) (relating to the definition of point source) is amended by inserting after "does not include" the following: "agricultural stormwater discharges and".

SEC. 504. PROTECTION OF INTERESTS OF UNITED STATES IN CITIZEN SUITS.

Section 505(c) is amended by adding at the end thereof the following new paragraph:

33 USC 1365.

"(3) PROTECTION OF INTERESTS OF UNITED STATES.—Whenever any action is brought under this section in a court of the United States, the plaintiff shall serve a copy of the complaint on the Attorney General and the Administrator. No consent judgment shall be entered in an action in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator.".

SEC. 505. JUDICIAL REVIEW AND AWARD OF FEES.

(a) LOCATION; DEADLINE FOR APPEAL.—Section 509(b)(1) is amended—

33 USC 1369.

(1) by striking out "transacts such business" and inserting in lieu thereof, "transacts business which is directly affected by such action"; and

(2) by striking out "ninety" and "ninetieth" and inserting in lieu thereof "120" and "120th", respectively.

(b) VENUE; AWARD OF FEES.—Section 509(b) is amended by adding at the end thereof the following new paragraphs:

"(3) VENUE.—

"(A) SELECTION PROCEDURE.—If applications for review of the same agency action have been filed under paragraph (1) of this subsection in 2 or more Circuit Courts of Appeals of the United States and the Administrator has received written notice of the filing of one or more applications within 30 days or less after receiving written notice of the filing of the first application, then the Administrator shall promptly advise in writing the Administrative Office of the United States Courts that applications have been filed in 2 or more Circuit Courts of Appeals of the United States, and shall identify each court for which he has written notice that such applications have been filed within 30 days or less of receiving written notice of the filing of the first such application. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall, within 3 business days of receiving such written notice from the Administrator, select the court in which the record shall be filed from among those identified by the Administrator. Upon notification of such selection, the Administrator shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the Administrator, the record shall be filed in the Circuit Court of Appeals of the United States which remanded such action.

Records.

"(B) ADMINISTRATIVE PROVISIONS.—Where applications have been filed under paragraph (1) of this subsection in two or more Circuit Courts of Appeals of the United States with respect to the same agency action and the record has been filed in one of such courts pursuant to subparagraph (A), the other courts in which such applications have been filed shall promptly transfer such applications to the Circuit Court of Appeals of the United States in which the record has been filed. Pending selection of a court pursuant to subparagraph (A), any court in which an application has been filed under paragraph (1) of this subsection may postpone the effective date of the agency action until 15 days after the Administrative Office has selected the court in which the record shall be filed.

Records.

"(C) TRANSFERS.—Any court in which an application with respect to any agency action has been filed under paragraph (1) of this subsection, including any court selected pursuant to subparagraph (A), may transfer such application to any other Circuit Court of Appeals of the United States for the convenience of the parties or otherwise in the interest of justice.

"(4) AWARD OF FEES.—In any judicial proceeding under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party whenever it determines that such award is appropriate.".

33 USC 1365.

(c) CONFORMING AMENDMENT FOR CITIZEN SUIT ACTIONS.—The first sentence of section 505(d) is amended by inserting "prevailing or substantially prevailing" before "party".

SEC. 506. INDIAN TRIBES.

33 USC 1251 note.

Title V is amended by redesignating section 518, and any references thereto, as section 519 and by inserting after section 517 the following new section:

"SEC. 518. INDIAN TRIBES.

33 USC 1377.

33 USC 1251.

"(a) POLICY.—Nothing in this section shall be construed to affect the application of section 101(g) of this Act, and all of the provisions of this section shall be carried out in accordance with the provisions of such section 101(g). Indian tribes shall be treated as States for purposes of such section 101(g).

State and local governments.
Waste disposal.

33 USC 1285.
33 USC 1296.

"(b) ASSESSMENT OF SEWAGE TREATMENT NEEDS; REPORT.—The Administrator, in cooperation with the Director of the Indian Health Service, shall assess the need for sewage treatment works to serve Indian tribes, the degree to which such needs will be met through funds allotted to States under section 205 of this Act and priority lists under section 216 of this Act, and any obstacles which prevent such needs from being met. Not later than one year after the date of the enactment of this section, the Administrator shall submit a report to Congress on the assessment under this subsection, along with recommendations specifying (1) how the Administrator intends to provide assistance to Indian tribes to develop waste treatment management plans and to construct treatment works under this Act, and (2) methods by which the participation in and administration of programs under this Act by Indian tribes can be maximized.

State and local governments.
Waste disposal.

33 USC 1287.

"(c) RESERVATION OF FUNDS.—The Administrator shall reserve each fiscal year beginning after September 30, 1986, before allotments to the States under section 205(e), one-half of one percent of the sums appropriated under section 207. Sums reserved under this subsection shall be available only for grants for the development of waste treatment management plans and for the construction of sewage treatment works to serve Indian tribes.

State and local governments.

"(d) COOPERATIVE AGREEMENTS.—In order to ensure the consistent implementation of the requirements of this Act, an Indian tribe and the State or States in which the lands of such tribe are located may enter into a cooperative agreement, subject to the review and approval of the Administrator, to jointly plan and administer the requirements of this Act.

Grants.

33 USC 1281.

33 USC 1254, 1256, 1313, 1315, 1318, 1319, 1324; *ante*, p. 52; 33 USC 1341, 1342, 1344.

"(e) TREATMENT AS STATES.—The Administrator is authorized to treat an Indian tribe as a State for purposes of title II and sections 104, 106, 303, 305, 308, 309, 314, 319, 401, 402, and 404 of this Act to the degree necessary to carry out the objectives of this section, but only if—

"(1) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

"(2) the functions to be exercised by the Indian tribe pertain to the management and protection of water resources which are held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation; and

"(3) the Indian tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and of all applicable regulations.

Such treatment as a State may include the direct provision of funds reserved under subsection (c) to the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by the Administrator in cooperation with the Director of the Indian Health Service. The Administrator, in cooperation

33 USC 1281. Regulations.

with the Director of the Indian Health Service, is authorized to make grants under title II of this Act in an amount not to exceed 100 percent of the cost of a project. Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with Indian tribes, promulgate final regulations which specify how Indian tribes shall be treated as States for purposes of this Act. The Administrator shall, in promulgating such regulations, consult affected States sharing common water bodies and provide a mechanism for the resolution of any unreasonable consequences that may arise as a result of differing water quality standards that may be set by States and Indian tribes located on common bodies of water. Such mechanism shall provide for explicit consideration of relevant factors including, but not limited to, the effects of differing water quality permit requirements on upstream and downstream dischargers, economic impacts, and present and historical uses and quality of the waters subject to such standards. Such mechanism should provide for the avoidance of such unreasonable consequences in a manner consistent with the objective of this Act.

Ante, p. 52.

"(f) GRANTS FOR NONPOINT SOURCE PROGRAMS.—The Administrator shall make grants to an Indian tribe under section 319 of this Act as though such tribe was a State. Not more than one-third of one percent of the amount appropriated for any fiscal year under section 319 may be used to make grants under this subsection. In addition to the requirements of section 319, an Indian tribe shall be required to meet the requirements of paragraphs (1), (2), and (3) of subsection (d) of this section in order to receive such a grant.

"(g) ALASKA NATIVE ORGANIZATIONS.—No provision of this Act shall be construed to—

"(1) grant, enlarge, or diminish, or in any way affect the scope of the governmental authority, if any, of any Alaska Native organization, including any federally-recognized tribe, traditional Alaska Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), over lands or persons in Alaska;

25 USC 476.

"(2) create or validate any assertion by such organization or any form of governmental authority over lands or persons in Alaska; or

"(3) in any way affect any assertion that Indian country, as defined in section 1151 of title 18, United States Code, exists or does not exist in Alaska.

"(h) DEFINITIONS.—For purposes of this section, the term—

"(1) 'Federal Indian reservation' means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; and

"(2) 'Indian tribe' means any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation.".

33 USC 1362 note.
33 USC 1251 note.

SEC. 507. DEFINITION OF POINT SOURCE.

For purposes of the Federal Water Pollution Control Act, the term "point source" includes a landfill leachate collection system.

SEC. 508. SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES.

(a) FINDING.—The Congress finds that the New York Bight Apex is no longer a suitable location for the ocean dumping of municipal sludge. 33 USC 1414a note.

(b) GENERAL RULE.—Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is further amended by inserting after section 104 the following new section: 33 USC 1414.

"SPECIAL PROVISIONS REGARDING CERTAIN DUMPING SITES

"SEC. 104A. (a) NEW YORK BIGHT APEX.—(1) For purposes of this subsection: 33 USC 1414a.

"(A) The term 'Apex' means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

"(B) The term 'Apex site' means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

"(C) The term 'eligible authority' means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

"(2) No person may apply for a permit under this title in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

"(3) The Administrator may not issue, or renew, any permit under this title that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after the earlier of—

"(A) December 15, 1987; or

"(B) the day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a site designated under section 102 other than a site within the Apex. 33 USC 1412.

"(b) RESTRICTION ON USE OF THE 106-MILE SITE.—The Administrator may not issue or renew any permit under this title which authorizes any person, other than a person that is an eligible authority within the meaning of subsection (a)(1)(C), to dump, or to transport for the purposes of dumping, municipal sludge within the site designated under section 102(c) by the Administrator and known as the '106-Mile Ocean Waste Dump Site' (as described in 49 F.R. 19005).".

SEC. 509. OCEAN DISCHARGE RESEARCH PROJECTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator is authorized to issue a research permit to the Orange County, California, Sanitation Districts for the discharge of preconditioned municipal sewage sludge into the ocean for the purpose of enabling research to be conducted in assessing and analyzing the effects of disposing of sewage sludge by pipeline into ocean waters— California.

(1) if the Administrator is satisfied that such local governmental agency is actively pursuing long-term land-based options for the handling of its sludge with special emphasis on remote disposal alternatives set forth in the 1980 LA/OMA sludge

management project and on reuse of sludge or use of recycled sludge; and

(2) if the Administrator determines that there is no likelihood of an unacceptable adverse effect on the environment as a result of issuance of such permit and that such permit would meet the requirements of paragraph (2) of section 301(h) of the Federal Water Pollution Control Act, as amended by this Act, and of the sentences following the first sentence of such section if such permit were being issued under such section.

33 USC 1311.

(b) PERMIT TERMS.—

(1) PERIOD.—The permit for the discharge of sludge shall be for a period of 5 years commencing on the date of such discharge and shall not be extended or renewed.

State and local governments.
Report.

(2) MONITORING.—Such permit shall provide for monitoring (including whole effluent monitoring) of permitted discharges and other discharges into the ocean in the same area and the effects of such discharges (including cumulative effects) in conformance with requirements established by the Administrator, after consultation with appropriate Federal and State agencies, and for the reporting of such monitoring to Congress and the Administrator every 6 months.

(3) VOLUME OF DISCHARGE.—Such permit shall provide that the volume of such local agency's sludge disposed of by such experimental pipeline shall be no more than one and one-half times that being disposed of by such remote disposal and alternatives for the reuse of sludge and the use of recycled sludge. In no event shall the agency dispose of more than 50 percent of its sludge by the pipeline.

Fish and fishing.
Wildlife.

(4) TERMINATION.—The permit shall provide for termination of the permit if the Administrator determines that the disposal of sewage sludge is resulting in an unacceptable adverse impact on fish, shellfish, and wildlife. The Administrator may terminate a permit issued under this section if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown. If the effluent from a source with a permit issued under this section is contributing to a decline in ambient water quality of the receiving waters, the Administrator shall terminate such permit.

(c) LIMITATION ON PRECEDENT.—The facts and circumstances described in subsection (a) present a unique situation which will not establish a precedent for the relaxation of the requirements of the Federal Water Pollution Control Act applicable to similarly situated discharges.

33 USC 1251 note.

(d) REPORT.—Such districts shall report the results of the program and an analysis of such program to Congress under this section not later than four and one-half years after issuance of the permit.

Mexico.

SEC. 510. SAN DIEGO, CALIFORNIA.

(a) PURPOSE.—The purpose of this section is to protect the economy, public health, environment, surface water and public beaches, and water quality of the city of San Diego, California, and surrounding areas, which are endangered and are being polluted by raw sewage emanating from the city of Tijuana, Mexico.

(b) CONSTRUCTION GRANTS.—Upon approval of the necessary plans and specifications, the Administrator is authorized to make grants to the Secretary of State, acting through the American Section of the International Boundary and Water Commission (hereinafter in this section referred to as the "Commission"), or any other Federal agency or any other appropriate commission or entity designated by the President. Such grants shall be for construction of a project consisting of—

(1) defensive treatment works to protect the residents of the city of San Diego, California, and surrounding areas from pollution resulting from any inadequacies or breakdowns in wastewater treatment works and systems in Mexico; and

(2) treatment works in the city of San Diego, California, to provide primary or more advanced treatment of municipal sewage and industrial waste from Mexico, including the city of Tijuana, Mexico.

Pollution.

(c) LIMITATION ON GRANTS.—Notwithstanding subsection (b), the Administrator may make grants for construction of treatment works described in subsection (b)(2) only if, after public notice and comment, the Administrator determines that treatment works in Mexico, in conjunction with any defensive treatment works constructed under this or any other Act, are not sufficient to protect the residents of the city of San Diego, California, and surrounding areas from water pollution originating in Mexico.

(d) OPERATION AND MAINTENANCE.—The Commission or such other agency, commission, or entity as may be designated under subsection (b) is authorized to operate and maintain any treatment works constructed under subsection (b) in order to accomplish the purposes of this section.

(e) APPROVAL OF PLANS.—Any treatment works for which a grant is made under this section shall be constructed in accordance with plans developed by the Commission or such other agency, commission, or entity as may be designated under subsection (b), in consultation with the city of San Diego, and approved by the Administrator to meet the construction standards which would be applicable if such treatment works were being constructed under title II of the Federal Water Pollution Control Act.

33 USC 1281.

(f) FEDERAL SHARE.—Construction of the treatment works under subsection (b) shall be at full Federal expense less any costs paid by the State of California and less any costs paid by the Government of Mexico as a result of agreements negotiated with the United States.

Pollution.
33 USC 1311.

(g) OCEAN OUTFALL PERMIT.—Notwithstanding section 301(j) of the Federal Water Pollution Control Act, upon application of the city of San Diego, California, the Administrator may issue a permit under section 301(h) of such Act which modifies the requirements of section 301(b)(1)(B) of such Act to permit the discharge of pollutants for any ocean outfall constructed with Federal assistance under this section if the Administrator finds that issuing such permit is in the best interests of achieving the goals and requirements of such Act. The Administrator may waive the requirements of section 301(h)(5) of such Act with respect to the issuance of such permit if the Administrator finds that such waiver is in the best interests of achieving the goals and requirements of such Act.

(h) TREATMENT OF SAN DIEGO SEWAGE.—If any treatment works constructed pursuant to this section becomes no longer necessary to provide protection from pollution originating in Mexico, the city of San Diego, California, may use such treatment works to treat municipal and individual waste originating in the city of San Diego and surrounding areas if the city of San Diego enters into a binding agreement with the Administrator to pay to the United States 45 percent of the costs incurred in the construction of such treatment works.

(i) Definitions.—For purposes of this section, the terms "construction" and "treatment works" have the meanings such terms have under section 212 of the Federal Water Pollution Control Act.

33 USC 1292.

Grants.

(j) Authorization of Appropriations.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, such sums as may be necessary to the Administrator to make grants under this section and such sums as may be necessary to the Commission or such other agency, commission, or entity as the President may designate under subsection (b), to carry out this section.

SEC. 511. LIMITATION ON DISCHARGE OF RAW SEWAGE BY NEW YORK CITY.

(a) In General.—

(1) North river plant.—If the wastewater treatment plant identified in the consent decree as the North River plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1986, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navigable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1986 (as determined by the Administrator), except as provided in subsection (b).

(2) Red hook plant.—If the wastewater treatment plant identified in the consent decree as the Red Hook plant has not achieved advanced preliminary treatment as required under the terms of the consent decree by August 1, 1987, the city of New York shall not discharge raw sewage from the drainage area of such plant (as defined in the consent decree) into navigable waters after such date in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily amount of raw sewage discharged from such drainage area during the 12-month period ending on the earlier of the date on which such plant becomes operational or March 15, 1987 (as determined by the Administrator), except as provided in subsection (b).

(b) Waivers.—

(1) Interruption of plant operation.—In the event of any significant interruption in the operation of the North River plant or the Red Hook plant caused by an event described in subparagraph (A), (B), or (C) of paragraph (5) occurring after the applicable deadline established under subsection (a), the Administrator shall waive the limitation of subsection (a) with respect to such plant, but only to such extent and for such limited period of time as may be reasonably necessary for the city of New York to resume operation of such plant.

(2) Increased precipitation.—In the event that the volume of precipitation occurring after the applicable deadline established under subsection (a) causes the discharge of raw sewage to exceed the limitation under subsection (a), the Administrator

shall waive the limitation of subsection (a) with respect to either or both such plants, but only to such extent and for such limited period of time as the Administrator determines to be necessary to take into account the increased discharge caused by such volume of precipitation.

(3) VARIATIONS IN CERTAIN NORTH RIVER DRAINAGE AREA DISCHARGES.—In the event that an increase in discharges from the North River drainage area constituting a violation of subsection (a)(1) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1986, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(1), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to take into account such random or seasonal variation.

(4) VARIATIONS IN CERTAIN RED HOOK DRAINAGE AREA DISCHARGES.—In the event that an increase in discharges from the Red Hook drainage area constituting a violation of subsection (a)(2) is due to a random or seasonal variation, and that any sewer hookup occurring, or permit for a sewer hookup granted, after July 31, 1987, is not responsible for such violation, the Administrator shall waive the limitation of subsection (a)(2), but only to such extent and for such limited period of time as the Administrator determines to be reasonably necessary to take into account such random or seasonal variation.

(5) CIRCUMSTANCES BEYOND CITY'S CONTROL.—The Administrator shall extend either deadline under paragraph (1) or (2) of subsection (a) to such extent and for such limited period of time as may be reasonably required to take into account any—

(A) act of war,

(B) unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight, or

(C) other circumstances beyond the control of the city of New York, except such circumstances shall not include (i) the unavailability of Federal funds under section 201 of the Federal Water Pollution Control Act, (ii) the unavailability of funds from the city of New York or the State of New York, or (iii) a policy decision made by the city of New York or the State of New York to delay the achievement of advanced preliminary treatment at the North River plant or Red Hook plant beyond the applicable deadline set forth in subsection (a). 33 USC 1281.

(c) PENALTIES.—Except as otherwise provided in subsection (b), any violation of subsection (a) shall be considered to be a violation of section 301 of the Federal Water Pollution Control Act, and all provisions of such Act relating to violations of such section 301 shall apply. 33 USC 1311.

(d) CONSENT DECREE DEFINED.—For purposes of this section, the term "consent decree" means the consent decree entered into by the Environmental Protection Agency, the city of New York, and the State of New York, on December 30, 1982, relating to construction and operation of the North River and Red Hook wastewater treatment plants.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, not to exceed $7,000,000 to carry out this section.

SEC. 513. BOSTON HARBOR AND ADJACENT WATERS.

(a) GRANTS.—The Administrator shall make grants to the Massachusetts Water Resource Authority for purposes of—

(1) assessing the principal factors having an adverse effect on the environmental quality of Boston Harbor and its adjacent waters;

(2) developing and implementing a management program to improve the water quality of such Harbor and waters; and

(3) constructing necessary waste water treatment works for providing secondary treatment for the areas served by such authority.

(b) FEDERAL SHARE.—The Federal share of projects described in subsection (a) shall not exceed 75 percent of the cost of construction thereof.

(c) EMERGENCY IMPROVEMENTS.—The Administrator is authorized and directed to make grants to the Massachusetts Water Resource Authority for a project to undertake emergency improvements at the Deer Island Waste Water Treatment Plant in Boston, Massachusetts. The Federal share of such project shall not exceed 75 percent of the cost of carrying out such improvements.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $100,000,000 to carry out this section for fiscal years beginning after September 30, 1986, to remain available until expended. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act. 33 USC 1281.

SEC. 514. WASTEWATER RECLAMATION DEMONSTRATION.

California.

(a) AUTHORITY TO MAKE GRANTS.—The Administrator is authorized to make a grant to the San Diego Water Reclamation Agency, California, to demonstrate and field test for public use innovative processes which advance the technology of wastewater reclamation and which promote the use of reclaimed wastewater.

(b) FEDERAL SHARE.—The Federal share of grants made under this section shall be 85 percent of the costs of conducting such demonstration and field test.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $2,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 515. DES MOINES, IOWA.

(a) GRANT.—The Administrator is authorized to make a grant to the city of Des Moines, Iowa, for construction of the Central Sewage Treatment Plant component of the Des Moines, Iowa, metropolitan area project. The Federal share of such project shall be 75 percent of the cost of construction.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section not to exceed $50,000,000 for fiscal years beginning after September 30, 1986. Such sums shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

33 USC 1375 note. Pollution.

SEC. 516. STUDY OF DE MINIMIS DISCHARGES.

33 USC 1251 note.

(a) STUDY.—The Administrator shall conduct a study of discharges of pollutants into the navigable waters and their regulation under the Federal Water Pollution Control Act to determine whether or not there are discharges of pollutants into such waters in amounts which, in terms of volume, concentration, and type of pollutant, are not significant and to determine the most effective and appropriate methods of regulating any such discharges.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study along with recommendations and findings concerning the most effective and appropriate methods of regulating any discharges of pollutants into the navigable waters in amounts which the Administrator determines under such study to be not significant.

33 USC 1375 note.

SEC. 517. STUDY OF EFFECTIVENESS OF INNOVATIVE AND ALTERNATIVE PROCESSES AND TECHNIQUES.

33 USC 1281.

Ante, p. 20.

(a) EFFECTIVENESS STUDY.—The Administrator shall study the effectiveness on waste treatment of innovative and alternative wastewater treatment processes and techniques referred to in section 201(g)(5) of the Federal Water Pollution Control Act which have been utilized in treatment works constructed under such Act. In conducting such study, the Administrator shall compile information, by State, on the types of such processes and techniques utilized, on the number of facilities constructed with such processes and techniques, and a description of such processes and techniques which have not performed to design standards. The Administrator shall also determine which States have not obligated the full amount set aside under section 205(i) of such Act for such processes and techniques and the reasons for each such State's failure to make such obligations.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of such study, along with recommendations for providing more effective incentives for innovative and alternative wastewater treatment processes and techniques.

33 USC 1375 note. Pollution.

SEC. 518. STUDY OF TESTING PROCEDURES.

33 USC 1314.

(a) STUDY.—The Administrator shall study the testing procedures for analysis of pollutants established under section 304(h) of the Federal Water Pollution Control Act. Such study shall include, but not be limited to, an analysis of the adequacy and standardization of such procedures. In conducting the analysis of the standardization of such procedures, the Administrator shall consider the extent to which such procedures are consistent with comparable procedures established under other Federal laws.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study conducted under this subsection, together with recommendations for modifying the test procedures referred to in subsection (a) to improve their effectiveness, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 519. STUDY OF PRETREATMENT OF TOXIC POLLUTANTS.

33 USC 1375 note.

(a) STUDY.—The Administrator shall study—

(1) the adequacy of data on environmental impacts of toxic industrial pollutants discharged from publicly owned treatment works;

(2) the extent to which secondary treatment at publicly owned treatment works removes toxic pollutants;

(3) the capability of publicly owned treatment works to revise pretreatment requirements under section 307(b)(1) of the Federal Water Pollution Control Act;

33 USC 1317.

(4) possible alternative regulatory strategies for protecting the operations of publicly owned treatment works from industrial discharges, and shall evaluate the extent to which each such strategy identified may be expected to achieve the goals of this Act;

(5) for each such alternative regulatory strategy, the extent to which removal of toxic pollutants by publicly owned treatment works results in contamination of sewage sludge and the extent to which pretreatment requirements may prevent such contamination or improve the ability of publicly owned treatment works to comply with sewage sludge criteria developed under section 405 of the Federal Water Pollution Control Act; and

33 USC 1345. State and local governments.

(6) the adequacy of Federal, State, and local resources to establish, implement, and enforce multiple pretreatment limits for toxic pollutants for each such alternative strategy.

(b) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Administrator shall submit a report on the results of such study along with recommendations for improving the effectiveness of pretreatment requirements to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

SEC. 520. STUDIES OF WATER POLLUTION PROBLEMS IN AQUIFERS.

33 USC 1375 note. State and local governments.

(a) STUDIES.—The Administrator, in conjunction with State and local agencies and after providing an opportunity for full public participation, shall conduct studies for the purpose of identifying existing and potential point and nonpoint sources of pollution, and of identifying measures and practices necessary to control such sources of pollution, in the following groundwater systems and aquifers:

(1) the groundwater system of the Upper Santa Cruz Basin and the Avra-Altar Basin of Pima, Pinal, and Santa Cruz Counties, Arizona; Arizona.

(2) the Spokane-Rathdrum Valley Aquifer, Washington and Idaho; Washington. Idaho.

(3) the Nassau and Suffolk Counties Aquifer, New York; New York.

(4) the Whidbey Island Aquifer, Washington;

(5) the Unconsolidated Quaternary Aquifer, Rockaway River area, New Jersey; New Jersey.

(6) contaminated ground water under Litchfield, Hartford, Fairfield, Tolland, and New Haven counties, Connecticut; and Connecticut.

(7) the Sparta Aquifer, Arkansas. Arkansas.

(b) REPORTS.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the studies conducted under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $7,000,000 for fiscal years beginning after September 30, 1986, to carry out this section.

42 USC 1962d-20 note.
Fish and fishing.
Environmental protection.

SEC. 521. GREAT LAKES CONSUMPTIVE USE STUDY.

(a) STUDY OF CONSUMPTIVE USES.—In recognition of the serious impacts on the Great Lakes environment that may occur as a result of increased consumption of Great Lakes water, including loss of wetlands and reduction of fish spawning and habitat areas, as well as serious economic losses to vital Great Lakes industries, and in recognition of the national goal to provide environmental protection and preservation of our natural resources while allowing for continued economic growth, the Secretary of the Army in cooperation with the Administrator, other interested departments, agencies, and instrumentalities of the United States, and the eight Great Lakes States, is authorized to conduct a study of the effects of Great Lakes water consumption on economic growth and environmental quality in the Great Lakes region and of control measures that can be implemented to reduce the quantity of water consumed.

(b) MATTERS INCLUDED.—The study authorized by this section shall at a minimum include the following:

(1) a review of the methodologies used to forecast Great Lakes consumptive uses, including an analysis of the sensitivity of key variables affecting such uses;

33 USC 1251 note.

(2) an analysis of the effect that enforcement of provisions of the Federal Water Pollution Control Act relating to thermal discharges has had on consumption of Great Lakes water;

(3) an analysis of the effect of laws, regulations, and national policy objectives on consumptive uses of Great Lakes water used in manufacturing;

(4) an analysis of the associated environmental impacts and of the economic effects on industry and other interests in the Great Lakes region associated with individual consumptive use control strategies; and

(5) a summary discussion containing recommendations for methods of controlling consumptive uses which methods maximize benefits to the Great Lakes ecosystem and also provide for continued full economic growth for consuming industries as well as other industries which depend on the use of Great Lakes water.

(c) GREAT LAKES STATES DEFINED.—For purposes of this section, the term "Great Lakes States" means Minnesota, Wisconsin, Illinois, Ohio, Michigan, Indiana, Pennsylvania, and New York.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, $750,000 to carry out this section. Sums appropriated under this section shall remain available until expended.

33 USC 1375 note.

SEC. 522. SULFIDE CORROSION STUDY.

(a) STUDY.—The Administrator shall conduct a study of the corrosive effects of sulfides in collection and treatment systems, the extent to which the uniform imposition of categorical pretreatment standards will exacerbate such effects, and the range of available options to deal with such effects.

California.

(b) **Consultation.**—The study required by this section shall be conducted in consultation with the Los Angeles City and County sanitation agencies.

(c) **Report.**—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit a report on the results of the study, together with recommendations for measures to reduce the corrosion of treatment works, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(d) **Authorization of Appropriations.**—There is authorized to be appropriated $1,000,000 to carry out this section for fiscal years beginning after September 30, 1986.

SEC. 523. STUDY OF RAINFALL INDUCED INFILTRATION INTO SEWER SYSTEMS.

33 USC 1375 note.

California.

(a) **Study.**—The Administrator shall study problems associated with rainfall induced infiltration into wastewater treatment sewer systems. As part of such study, the Administrator shall study appropriate methods of regulating rainfall induced infiltration into the sewer system of the East Bay Municipal Utility District, California.

(b) **Report.**—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the results of such study, along with recommendations on reasonable methods to reduce such infiltration.

SEC. 524. DAM WATER QUALITY STUDY.

33 USC 1375 note.
State and local governments.

The Administrator, in cooperation with interested States and Federal agencies, shall study and monitor the effects on the quality of navigable waters attributable to the impoundment of water by dams. The results of such study shall be submitted to Congress not later than December 31, 1987.

SEC. 525. STUDY OF POLLUTION IN LAKE PEND OREILLE, IDAHO.

33 USC 1375 note.
Montana.
Washington.

The Administrator shall conduct a comprehensive study of the sources of pollution in Lake Pend Oreille, Idaho, and the Clark Fork River and its tributaries, Idaho, Montana, and Washington, for the purpose of identifying the sources of such pollution. In conducting such study, the Administrator shall consider existing studies, surveys, and test results concerning such pollution. The Administrator shall report to Congress the findings and recommendations concerning the study conducted under this section.

Reports.

Jim Wright
Speaker of the House of Representatives.

John C. Stennis
President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.,

February 3, 1987.

The House of Representatives having proceeded to reconsider the bill (H.R. 1) entitled "An Act to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

DONNALD K. ANDERSON
Clerk.

I certify that this Act originated in the House of Representatives.

DONNALD K. ANDERSON
Clerk.

IN THE SENATE OF THE UNITED STATES,

February 4, 1987.

The Senate having proceeded to reconsider the bill (H.R. 1) entitled "An Act to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

WALTER J. STEWART
Secretary.

LEGISLATIVE HISTORY—H.R. 1 (S. 1) (S. 76):

CONGRESSIONAL RECORD, Vol. 133 (1987):
  Jan. 8, considered and passed House.
  Jan. 14, 16, 20, 21, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
  Jan. 30, Presidential veto messages.
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Feb. 3, House overrode veto.
  Feb. 4, Senate overrode veto.

○

Public Law 100-5
100th Congress

Joint Resolution

Congratulating Dennis Conner and the crew of Stars and Stripes for their achievement in winning the America's Cup.

Feb. 11, 1987
[H.J. Res. 131]

Whereas Stars and Stripes has successfully defeated Kookaburra III to bring the America's Cup back home to the United States where it belongs;

Whereas Stars and Stripes has brought the America's Cup to the West Coast of the United States, where it will stay for generations to come;

Whereas Stars and Stripes successfully defeated eleven competitors for the right to face New Zealand in the finals of the challenger's division;

Whereas Stars and Stripes defeated the New Zealand boat, Kiwi, 4 to 1 for the right to sail against the Australian entry for the America's Cup;

Whereas Stars and Stripes has captured the attention of the American people and has shown American ingenuity, spirit, and pride in their purest forms; and

Whereas Stars and Stripes has taken the sport of yachting from the back pages of the American imagination and propelled it to page one of the vision of America's future: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation expressing to Dennis Conner and the crew of Stars and Stripes the heartfelt congratulations and thanks of our Nation for instilling such a great sense of national pride and for a job well done.

Approved February 11, 1987.

LEGISLATIVE HISTORY—H.J. Res. 131:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Feb. 4, considered and passed House.
Feb. 5, considered and passed Senate.

○

PUBLIC LAW 100-6—FEB. 12, 1987

EMERGENCY FOOD AND SHELTER PROGRAM, ETC.

Public Law 100-6
100th Congress

Joint Resolution

Feb. 12, 1987
[H.J. Res. 102]

Making emergency additional funds available by transfer for the fiscal year ending September 30, 1987, for the Emergency Food and Shelter Program of the Federal Emergency Management Agency.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is transferred, out of funds previously appropriated, for the fiscal year ending September 30, 1987, namely:

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(RESCISSION)

Of the funds included under this head in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $7,475,000 are rescinded.

100 Stat. 1783.
100 Stat. 3341.

EMERGENCY FOOD AND SHELTER PROGRAM

(BY TRANSFER)

For an additional amount for the "Emergency Food and Shelter Program", $50,000,000, which shall be derived by transfer from the Federal Emergency Management Agency appropriation "Disaster relief": *Provided,* That of such amount $5,000,000 shall be transferred to the Veterans' Administration medical care account to be available for the purpose of section 2 of this joint resolution.

TREATMENT AND REHABILITATION FOR CHRONICALLY MENTALLY ILL VETERANS

SEC. 2. (a) Subchapter II of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

38 USC 620C.

"§ 620C. Community-based psychiatric residential treatment for chronically mentally ill veterans

"(a) For the purposes of this section:

"(1) The term 'case management' includes the coordination and facilitation of all services furnished to a veteran by the Veterans' Administration, either directly or through a contract, including, but not limited to, screening, assessment of needs, planning, referral (including referral for services to be furnished by either the Veterans' Administration or another entity), monitoring, reassessment, and followup.

"(2) The term 'contract facility' means any facility which has been awarded a contract under subsection (b)(1) of this section.

"(3) The term 'eligible veteran' means a veteran who, at the time of referral to a contract facility—

"(A) is being furnished hospital, domiciliary, or nursing home care by the Administrator for a chronic mental illness disability; or

"(B) is homeless and has a chronic mental illness disability; or

"(C) is a veteran described in section 612(a)(1)(B) of this title and has a chronic mental illness disability.

"(b)(1) The Administrator, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for eligible veterans suffering from chronic mental illness disabilities.

Contracts.

"(2) Before furnishing such care and services to any veteran through a contract facility, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe by regulation) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

"(c) In the case of each eligible veteran provided care and services under this section, the Administrator shall designate a Veterans' Administration health-care employee to provide case management services.

"(d) In furnishing care and services under this section, the Administrator shall accord priority for such care and services in the following order:

"(1) To any veteran for a service-connected chronic mental illness disability.

"(2) To any veteran with a disability rated as service-connected.

"(3) To any veteran for a non-service-connected disability, if the veteran is unable to defray the expenses of necessary care as determined under section 622(a)(1) of this title.

"(e) The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a contract facility under this section. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the contract facility. The Administrator may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

Contracts.

"(f) Not later than 3 years after the date of enactment of this section, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report

Reports.

on the experience under this section. The report shall include the Administrator's evaluation and findings regarding—

Contracts.

"(1) the quality of care furnished to participating veterans through contract facilities;

"(2) any health advantages that may result from furnishing such care and services to veterans in such contract facilities rather than in inpatient facilities over which the Administrator has direct jurisdiction;

"(3) the effectiveness of the use of contract facilities under this section in enabling the participating veterans to live outside of Veterans' Administration inpatient facilities and to achieve independence in living and functioning in their communities;

"(4) the health advantages and cost effectiveness of the use of contract facilities under this section to furnish shelter and health care to homeless veterans who are suffering from chronic mental illness disabilities;

"(5) the cost-effectiveness of furnishing such care through contract facilities under this section, including the effect on the average daily census in the Veterans' Administration hospitals, nursing homes, and domiciliary facilities participating in the program (taking into account whether the beds previously occupied by the participating veterans were subsequently occupied by other eligible veterans or remained unoccupied) and the effect on the numbers of Veterans' Administration staff employed at such facilities; and

"(6) any plans for administrative action, and any recommendations for legislation, that the Administrator considers appropriate to include in such report.".

38 USC prec. 601.

(b) The table of sections at the beginning of chapter 17 of title 38, United States Code, is amended by inserting after the item relating to section 620B the following new item:

"620C. Community-based psychiatric residential treatment for chronically mentally ill veterans.".

38 USC 620C note.

(c) Any contract authority or other spending authority granted by this section shall be limited to $5,000,000.

2 USC 358 note.
2 USC 356.
2 USC 358.

Sec. 3. The recommendations of the President relating to rates of pay for offices and positions within the purview of section 225(f) of the Federal Salary Act of 1967, as included (pursuant to section 225(h) of such Act) in the budget transmitted to the Congress for fiscal year 1988, are disapproved.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

(Disapproval of Deferral)

The Congress disapproves the proposed deferral D87-33, in the amount of $28,559,000, relating to the Department of Agriculture, Food and Nutrition Service, Temporary Emergency Food Assistance

Program, as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this joint resolution and the amount of the proposed deferral disapproved herein shall be made available for obligation.

Effective date.

Approved February 12, 1987.

LEGISLATIVE HISTORY—H.J. Res. 102:

HOUSE REPORTS: No. 100-4 (Comm. on Appropriations).
SENATE REPORTS: No. 100-5 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
    Jan. 27, considered and passed House.
    Jan. 29, considered and passed Senate, amended.
    Feb. 4, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
    Feb. 12, Presidential statement.

○

Public Law 100-7
100th Congress

Joint Resolution

Mar. 5, 1987
[H.J. Res. 3]

To recognize the 100th anniversary of the enactment of the Hatch Act of March 2, 1887, and its role in establishing our Nation's system of State agricultural experiment stations.

7 USC 361a note.

Whereas the Act of March 2, 1887 (24 Stat. 440), as amended, commonly known as the Hatch Act of 1887, has fostered the development of a system of State agricultural experiment stations in conjunction with our Nation's land-grant colleges and universities and made possible original research and scientific studies that have provided information on the application of scientific knowledge to farming, rural development, conservation of natural resources, and rural life;

Whereas the Hatch Act of 1887 has contributed greatly to the increased efficiency and productivity of United States agriculture, our Nation's leading industry, and in establishing research as a function of the land-grant colleges and universities;

Whereas the establishment of the national system of State agricultural experiment stations was one of the most important steps to ensure the continued development and training of personnel devoted to scientific research and original investigations in agriculture and the education of new research workers necessary to push back the frontiers of knowledge in agriculture;

Whereas the contributions of the State agricultural experiment stations to fundamental knowledge in agriculture have been substantial and their positive effect on improving the quality of life in the United States remarkable; and

Whereas the national system of State agricultural experiment stations has provided a foundation on which similar research programs in forestry, animal health, and home economics could be built: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that the State agricultural experiment station research system should continue to be supported as an important investment in the Nation's future; and that the one hundredth anniversary of the enactment of the Hatch Act of 1887 should be commemorated on March 2, 1987.

SEC. 2. The President is authorized and requested to issue a proclamation commemorating the enactment of the Hatch Act of March 2, 1887, and its role in establishing our Nation's system of State agricultural experiment stations.

Approved March 5, 1987.

LEGISLATIVE HISTORY—H.J. Res. 3:

HOUSE REPORTS: No. 100-6 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Feb. 24, considered and passed House.
Feb. 26, considered and passed Senate.

○

Public Law 100-8
100th Congress
Joint Resolution

Mar. 6, 1987
[H.J. Res. 53]

To designate the week beginning March 1, 1987, as "Federal Employees Recognition Week".

Whereas Federal employees serve the people of the United States by enabling the Federal Government to carry out its duties in an efficient manner;

Whereas more than 3,000,000 individuals are employed by the Federal Government;

Whereas many valuable services performed by Federal employees are often inadequately recognized by Federal officials and by the people of the United States; and

Whereas Federal employees should be commemorated for the contributions that they make to the efficient operation of the Federal Government: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning March 1, 1987, is designated "Federal Employees Recognition Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved March 6, 1987.

LEGISLATIVE HISTORY—H.J. Res. 53 (S.J. Res. 9):

CONGRESSIONAL RECORD, Vol. 133 (1987):
Feb. 24, considered and passed House.
Feb. 26, considered and passed Senate.

○

Public Law 100-9
100th Congress

Joint Resolution

To designate the month of March, 1987, as "Women's History Month".

Mar. 12, 1987
[S.J. Res. 20]

Whereas American women of every race, class, and ethnic background have made historical contributions to the growth and strength of the Nation in countless recorded and unrecorded ways;

Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of our Nation's life by constituting a significant portion of the labor force working in and ouside of the home;

Whereas American women have played a unique role throughout our history by providing the majority of the Nation's volunteer labor force and have been particularly important in the establishment of early charitable philanthropic and cultural institutions in this country;

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement, not only to secure their own right of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, and other movements to create a more fair and just society for all; and

Whereas, despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the body of American history: Now, therefore, be it

***Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the month of March, 1987, is designated as "Women's History Month", and the President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.**

Approved March 12, 1987.

LEGISLATIVE HISTORY—S.J. Res. 20:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Feb. 26, considered and passed Senate.
Mar. 3, considered and passed House.

○

Public Law 100-10
100th Congress

Joint Resolution

Mar. 12, 1987
[S.J. Res. 46]

Declaring 1987 as "Arizona Diamond Jubilee Year".

Whereas President William Howard Taft signed the Arizona statehood bill on the morning of February 14, 1912; and

Whereas Arizona had prayed for admission to the Union as a separate State from New Mexico, waging a valiant effort for this goal; and

Whereas Arizona is the host to ancient American cultures as well as the largest Indian tribe in the United States today; and

Whereas European settlement and influence has been present in Arizona for more than four centuries; and

Whereas the Hopi village of Oraibi is the oldest continually inhabited community in the United States; and

Whereas Arizona has more National Parks and Monuments than any other State, among these is one of the Seven Wonders of the World, the magnificent Grand Canyon; and

Whereas Arizona was the birthplace of Indians and Anglos living in peace and understanding when Captain Thomas J. Jeffords and Chiricahua Apache Chief Cochise pioneered mutual trust between the white and redman; and

Whereas Arizona has been a front-line defender of the United States in eight wars. From the Mexican War to Vietnam, Arizona has contributed skilled horsemen, scouts, Navajo code talkers, thousands of trained pilots, and courageous service men and women to the cause of victory; and

Whereas today Arizona is the fastest growing State in the Union, rich in natural resources and talented people. Arizona has attracted numerous creative residents to its casual lifestyle who have enriched the cultural life; and

Whereas Arizona stands in the forefront of medical advances, high-technology engineering, and advanced astronomy. It offers scholars of the world a valued opportunity to study the pre-Columbian past as well as the envisioned future: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1987 is declared and acknowledged as "Arizona Diamond Jubilee Year" in honor of the seventy-fifth anniversary—the Diamond Jubilee—of Arizona's admission to the United States. The President is requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local governments to observe such year with appropriate ceremonies and activities.

Approved March 12, 1987.

LEGISLATIVE HISTORY—S.J. Res. 46:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Feb. 4, considered and passed Senate.
Feb. 24, considered and passed House, amended.
Feb. 26, Senate concurred in House amendments.

○

Public Law 100-11
100th Congress

Joint Resolution

Mar. 17, 1987
[H.J. Res. 153]

To provide for timely issuance of grants and loans by the Environmental Protection Agency under the Asbestos School Hazard Abatement Act of 1985 to ensure that eligible local educational agencies can complete asbestos abatement work in school buildings during the 1987 summer school recess.

Whereas the health of 15 million of the Nation's children is threatened because they attend school in buildings with dangerous asbestos contamination;

20 USC 4011 note.

Whereas in 1984 the Congress passed and the President signed into law the Asbestos School Hazard Abatement Act (ASHAA) to provide funds to the Nation's neediest local educational agencies to help them abate potentially deadly asbestos in order to protect school children;

Whereas the Congress provided $50,000,000 in grants and loans under such Act for fiscal year 1987;

Whereas the Environmental Protection Agency asserted in its budget that ASHAA funds are unnecessary because prior year funds have greatly reduced the problem and many States have their own program, and the EPA is delaying the fiscal year 1987 ASHAA financial assistance application process; and

Whereas there is a dire need for these funds and the Environmental Protection Agency's current schedule to issue grants and loans in June of 1987 will seriously impair the ability of local educational agencies in need of Federal funds to complete asbestos abatement work during the 1987 summer school recess: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Environmental Protection Agency and any other agencies involved shall take such steps as may be necessary to ensure that eligible local educational agencies are awarded financial assistance under the Asbestos School Hazard Abatement Act of 1984 in time to complete asbestos abatement work not later than the end of the 1987 summer school recess.

Approved March 17, 1987.

LEGISLATIVE HISTORY—H.J. Res. 153:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Feb. 24, considered and passed House.
Mar. 3, considered and passed Senate.

○

Public Law 100-12
100th Congress

An Act

To amend the Energy Policy and Conservation Act with respect to energy conservation standards for appliances.

Mar. 17, 1987
[S. 83]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

National Appliance Energy Conservation Act of 1987. 42 USC 6201 note.

This Act may be referred to as the "National Appliance Energy Conservation Act of 1987".

SEC. 2. DEFINITIONS.

(a) ENERGY CONSERVATION STANDARD.—Section 321(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)(6)) is amended to read as follows:

"(6) The term 'energy conservation standard' means—

"(A) a performance standard which prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a covered product, determined in accordance with test procedures prescribed under section 323; or *Post,* p. 105.

"(B) a design requirement for the products specified in paragraphs (6), (7), (8), (10), and (13) of section 322(a); and *Post,* p. 105.

includes any other requirements which the Secretary may prescribe under section 325(o)." *Post,* p. 107.

(b) NEW DEFINITIONS.—Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended by adding at the end the following paragraphs:

"(19) The term 'AV' is the adjusted volume for refrigerators, refrigerator-freezers, and freezers, as defined in the applicable test procedure prescribed under section 323.

"(20) The term 'annual fuel utilization efficiency' means the efficiency descriptor for furnaces and boilers, determined using test procedures prescribed under section 323 and based on the assumption that all—

"(A) weatherized warm air furnaces or boilers are located out-of-doors;

"(B) warm air furnaces which are not weatherized are located indoors and all combustion and ventilation air is admitted through grills or ducts from the outdoors and does not communicate with air in the conditioned space; and

"(C) boilers which are not weatherized are located within the heated space.

"(21) The term 'central air conditioner' means a product, other than a packaged terminal air conditioner, which—

"(A) is powered by single phase electric current;

"(B) is air-cooled;

"(C) is rated below 65,000 Btu per hour;

"(D) is not contained within the same cabinet as a furnace the rated capacity of which is above 225,000 Btu per hour; and

"(E) is a heat pump or a cooling only unit.

"(22) The term 'efficiency descriptor' means the ratio of the useful output to the total energy input, determined using the test procedures prescribed under section 323 and expressed for the following products in the following terms:

Post, p. 105.

"(A) For furnaces and direct heating equipment, annual fuel utilization efficiency.

"(B) For room air conditioners, energy efficiency ratio.

"(C) For central air conditioning and central air conditioning heat pumps, seasonal energy efficiency ratio.

"(D) For water heaters, energy factor.

"(E) For pool heaters, thermal efficiency.

"(23) The term 'furnace' means a product which utilizes only single-phase electric current, or single-phase electric current or DC current in conjunction with natural gas, propane, or home heating oil, and which—

"(A) is designed to be the principal heating source for the living space of a residence;

"(B) is not contained within the same cabinet with a central air conditioner whose rated cooling capacity is above 65,000 Btu per hour;

"(C) is an electric central furnace, electric boiler, forced-air central furnace, gravity central furnace, or low pressure steam or hot water boiler; and

"(D) has a heat input rate of less than 300,000 Btu per hour for electric boilers and low pressure steam or hot water boilers and less than 225,000 Btu per hour for forced-air central furnaces, gravity central furnaces, and electric central furnaces.

"(24) The terms 'heat pump' or 'reverse cycle' mean a product, other than a packaged terminal heat pump, which—

"(A) consists of one or more assemblies;

"(B) is powered by single phase electric current;

"(C) is rated below 65,000 Btu per hour;

"(D) utilizes an indoor conditioning coil, compressors, and refrigerant-to-outdoor-air heat exchanger to provide air heating; and

"(E) may also provide air cooling, dehumidifying, humidifying circulating, and air cleaning.

"(25) The term 'pool heater' means an appliance designed for heating nonpotable water contained at atmospheric pressure, including heating water in swimming pools, spas, hot tubs and similar applications.

"(26) The term 'thermal efficiency of pool heaters' means a measure of the heat in the water delivered at the heater outlet divided by the heat input of the pool heater as measured under test conditions specified in section 2.8.1 of the American National Standard for Gas Fired Pool Heaters, Z21.56-1986, or as may be prescribed by the Secretary.

"(27) The term 'water heater' means a product which utilizes oil, gas, or electricity to heat potable water for use outside the heater upon demand, including—

"(A) storage type units which heat and store water at a thermostatically controlled temperature, including gas storage water heaters with an input of 75,000 Btu per hour or less, oil storage water heaters with an input of 105,000 Btu per hour or less, and electric storage water heaters with an input of 12 kilowatts or less;

"(B) instantaneous type units which heat water but contain no more than one gallon of water per 4,000 Btu per hour of input, including gas instantaneous water heaters with an input of 200,000 Btu per hour or less, oil instantaneous water heaters with an input of 210,000 Btu per hour or less, and electric instantaneous water heaters with an input of 12 kilowatts or less; and

"(C) heat pump type units, with a maximum current rating of 24 amperes at a voltage no greater than 250 volts, which are products designed to transfer thermal energy from one temperature level to a higher temperature level for the purpose of heating water, including all ancillary equipment such as fans, storage tanks, pumps, or controls necessary for the device to perform its function.

"(28) The term 'weatherized warm air furnace or boiler' means a furnace or boiler designed for installation outdoors, approved for resistance to wind, rain, and snow, and supplied with its own venting system."

SEC. 3. COVERAGE.

Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) is amended to read as follows:

"COVERAGE

"SEC. 322. (a) IN GENERAL.—The following consumer products, excluding those consumer products designed solely for use in recreational vehicles and other mobile equipment, are covered products;

"(1) Refrigerators, refrigerator-freezers, and freezers which can be operated by alternating current electricity, excluding—

"(A) any type designed to be used without doors; and

"(B) any type which does not include a compressor and condenser unit as an integral part of the cabinet assembly.

"(2) Room air conditioners.

"(3) Central air conditioners and central air conditioning heat pumps.

"(4) Water heaters.

"(5) Furnaces.

"(6) Dishwashers.

"(7) Clothes washers.

"(8) Clothes dryers.

"(9) Direct heating equipment.

"(10) Kitchen ranges and ovens.

"(11) Pool heaters.

"(12) Television sets.

"(13) Any other type of consumer product which the Secretary classifies as a covered product under subsection (b)."

SEC. 4. TEST PROCEDURES.

Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended to read as follows:

"TEST PROCEDURES

"SEC. 323. (a) GENERAL RULE.—All test procedures and related determinations prescribed or made by the Secretary with respect to any covered product (or class thereof) which are in effect on the date of enactment of the National Appliance Energy Conservation Act of 1987 shall remain in effect until the Secretary amends such test procedures and related determinations under subsection (b).

"(b) AMENDED AND NEW PROCEDURES.—(1)(A) The Secretary may amend test procedures with respect to any covered product if the Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraph (3).

"(B) The Secretary may, in accordance with the requirements of this subsection, prescribe test procedures for any consumer product classified as a covered product under section 322(b).

42 USC 6292.

"(C) The Secretary shall direct the National Bureau of Standards to assist in developing new or amended test procedures.

Federal Register, publication.

"(2) If the Secretary determines, on his own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the Federal Register proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period shall not be less than 60 days and may be extended for good cause shown to not more than 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved.

"(3) Any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use, as determined by the Secretary, and shall not be unduly burdensome to conduct.

"(4) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average use cycle or period of use, as determined by the Secretary, and from representative average unit costs of the energy needed to operate such product during such cycle. The Secretary shall provide information to manufacturers with respect to representative average unit costs of energy.

"(c) RESTRICTION ON CERTAIN REPRESENTATIONS.—(1) No manufacturer, distributor, retailer, or private labeler may make any representation—

"(A) in writing (including a representation on a label); or

"(B) in any broadcast advertisement,

with respect to the energy use or efficiency of a covered product to which a test procedure is applicable under subsection (a) or the cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

Effective date.

"(2) Effective 180 days after an amended or new test procedure applicable to a covered product is prescribed under subsection (b), no manufacturer, distributor, retailer, or private labeler may make any representation—

"(A) in writing (including a representation on a label); or

"(B) in any broadcast advertisement,

with respect to energy use or efficiency of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such amended or new test procedures and such representation fairly discloses the results of such testing.

"(3) On the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period referred to in paragraph (2) may be extended by the Secretary with respect to the petitioner (but in no event for more than an additional 180 days) if the Secretary determines that the requirements of paragraph (2) would impose an undue hardship on such petitioner.

Federal Register, publication.

"(d) CASE IN WHICH TEST PROCEDURE IS NOT REQUIRED.—(1) The Secretary is not required to publish and prescribe test procedures for a covered product (or class thereof) if the Secretary determines, by rule, that test procedures cannot be developed which meet the requirements of subsection (b)(3) and publishes such determination in the Federal Register, together with the reasons therefor.

Post, p. 117.

"(2) For purposes of section 327, a determination under paragraph (1) with respect to any covered product or class shall have the same effect as would a standard prescribed for a covered product (or class).

"(e) AMENDMENT OF STANDARD.—(1) In the case of any amended test procedure which is prescribed pursuant to this section, the Secretary shall determine, in the rulemaking carried out with respect to prescribing such procedure, to what extent, if any, the proposed test procedure would alter the measured energy efficiency or measured energy use of any covered product as determined under the existing test procedure.

"(2) If the Secretary determines that the amended test procedure will alter the measured efficiency or measured use, the Secretary shall amend the applicable energy conservation standard during the rulemaking carried out with respect to such test procedure. In determining the amended energy conservation standard, the Secretary shall measure, pursuant to the amended test procedure, the energy efficiency or energy use of a representative sample of covered products that minimally comply with the existing standard. The average of such energy efficiency or energy use levels determined under the amended test procedure shall constitute the amended energy conservation standard for the applicable covered products.

"(3) Models of covered products in use before the date on which the amended energy conservation standard becomes effective (or revisions of such models that come into use after such date and have the same energy efficiency or energy use characteristics) that comply with the energy conservation standard applicable to such covered products on the day before such date shall be deemed to comply with the amended energy conservation standard.

"(4) The Secretary's authority to amend energy conservation standards under this subsection shall not affect the Secretary's obligation to issue final rules as described in section 325."

Infra.

SEC. 5. ENERGY CONSERVATION STANDARDS.

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended to read as follows:

"ENERGY CONSERVATION STANDARDS

"SEC. 325. (a) PURPOSES.—The purposes of this section are to—

"(1) provide Federal energy conservation standards applicable to covered products; and

"(2) authorize the Secretary to prescribe amended or new energy conservation standards for each type (or class) of covered product.

"(b) STANDARDS FOR REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS.—(1) The following is the maximum energy use allowed in kilowatt hours per year for the following products (other than those described in paragraph (2)) manufactured on or after January 1, 1990:

	Energy Standards Equations
"Refrigerators and Refrigerator-Freezers with manual defrost	16.3 AV+316
Refrigerator-Freezers—partial automatic defrost	21.8 AV+429
Refrigerator-Freezers—automatic defrost with:	
Top mounted freezer without ice	23.5 AV+471
Side mounted freezer without ice	27.7 AV+488
Bottom mounted freezer without ice	27.7 AV+488
Top mounted freezer with through the door ice service	26.4 AV+535
Side mounted freezer with through the door ice	30.9 AV+547
Upright Freezers with:	
Manual defrost	10.9 AV+422
Automatic defrost	16.0 AV+623
Chest Freezers and all other freezers	14.8 AV+223

"(2) The standards described in paragraph (1) do not apply to refrigerators and refrigerator-freezers with total refrigerated volume exceeding 39 cubic feet or freezers with total refrigerated volume exceeding 30 cubic feet.

Regulations.

"(3)(A)(i) The Secretary shall publish a proposed rule, no later than July 1, 1988, to determine if the standards established by paragraph (1) should be amended. The Secretary shall publish a final rule no later than July 1, 1989, which shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1993. If such a final rule is not published before January 1, 1990, any amendment of such standards shall apply to products manufactured on or after January 1, 1995. Nothing in this subsection provides any justification or defense for a failure by the Secretary to comply with the nondiscretionary duty to publish final rules by the dates stated in this paragraph.

Effective date.

"(ii)(I) If the Secretary does not publish a final rule before January 1, 1990, relating to the revision of the energy conservation standards for refrigerators, refrigerator-freezers and freezers, the regulations which established standards for such products and were promulgated by the California Energy Commission on December 14, 1984, to be effective January 1, 1992 (or any amendments to such standards that are not more stringent than the standards in the original regulations), shall apply in California to such products, effective beginning January 1, 1993, and shall not be preempted after such effective date by any energy conservation standard established in this section or prescribed, on or after January 1, 1990, under this section.

State and local governments.

"(II) If the Secretary does not publish a final rule before January 1, 1992, relating to the revision of the energy conservation standards for refrigerators, refrigerator-freezers and freezers, State regulations which apply to such products manufactured on or after

January 1, 1995, shall apply to such products until the effective date of a rule issued under this section with respect to such products.

Regulations.

"(B) After the publication of a final rule under subparagraph (A), the Secretary shall publish a final rule no later than five years after the date of publication of the previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for the products described in paragraph (1).

"(C) Any amendment prescribed under subparagraph (B) shall apply to products manufactured after a date which is five years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which the previous amendment could have been effective;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such amended standard.

"(c) STANDARDS FOR ROOM AIR CONDITIONERS.—(1) The energy efficiency ratio of room air conditioners shall be not less than the following for products manufactured on or after January 1, 1990:

"Product Class:	Ratio
Without Reverse Cycle and With Louvered Sides:	
Less than 6,000 Btu	8.0
6,000 to 7,999 Btu	8.5
8,000 to 13,999 Btu	9.0
14,000 to 19,999 Btu	8.8
20,000 and more Btu	8.2
Without Reverse Cycle and Without Louvered Sides:	
Less than 6,000 Btu	8.0
6,000 to 7,999 Btu	8.5
8,000 to 13,999 Btu	8.5
14,000 to 19,999 Btu	8.5
20,000 and more Btu	8.2
With Reverse Cycle and With Louvered Sides	8.5
With Reverse Cycle, Without Louvered Sides	8.0

Regulations.

"(2)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995.

Regulations.

"(B) After January 1, 1992, the Secretary shall publish a final rule no later than five years after the date of publication of a previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for room air conditioners.

"(C) Any amendment prescribed under subparagraph (B) shall apply to products manufactured after a date which is five years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such amended standard.

"(d) STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS.—(1) The seasonal energy efficiency ratio of central air conditioners and central air conditioning heat pumps shall be not less than the following:

"(A) Split Systems: 10.0 for products manufactured on or after January 1, 1992.

"(B) Single Package Systems: 9.7 for products manufactured on or after January 1, 1993.

"(2) The heating seasonal performance factor of central air conditioning heat pumps shall be not less than the following:

"(A) Split Systems: 6.8 for products manufactured on or after January 1, 1992.

"(B) Single Package Systems: 6.6 for products manufactured on or after January 1, 1993.

Regulations.

"(3)(A) The Secretary shall publish a final rule no later than January 1, 1994, to determine whether the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1999. The Secretary shall publish a final rule no later than January 1, 1994, to determine whether the standards established under paragraph (2) shall be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 2002.

Regulations.

"(B) The Secretary shall publish a final rule after January 1, 1994, and no later than January 1, 2001, to determine whether the standards in effect for central air conditioners and central air conditioning heat pumps should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 2006.

"(e) STANDARDS FOR WATER HEATERS; POOL HEATERS; DIRECT HEATING EQUIPMENT.—(1) The energy factor of water heaters shall be not less than the following for products manufactured on or after January 1, 1990:

"(A) Gas Water Heater:	.62−(.0019 x Rated Storage Volume in gallons)
"(B) Oil Water Heater:	.59−(.0019 x Rated Storage Volume in gallons)
"(C) Electric Water Heater:	.95−(.00132 x Rated Storage in gallons)

"(2) The thermal efficiency of pool heaters manufactured on or after January 1, 1990, shall not be less than 78 percent.

"(3) The efficiencies of gas direct heating equipment manufactured on or after January 1, 1990, shall be not less than the following:

"Wall	
Fan type	
Up to 42,000 Btu/hour	73% AFUE
Over 42,000 Btu/hour	74% AFUE
Gravity type	
Up to 10,000 Btu/hour	59% AFUE
Over 10,000 Btu/hour up to 12,000 Btu/hour	60% AFUE
Over 12,000 Btu/hour up to 15,000 Btu/hour	61% AFUE
Over 15,000 Btu/hour up to 19,000 Btu/hour	62% AFUE
Over 19,000 Btu/hour up to 27,000 Btu/hour	63% AFUE
Over 27,000 Btu/hour up to 46,000 Btu/hour	64% AFUE
Over 46,000 Btu/hour	65% AFUE
"Floor	
Up to 37,000 Btu/hour	56% AFUE
Over 37,000 Btu/hour	57% AFUE

"Room	
Up to 18,000 Btu/hour	57% AFUE
Over 18,000 Btu/hour up to 20,000 Btu/hour	58% AFUE
Over 20,000 Btu/hour up to 27,000 Btu/hour	63% AFUE
Over 27,000 Btu/hour up to 46,000 Btu/hour	64% AFUE
Over 46,000 Btu/hour	65% AFUE

Regulations.

"(4)(A) The Secretary shall publish final rules no later than January 1, 1992, to determine whether the standards established by paragraphs (1), (2), or (3) for water heaters, pool heaters, and direct heating equipment should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 1995.

Regulations.

"(B) The Secretary shall publish a final rule no later than January 1, 2000, to determine whether standards in effect for such products should be amended. Such rule shall provide that any such amendment shall apply to products manufactured on or after January 1, 2005.

Mobile homes.

"(f) Standards for Furnaces.—(1) Furnaces (other than furnaces designed solely for installation in mobile homes) manufactured on or after January 1, 1992, shall have an annual fuel utilization efficiency of not less than 78 percent, except that—

"(A) boilers (other than gas steam boilers) shall have an annual fuel utilization efficiency of not less than 80 percent and gas steam boilers shall have an annual fuel utilization efficiency of not less than 75 percent; and

Regulations.

"(B) the Secretary shall prescribe a final rule not later than January 1, 1989, establishing an energy conservation standard—

"(i) which is for furnaces (other than furnaces designed solely for installation in mobile homes) having an input of less than 45,000 Btu per hour and manufactured on or after January 1, 1992;

"(ii) which provides that the annual fuel utilization efficiency of such furnaces shall be a specific percent which is not less than 71 percent and not more than 78 percent; and

"(iii) which the Secretary determines is not likely to result in a significant shift from gas heating to electric resistance heating with respect to either residential construction or furnace replacement.

"(2) Furnaces which are designed solely for installation in mobile homes and which are manufactured on or after September 1, 1990, shall have an annual fuel utilization efficiency of not less than 75 percent.

Regulations.

"(3)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine whether the standards established by paragraph (2) for mobile home furnaces should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 1994.

"(B) The Secretary shall publish a final rule no later than January 1, 1994, to determine whether the standards established by this subsection for furnaces (including mobile home furnaces) should be amended. Such rule shall provide that any amendment shall apply to products manufactured on or after January 1, 2002.

"(C) After January 1, 1997, and before January 1, 2007, the Secretary shall publish a final rule to determine whether standards in effect for such products should be amended. Such rule shall contain such amendment, if any, and provide that any amendment shall apply to products manufactured on or after January 1, 2012.

"(g) STANDARDS FOR DISHWASHERS; CLOTHES WASHERS; CLOTHES DRYERS.—(1) Dishwashers manufactured on or after January 1, 1988, shall be equipped with an option to dry without heat.

"(2) All rinse cycles of clothes washers shall include an unheated water option, but may have a heated water rinse option, for products manufactured on or after January 1, 1988.

"(3) Gas clothes dryers shall not be equipped with a constant burning pilot for products manufactured on or after January 1, 1988.

Regulations.

"(4)(A) The Secretary shall publish final rules no later than January 1, 1990, to determine if the standards established under this subsection for products described in paragraphs (1), (2), and (3) should be amended. Such rules shall provide that any amendment shall apply to products the manufacture of which is completed on or after January 1, 1993.

"(B) After January 1, 1990, the Secretary shall publish a final rule no later than five years after the date of publication of the previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for such products.

"(C) Any such amendment shall apply to products manufactured after a date which is five years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standard, the earliest date by which a previous amendment could have been in effect;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such standard.

"(h) STANDARDS FOR KITCHEN RANGES AND OVENS.—(1) Gas kitchen ranges and ovens having an electrical supply cord shall not be equipped with a constant burning pilot for products manufactured on or after January 1, 1990.

Regulations.

"(2)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established for kitchen ranges and ovens in this subsection should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995.

"(B) The Secretary shall publish a final rule no later than January 1, 1997, to determine whether standards in effect for such products should be amended. Such rule shall apply to products manufactured on or after January 1, 2000.

"(i) STANDARDS FOR OTHER COVERED PRODUCTS.—(1) The Secretary may prescribe an energy conservation standard for any type (or class) of covered products of a type specified in paragraph (13) of section 322(a) if the requirements of subsections (l) and (m) are met and the Secretary determines that—

Ante, p. 105.

"(A) the average per household energy use within the United States by products of such type (or class) exceeded 150 kilowatt-hours (or its Btu equivalent) for any 12-month period ending before such determination;

"(B) the aggregate household energy use within the United States by products of such type (or class) exceeded 4,200,000,000 kilowatt-hours (or its Btu equivalent) for any such 12-month period;

"(C) substantial improvement in the energy efficiency of products of such type (or class) is technologically feasible; and

"(D) the application of a labeling rule under section 324 to such type (or class) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) which achieve the maximum energy efficiency which is technologically feasible and economically justified. 42 USC 6294.

"(2) Any new or amended standard for covered products of a type specified in paragraph (13) of section 322(a) shall not apply to products manufactured within five years after the publication of a final rule establishing such standard. *Ante*, p. 105.

"(3) The Secretary may, in accordance with subsections (l) and (m), prescribe an energy conservation standard for television sets. Any such standard may not become effective with respect to products manufactured before January 1, 1992.

"(j) Further Rulemaking.—After issuance of the last final rules required under subsections (b) through (h) of this section, the Secretary may publish final rules to determine whether standards for a covered product should be amended. An amendment prescribed under this subsection shall apply to products manufactured after a date which is 5 years after—

"(A) the effective date of the previous amendment made pursuant to this part; or

"(B) if the previous final rule published under this part did not amend the standard, the earliest date by which a previous amendment could have been in effect, except that in no case may an amended standard apply to products manufactured within 3 years (for refrigerators, refrigerator-freezers, and freezers, room air conditioners, dishwashers, clothes washers, clothes dryers, and kitchen ranges and ovens) or 5 years (for central air conditioners and heat pumps, water heaters, pool heaters, direct hearing equipment and furnaces) after publication of the final rule establishing a standard.

"(k) Petition for an Amended Standard.—(1) With respect to each covered product described in paragraphs (1) through (11) of section 322(a), any person may petition the Secretary to conduct a rulemaking to determine for a covered product if the standards contained either in the last final rule required under subsections (b) through (h) of this section or in a final rule published under this section should be amended.

"(2) The Secretary shall grant a petition if he finds that it contains evidence which, assuming no other evidence were considered, provides an adequate basis for amending the standards under the following criteria—

"(A) amended standards will result in significant conservation of energy;

"(B) amended standards are technologically feasible; and

"(C) amended standards are cost effective as described in subsection (l)(2)(B)(i)(II).

The grant of a petition by the Secretary under this subsection creates no presumption with respect to the Secretary's determination of any of the criteria in a rulemaking under this section.

"(3) An amendment prescribed under this subsection shall apply to products manufactured after a date which is 5 years after—

"(A) the effective date of the previous amendment pursuant to this part; or

"(B) if the previous final rule published under this part did not amend the standard, the earliest date by which a previous amendment could have been in effect, except that in no case may an amended standard apply to products manufactured within 3 years (for refrigerators, refrigerator-freezers, and freezers, room air conditioners, dishwashers, clothes washers, clothes dryers, and kitchen ranges and ovens) or 5 years (for central air conditioners and heat pumps, water heaters, pool heaters, direct heating equipment and furnaces) after publication of the final rule establishing a standard.

"(l) CRITERIA FOR PRESCRIBING NEW OR AMENDED STANDARDS.—(1) The Secretary may not prescribe any amended standard which increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product.

"(2)(A) Any new or amended energy conservation standard prescribed by the Secretary under this section for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified.

"(B)(i) In determining whether a standard is economically justified, the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering—

"(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

"(II) the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard;

"(III) the total projected amount of energy savings likely to result directly from the imposition of the standard;

"(IV) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

"(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

"(VI) the need for national energy conservation; and

"(VII) other factors the Secretary considers relevant.

"(ii) For purposes of clause (i)(V), the Attorney General shall make a determination of the impact, if any, of any lessening of competition likely to result from such standard and shall transmit such determination, not later than 60 days after the publication of a proposed rule prescribing or amending an energy conservation standard, in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published by the Secretary in the Federal Register.

Federal Register, publication.

"(iii) If the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure, there shall be a rebuttable presumption that such standard level is economically justified. A determination by the Secretary that such criterion is not met shall not be taken into consideration in the Secretary's determination of whether a standard is economically justified.

"(3) The Secretary may not prescribe an amended or new standard under this section for a type (or class) of covered product if—

"(A) for products other than dishwashers, clothes washers, clothes dryers, and kitchen ranges and ovens, a test procedure has not been prescribed pursuant to section 323 with respect to that type (or class) of product; or

Ante, p. 105.

"(B) the Secretary determines, by rule, that the establishment of such standard will not result in significant conservation of energy or that the establishment of such standard is not technologically feasible or economically justified.

For purposes of section 327, a determination under subparagraph (B) with respect to any type (or class) of covered products shall have the same effect as would a standard prescribed for such type (or class).

Post, p. 117.

"(4) The Secretary may not prescribe an amended or new standard under this section if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a standard for other types (or classes).

"(m) Procedure for Prescribing New or Amended Standards.—Any new or amended energy conservation standard shall be prescribed in accordance with the following procedure:

"(1) The Secretary—

"(A) shall publish an advance notice of proposed rulemaking which specifies the type (or class) of covered products to which the rule may apply;

"(B) shall invite interested persons to submit, within 60 days after the date of publication of such advance notice, written presentations of data, views, and arguments in response to such notice; and

"(C) may identify proposed or amended standards that may be prescribed.

Federal Register, publication.

"(2) A proposed rule which prescribes an amended or new energy conservation standard or prescribes no amendment or no new standard for a type (or class) of covered products shall be published in the Federal Register. In prescribing any such proposed rule with respect to a standard, the Secretary shall determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for each type (or class) of covered products. If such standard is not designed to achieve such efficiency or use, the Secretary shall state in the proposed rule the reasons therefor.

"(3) After the publication of such proposed rulemaking, the Secretary shall, in accordance with section 336, afford interested persons an opportunity, during a period of not less than 60 days, to present oral and written comments (including an opportunity to question those who make such presentations, as provided in such section) on matters relating to such proposed rule, including—

Post, p. 123.

"(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Secretary must consider under subsection (l)(2)) or will result in the effects described in subsection (l)(4);

"(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible;

"(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate; and

"(D) whether such rule should prescribe a level of energy use or efficiency which is higher or lower than that which would otherwise apply in the case of any group of products within the type (or class) that will be subject to such standard.

Federal Register, publication.

"(4) A final rule prescribing an amended or new energy conservation standard or prescribing no amended or new standard for a type (or class) of covered products shall be published as soon as is practicable, but not less than 90 days, after publication of the proposed rule in the Federal Register.

"(n) Special Rule for Certain Types or Classes of Products.—(1) A rule prescribing an energy conservation standard for a type (or class) of covered products shall specify a level of energy use or efficiency higher or lower than that which applies (or would apply) for such type (or class) for any group of covered products which have the same function or intended use, if the Secretary determines that covered products within such group—

"(A) consume a different kind of energy from that consumed by other covered products within such type (or class); or

"(B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard from that which applies (or will apply) to other products within such type (or class).

In making a determination under this paragraph concerning whether a performance-related feature justifies the establishment of a higher or lower standard, the Secretary shall consider such factors as the utility to the consumer of such a feature, and such other factors as the Secretary deems appropriate.

"(2) Any rule prescribing a higher or lower level of energy use or efficiency under paragraph (1) shall include an explanation of the basis on which such higher or lower level was established.

"(o) Inclusion in Standards of Test Procedures and Other Requirements.—Any new or amended energy conservation standard prescribed under this section shall include, where applicable, test procedures prescribed in accordance with section 323 and may include any requirement which the Secretary determines is necessary to assure that each covered product to which such standard applies meets the required minimum level of energy efficiency or maximum quantity of energy use specified in such standard.

Ante, p. 105.

"(p) Determination of Compliance With Standards.—Compliance with, and performance under, the energy conservation standards (except for design standards authorized by this part) established in, or prescribed under, this section shall be determined using the test procedures and corresponding compliance criteria prescribed under section 323.

"(q) SMALL MANUFACTURER EXEMPTION.—(1) Subject to paragraph (2), the Secretary may, on application of any manufacturer, exempt such manufacturer from all or part of the requirements of any energy conservation standard established in or prescribed under this section for any period not longer than the 24-month period beginning on the date such rule becomes effective, if the Secretary finds that the annual gross revenues of such manufacturer from all its operations (including the manufacture and sale of covered products) does not exceed $8,000,000 for the 12-month period preceding the date of the application. In making such finding with respect to any manufacturer, the Secretary shall take into account the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer.

"(2) The Secretary may not exercise the authority granted under paragraph (1) with respect to any type (or class) of covered product subject to an energy conservation standard under this section unless the Secretary makes a finding, after obtaining the written views of the Attorney General, that a failure to allow an exemption under paragraph (1) would likely result in a lessening of competition."

SEC. 6. REQUIREMENTS OF MANUFACTURERS.

Section 326(d) of the Energy Policy and Conservation Act (42 U.S.C. 6296(d)) is amended to read as follows:

Reports.
Labeling.

"(d) INFORMATION REQUIREMENTS.—(1) For purposes of carrying out this part, the Secretary may require, under this part or other provision of law administered by the Secretary, each manufacturer of a covered product to submit information or reports to the Secretary with respect to energy efficiency or energy use of such covered product and the economic impact of any proposed energy conservation standard, as the Secretary determines may be necessary to establish and revise test procedures, labeling rules, and energy conservation standards for such product and to insure compliance with the requirements of this part. In making any determination under this paragraph, the Secretary shall consider existing public sources of information, including nationally recognized certification programs of trade associations.

"(2) The Secretary shall exercise authority under this section in a manner designed to minimize unnecessary burdens on manufacturers of covered products.

"(3) The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this subsection to the same extent and in the same manner as they apply with respect to energy information obtained under section 11 of such Act."

15 USC 796.

SEC. 7. EFFECT ON OTHER LAW.

Section 327 of the Energy Policy and Conservation Act (42 U.S.C. 6297) is amended to read as follows:

"EFFECT ON OTHER LAW

State and local governments.

"SEC. 327. (a) PREEMPTION OF TESTING AND LABELING REQUIREMENTS.—(1) Effective on the date of enactment of the National Appliance Energy Conservation Act of 1987, this part supersedes any State regulation insofar as such State regulation provides at any time for the disclosure of information with respect to any measure of energy consumption of any covered product if—

Ante, p. 105.

"(A) such State regulation requires testing or the use of any measure of energy consumption or energy descriptor in any manner other than that provided under section 323; or

"(B) such State regulation requires disclosure of information with respect to the energy use or energy efficiency of any covered product other than information required under section 324.

42 USC 6294.

"(2) For purposes of this section, the term 'State regulation' means a law, regulation, or other requirement of a State or its political subdivisions.

Ante, p. 107.

"(b) General Rule of Preemption for Energy Conservation Standards Before Federal Standard Becomes Effective for a Product.—Effective on the date of enactment of the National Appliance Energy Conservation Act of 1987 and ending on the effective date of an energy conservation standard established under section 325 for any covered product, no State regulation, or revision thereof, concerning the energy efficiency or energy use of the covered product shall be effective with respect to such covered product, unless the State regulation or revision—

"(1) was prescribed or enacted before January 8, 1987, and is applicable to products before January 3, 1988;

"(2) is a State procurement regulation described in subsection (e);

"(3) is a regulation described in subsection (f)(1) or is prescribed or enacted in a building code for new construction described in subsection (f)(2);

"(4) is a regulation prohibiting the use in pool heaters of a constant burning pilot;

"(5) is a regulation described in subsection (d)(5)(B) for which a waiver has been granted under subsection (d); or

"(6) is a regulation effective on or after January 1, 1992, concerning the energy efficiency or energy use of television sets.

"(c) General Rule of Preemption for Energy Conservation Standards When Federal Standard Becomes Effective for a Product.—Except as provided in section 325(b)(3)(A)(ii) and effective on the effective date of an energy conservation standard established in or prescribed under section 325 for any covered product, no State regulation concerning the energy efficiency or energy use of such covered product shall be effective with respect to such product unless the regulation—

"(1) is a regulation described in paragraph (2) or (4) of subsection (b);

"(2) is a regulation which has been granted a waiver under subsection (d); or

"(3) is in a building code for new construction described in subsection (f)(3).

"(d) Waiver of Federal Preemption.—(1)(A) Any State with a State regulation which provides for any energy conservation standard or other requirement with respect to energy use or energy efficiency for any type (or class) of covered product for which there is a Federal energy conservation standard under section 325 may file a petition with the Secretary requesting a rule that such State regulation become effective with respect to such covered product.

"(B) Subject to paragraphs (2) through (5), the Secretary shall, within the period described in paragraph (2) and after consideration of the petition and the comments of interested persons, prescribe such rule if the Secretary finds (and publishes such finding) that the

State has established by a preponderance of the evidence that such State regulation is needed to meet unusual and compelling State or local energy interests.

"(C) For purposes of this subsection, the term 'unusual and compelling State or local energy interests' means interests which—

"(i) are substantially different in nature or magnitude than those prevailing in the United States generally; and

"(ii) are such that the costs, benefits, burdens, and reliability of energy savings resulting from the State regulation make such regulation preferable or necessary when measured against the costs, benefits, burdens, and reliability of alternative approaches to energy savings or production, including reliance on reasonably predictable market-induced improvements in efficiency of all products subject to the State regulation.

The factors described in clause (ii) shall be evaluated within the context of the State's energy plan and forecast.

Federal Register, publication.

Federal Register, publication.

"(2) The Secretary shall give notice of any petition filed under paragraph (1)(A) and afford interested persons a reasonable opportunity to make written comments, including rebuttal comments, thereon. The Secretary shall, within the 6-month period beginning on the date on which any such petition is filed, deny such petition or prescribe the requested rule, except that the Secretary may publish a notice in the Federal Register extending such period to a date certain but no longer than one year after the date on which the petition was filed. Such notice shall include the reasons for delay. In the case of any denial of a petition under this subsection, the Secretary shall publish in the Federal Register notice of, and the reasons for, such denial.

"(3) The Secretary may not prescribe a rule under this subsection if the Secretary finds (and publishes such finding) that interested persons have established, by a preponderance of the evidence, that such State regulation will significantly burden manufacturing, marketing, distribution, sale, or servicing of the covered product on a national basis. In determining whether to make such finding, the Secretary shall evaluate all relevant factors, including—

"(A) the extent to which the State regulation will increase manufacturing or distribution costs of manufacturers, distributors, and others;

"(B) the extent to which the State regulation will disadvantage smaller manufacturers, distributors, or dealers or lessen competition in the sale of the covered product in the State;

"(C) the extent to which the State regulation would cause a burden to manufacturers to redesign and produce the covered product type (or class), taking into consideration the extent to which the regulation would result in a reduction—

"(i) in the current models, or in the projected availability of models, that could be shipped on the effective date of the regulation to the State and within the United States; or

"(ii) in the current or projected sales volume of the covered product type (or class) in the State and the United States; and

"(D) the extent to which the State regulation is likely to contribute significantly to a proliferation of State appliance efficiency requirements and the cumulative impact such requirements would have.

"(4) The Secretary may not prescribe a rule under this subsection if the Secretary finds (and publishes such finding) that interested persons have established, by a preponderance of the evidence, that the State regulation is likely to result in the unavailability in the State of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the State at the time of the Secretary's finding, except that the failure of some classes (or types) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a rule for other classes (or types).

"(5) No final rule prescribed by the Secretary under this subsection may—

"(A) permit any State regulation to become effective with respect to any covered product manufactured within three years after such rule is published in the Federal Register or within five years if the Secretary finds that such additional time is necessary due to the substantial burdens of retooling, redesign, or distribution needed to comply with the State regulation; or

"(B) become effective with respect to a covered product manufactured before the earliest possible effective date specified in section 325 for the initial amendment of the energy conservation standard established in such section for the covered product; except that such rule may become effective before such date if the Secretary finds (and publishes such finding) that, in addition to the other requirements of this subsection the State has established, by a preponderance of the evidence, that—

Ante, p. 107.

"(i) an energy emergency condition exists within the State which—

"(I) imperils the health, safety, and welfare of its residents because of the inability of the State or utilities within the State to provide adequate quantities of gas or electric energy to its residents at less than prohibitive costs; and

"(II) cannot be substantially alleviated by the importation of energy or the use of interconnection agreements; and

"(ii) the State regulation is necessary to alleviate substantially such condition.

"(6) In any case in which a State is issued a rule under paragraph (1) with respect to a covered product and subsequently a Federal energy conservation standard concerning such product is amended pursuant to section 325, any person subject to such State regulation may file a petition with the Secretary requesting the Secretary to withdraw the rule issued under paragraph (1) with respect to such product in such State. The Secretary shall consider such petition in accordance with the requirements of paragraphs (1), (3), and (4), except that the burden shall be on the petitioner to show by a preponderance of the evidence that the rule received by the State under paragraph (1) should be withdrawn as a result of the amendment to the Federal standard. If the Secretary determines that the petitioner has shown that the rule issued by the State should be so withdrawn, the Secretary shall withdraw it.

"(e) EXCEPTION FOR CERTAIN STATE PROCUREMENT STANDARDS.—Any State regulation which sets forth procurement standards for a State (or political subdivision thereof) shall not be superseded by the provisions of this part if such standards are more stringent than the corresponding Federal energy conservation standards.

"(f) EXCEPTION FOR CERTAIN BUILDING CODE REQUIREMENTS.—(1) A regulation or other requirement enacted or prescribed before January 8, 1987, that is contained in a State or local building code for new construction concerning the energy efficiency or energy use of a covered product is not superseded by this part until the effective date of the energy conservation standard established in or prescribed under section 325 for such covered product. *Ante*, p. 107.

"(2) A regulation or other requirement, or revision thereof, enacted or prescribed on or after January 8, 1987, that is contained in a State or local building code for new construction concerning the energy efficiency or energy use of a covered product is not superseded by this part until the effective date of the energy conservation standard established in or prescribed under section 325 for such covered product if the code does not require that the energy efficiency of such covered product exceed—

"(A) the applicable minimum efficiency requirement in a national voluntary consensus standard; or

"(B) the minimum energy efficiency level in a regulation or other requirement of the State meeting the requirements of subsection (b)(1) or (b)(5),

whichever is higher.

"(3) Effective on the effective date of an energy conservation standard for a covered product established in or prescribed under section 325, a regulation or other requirement contained in a State or local building code for new construction concerning the energy efficiency or energy use of such covered product is not superseded by this part if the code complies with all of the following requirements:

"(A) The code permits a builder to meet an energy consumption or conservation objective for a building by selecting items whose combined energy efficiencies meet the objective.

"(B) The code does not require that the covered product have an energy efficiency exceeding the applicable energy conservation standard established in or prescribed under section 325, except that the required efficiency may exceed such standard up to the level required by a regulation of that State for which the Secretary has issued a rule granting a waiver under subsection (d).

"(C) The credit to the energy consumption or conservation objective allowed by the code for installing covered products having energy efficiencies exceeding such energy conservation standard established in or prescribed under section 325 or the efficiency level required in a State regulation referred to in subparagraph (B) is on a one-for-one equivalent energy use or equivalent cost basis.

"(D) If the code uses one or more baseline building designs against which all submitted building designs are to be evaluated and such baseline building designs contain a covered product subject to an energy conservation standard established in or prescribed under section 325, the baseline building designs are based on the efficiency level for such covered product which meets but does not exceed such standard or the efficiency level required by a regulation of that State for which the Secretary has issued a rule granting a waiver under subsection (d).

"(E) If the code sets forth one or more optional combinations of items which meet the energy consumption or conservation objective, for every combination which includes a covered product the efficiency of which exceeds either standard or level referred to in subparagraph (D), there also shall be at least one combination which includes such covered product the efficiency of which does not exceed such standard or level by more than 5 percent, except that at least one combination shall include such covered product the efficiency of which meets but does not exceed such standard.

"(F) The energy consumption or conservation objective is specified in terms of an estimated total consumption of energy (which may be calculated from energy loss- or gain-based codes) utilizing an equivalent amount of energy (which may be specified in units of energy or its equivalent cost).

"(G) The estimated energy use of any covered product permitted or required in the code, or used in calculating the objective, is determined using the applicable test procedures prescribed under section 323, except that the State may permit the estimated energy use calculation to be adjusted to reflect the conditions of the areas where the code is being applied if such adjustment is based on the use of the applicable test procedures prescribed under section 323 or other technically accurate documented procedure.

Ante, p. 105.

"(4)(A) Subject to subparagraph (B), a State or local government is not required to submit a petition to the Secretary in order to enforce or apply its building code or to establish that the code meets the conditions set forth in this subsection.

"(B) If a building code requires the installation of covered products with efficiencies exceeding both the applicable Federal standard established in or prescribed under section 325 and the applicable standard of such State, if any, that has been granted a waiver under subsection (d), such requirement of the building code shall not be applicable unless the Secretary has granted a waiver for such requirement under subsection (d).

Ante, p. 107.

"(g) NO WARRANTY.—Any disclosure with respect to energy use, energy efficiency, or estimated annual operating cost which is required to be made under the provisions of this part shall not create an express or implied warranty under State or Federal law that such energy efficiency will be achieved or that such energy use or estimated annual operating cost will not be exceeded under conditions of actual use.".

SEC. 8. CITIZEN SUITS.

Section 335(a) of the Energy Policy and Conservation Act (42 U.S.C. 6305) is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or";

(3) by inserting after paragraph (2) the following new paragraph:

"(3) the Secretary in any case in which there is an alleged failure of the Secretary to comply with a nondiscretionary duty to issue a proposed or final rule according to the schedules set forth in section 325."; and

(4) by adding after the last sentence the following:

"The courts shall advance on the docket, and expedite the disposition of, all causes filed therein pursuant to paragraph (3) of this subsection. If the court finds that the Secretary has failed to comply with a deadline established in section 325, the court shall have jurisdiction to order appropriate relief, including relief that will ensure the Secretary's compliance with future deadlines for the same covered product."

SEC. 9. ADMINISTRATIVE REVIEW AND JUDICIAL REVIEW.

Section 336 of the Energy Policy and Conservation Act (42 U.S.C. 6306) is amended to read as follows:

"ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

"SEC. 336. (a)(1) In addition to the requirements of section 553 of title 5, United States Code, rules prescribed under section 323, 324, 325, 327, or 328 of this part shall afford interested persons an opportunity to present written and oral data, views, and arguments with respect to any proposed rule.

Ante, p. 105; 42 USC 6294; *ante,* p. 107; *post,* p. 117; 42 USC 6298.

"(2) In the case of a rule prescribed under section 325, the Secretary shall, by means of conferences or other informal procedures, afford any interested person an opportunity to question—

"(A) other interested persons who have made oral presentations; and

"(B) employees of the United States who have made written or oral presentations with respect to disputed issues of material fact.

Such opportunity shall be afforded to the extent the Secretary determines that questioning pursuant to such procedures is likely to result in a more timely and effective resolution of such issues.

"(3) A transcript shall be kept of any oral presentations made under this subsection.

"(b)(1) Any person who will be adversely affected by a rule prescribed under section 323, 324, or 325 may, at any time within 60 days after the date on which such rule is prescribed, file a petition with the United States court of appeals for the circuit in which such person resides or has his principal place of business, for judicial review of such rule. A copy of the petition shall be transmitted by the clerk of the court to the agency which prescribed the rule. Such agency shall file in the court the written submissions to, and transcript of, the proceedings on which the rule was based, as provided in section 2112 of title 28, United States Code.

"(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule under section 323, 324, or 325 may be affirmed unless supported by substantial evidence.

5 USC 701 *et seq.*

"(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(4) The remedies provided for in this subsection shall be in addition to, and not in substitution for, any other remedies provided by law.

"(5) The procedures applicable under this part shall not—

"(A) be considered to be modified or affected by any other provision of law unless such other provision specifically amends this part (or provisions of law cited herein); or

"(B) be considered to be superseded by any other provision of law unless such other provision does so in specific terms by referring to this part and declaring that such provision supersedes, in whole or in part, the procedures of this part.

"(c) Jurisdiction is vested in the Federal district courts of the United States over actions brought by—

State and local governments.

"(1) any adversely affected person to determine whether a State or local government is complying with the requirements of this part; and

Ante, p. 107.

"(2) any person who files a petition under section 325(k) which is denied by the Secretary.".

SEC. 10. ANNUAL REPORT.

Section 338 of the Energy Policy and Conservation Act (42 U.S.C. 6308) is amended by adding at the end the following: "Nothing in this section provides a defense or justification for a failure by the Secretary to comply with a nondiscretionary duty as provided for in this part."

SEC. 11. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Part B of title III of the Energy Policy and Conservation Act is amended as follows:

42 USC 6321 *et seq.*
42 USC 6294.

(1) Section 324 is amended—

(A) in subsection (a)(1), by striking out "paragraphs (1) through (9)" and inserting in lieu thereof "paragraphs (1), (2), (4), (6), and (8) through (12)";

(B) in subsection (a)(2), by striking out "paragraphs (10) through (13)" and inserting in lieu thereof "paragraphs (3), (5), and (7)"; and

(C) in subsection (a)(3)—

(i) by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (13)";

(ii) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) the Commission or the Secretary has made a determination with respect to such type (or class thereof) that labeling in accordance with this section will assist purchasers in making purchasing decisions,"; and

(iii) by striking out "section 323(a)(5)" in subparagraph (B) and inserting in lieu thereof "section 323(b)(1)(B)";

Ante, p. 105.

(D) by striking out subsection (b)(1) and inserting in lieu thereof the following:

Labeling.

"(b) RULES IN EFFECT; NEW RULES.—(1)(A) Any labeling rule in effect on the date of the enactment of the National Appliance Energy Conservation Act of 1987 shall remain in effect until amended, by rule, by the Commission.

"(B) After the date of the enactment of the National Appliance Energy Conservation Act of 1987 and not later than 30 days after the date on which a proposed test procedure applicable to a covered product of any of the types specified in paragraphs (1) through (13) of section 322(a) (or class thereof) is prescribed under section 323(b), the Commission shall publish a proposed labeling rule applicable to such type (or class thereof).";

Ante, p. 105.

(E) in subsection (b)(3)—

(i) by striking out "section 323" both places in which it appears and inserting in lieu thereof "section 323(b)";

(ii) by striking out "(13)" and inserting in lieu thereof "(12)"; and

(iii) by striking out "(14)" and inserting in lieu thereof "(13)";

(F) in subsection (b)(5)—

(i) by striking out "(10) through (13)" and inserting in lieu thereof "(3), (5), and (7)"; and

(ii) by striking out "(14)" and inserting in lieu thereof "(13)"; and

(G) in subsection (f), by striking out "or (2)" in the second sentence.

(2) Section 326(b)(3)(A) is amended by inserting "established in or" before "prescribed under". 42 USC 6296.

(3) Section 332(a)(5) is amended by striking out "energy efficiency standard prescribed under" and inserting in lieu thereof "energy conservation standard established in or prescribed under". 42 USC 6302.

(b) STYLISTIC CONFORMING AMENDMENTS.—Part B of title III of the Energy Policy and Conservation Act is amended as follows: 42 USC 6321 *et seq.*

(1) Section 322(b)(1) is amended by striking out "(b)(1)" and inserting in lieu thereof "(b) SPECIAL CLASSIFICATION OF CONSUMER PRODUCT.—(1)". 42 USC 6292.

(2) Section 324 is amended— 42 USC 6294.

(A) by striking out "SEC. 324. (a)(1)" and inserting in lieu thereof "SEC. 324. (a) IN GENERAL.—(1)";

(B) in subsection (c)(1), by striking out "(c)(1)" and inserting in lieu thereof "(c) CONTENT OF LABEL.—(1)";

(C) in subsection (d), by striking out "(d)" and inserting in lieu thereof "(d) EFFECTIVE DATE.—";

(D) in subsection (e), by striking out "(e)" and inserting in lieu thereof "(e) STUDY OF CERTAIN PRODUCTS.—";

(E) in subsection (f), by striking out "(f)" and inserting in lieu thereof "(f) CONSULTATION.—"; and

(F) in subsection (g), by striking out "(g)" and inserting in lieu thereof "(g) OTHER AUTHORITY OF THE COMMISSION.—".

(3) Section 326 is amended— 42 USC 6296.

(A) in subsection (a), by striking out "(a)" and inserting in lieu thereof "(a) IN GENERAL.—";

(B) in subsection (b)(1), by striking out "(b)(1)" and inserting in lieu thereof "(b) NOTIFICATION.—(1)"; and

(C) in subsection (c), by striking out "(c) Each" and inserting in lieu thereof "(c) DEADLINE.—Each".

(4) Section 329 is amended— 42 USC 6299.

(A) in subsection (a), by striking out "(a)" and inserting in lieu thereof "(a) IN GENERAL.—"; and

(B) in subsection (b), by striking out "(b)" and inserting in lieu thereof "(b) CONFIDENTIALITY.—".

(5) Section 332 is amended— 42 USC 6302.

(A) in subsection (a), by striking out "SEC. 332. (a)" and inserting in lieu thereof "SEC. 332. (a) IN GENERAL.—"; and

(B) in subsection (b), by striking out "(b)" and inserting in lieu thereof "(b) DEFINITION.—".

(6) Section 333 is amended— 42 USC 6303.

(A) in subsection (a), by striking out "SEC. 333. (a)" and inserting in lieu thereof "SEC. 333. (a) IN GENERAL.—";

(B) in subsection (b), by striking out "(b)" and inserting in lieu thereof "(b) DEFINITION.—";

(C) in subsection (c), by striking out "(c) It" and inserting in lieu thereof "(c) SPECIAL RULE.—It"; and

(D) in subsection (d)(1), by striking out "(d)(1)" and inserting in lieu thereof "(d) PROCEDURE FOR ASSESSING PENALTY.—(1)".

42 USC 6305. (7) Section 335 is amended—

(A) in subsection (b), by striking out "(b)" and inserting in lieu thereof "(b) LIMITATION.—";

(B) in subsection (c), by striking out "(c)" and inserting in lieu thereof "(c) RIGHT TO INTERVENE.—";

(C) in subsection (d), by striking out "(d)" and inserting in lieu thereof "(d) AWARD OF COSTS OF LITIGATION.—";

(D) in subsection (e), by striking out "(e)" and inserting in lieu thereof "(e) PRESERVATION OF OTHER RELIEF.—"; and

(E) in subsection (f), by striking out "(f)" and inserting in lieu thereof "(f) COMPLIANCE IN GOOD FAITH.—".

42 USC 6309. (8) Section 339 is amended—

(A) in subsection (a), by striking out "(a)" and inserting in lieu thereof "(a) AUTHORIZATIONS FOR THE SECRETARY.—";

(B) in subsection (b), by striking out "(b)" and inserting in lieu thereof "(b) AUTHORIZATIONS FOR THE COMMISSION.—"; and

(C) in subsection (c), by striking out "(c)" and inserting in lieu thereof "(c) OTHER AUTHORIZATIONS.—".

Approved March 17, 1987.

LEGISLATIVE HISTORY—S. 83 (H.R. 87):

HOUSE REPORTS: No. 100-11 accompanying H.R. 87 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-6 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Feb. 5, 17, considered and passed Senate.
Mar. 3, H.R. 87, considered and passed House; proceedings vacated and S. 83 passed in lieu.

○

Public Law 100-13
100th Congress

Joint Resolution

To designate the week of April 5, 1987, through April 11, 1987, as "National Know Your Cholesterol Week".

Mar. 20, 1987
[S.J. Res. 65]

Whereas heart attacks struck an estimated one million five hundred and seventy-six thousand Americans in 1986, a third of whom died immediately;

Whereas scientific data indicates that effective measures to lower serum cholesterol may be capable of decreasing occurrences of heart disease;

Whereas only 8 per centum of Americans know their cholesterol level; and

Whereas an estimated two hundred and fifty thousand lives could be saved each year if Americans were tested for and took action to reduce high levels of cholesterol: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 5, 1987, through April 11, 1987, is designated as "National Know Your Cholesterol Week"; and the President is authorized and requested to issue a proclamation calling upon the American public to observe such week with appropriate programs and activities.

Approved March 20, 1987.

LEGISLATIVE HISTORY—S.J. Res. 65:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Feb. 26, considered and passed Senate.
Mar. 10, considered and passed House.

○

Public Law 100-14
100th Congress

An Act

Mar. 24, 1987
[H.R. 1056]

To amend the National Housing Act to limit the fees that may be charged by the Government National Mortgage Association for the guaranty of mortgage-backed securities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 306(g) of the National Housing Act is amended by adding at the end the following new paragraph: 12 USC 1721.

"(3)(A) No fee or charge in excess of 6 basis points may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to any guaranty of the timely payment of principal or interest on securities or notes based on or backed by mortgages that are secured by 1- to 4-family dwellings and (i) insured by the Federal Housing Administration under title II of the National Housing Act; or (ii) insured or guaranteed under the Serviceman's Readjustment Act of 1944, chapter 37 of title 38, United States Code, or title V of the Housing Act of 1949. 12 USC 1707. 58 Stat. 284. 38 USC 1801 *et seq.* 42 USC 1471.

"(B) The fees charged for the guaranty of securities or on notes based on or backed by mortgages not referred to in subparagraph (A), as authorized by other provisions of law, shall be set by the Association at a level not more than necessary to create reserves sufficient to meet anticipated claims based upon actuarial analysis, and for no other purpose.

"(C) Fees or charges for the issuance of commitments or miscellaneous administrative fees of the Association shall not be on a competitive auction basis and shall remain at the level set for such fees or charges as of September 1, 1985, except that such fees or charges may be increased if reasonably related to the cost of administering the program, and for no other purpose.

"(D) Not less than 90 days before increasing any fee or charge under subparagraph (B) or (C), the Secretary shall submit to the Congress a certification that such increase is solely for the purpose specified in such subparagraph.".

Approved March 24, 1987.

LEGISLATIVE HISTORY—H.R. 1056:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Feb. 25, considered and passed House.
Mar. 10, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12 (1987):
Mar. 24, Presidential statement.

○

Public Law 100-15
100th Congress

Joint Resolution

To designate March 20, 1987 as "National Energy Education Day".

Mar. 25, 1987
[S.J. Res. 19]

Whereas a reliable and economical supply of energy is essential to the future well-being of the United States;

Whereas the development and implementation of an enlightened energy policy requires that the public be adequately informed of the issues and alternatives;

Whereas ongoing quality energy education programs in America's schools and communities will continue to play an important role in educating the public regarding energy issues;

Whereas the annual celebration of "National Energy Education Day" (NEED) brings together students, teachers, school officials, and community leaders to focus attention on the need for energy education in our Nation's schools and communities; and

Whereas such a celebration should be conducted in a manner which encourages a deeper understanding of the energy changes and challenges that have and will continue to shape America's future: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to promote and enhance energy education programs at all grade levels of public and private schools throughout the United States, March 20, 1987, is designated "National Energy Education Day". The President is requested to issue a proclamation calling upon the people of the United States, and all educational institutions, to observe such a day with appropriate ceremonies and activities, and encourage appropriate Federal agencies to participate in the observance of such a day and to cooperate with persons and institutions conducting such ceremonies and activities.

Approved March 25, 1987.

LEGISLATIVE HISTORY—S.J. Res. 19:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 18, considered and passed Senate.
Mar. 19, considered and passed House.

O

Public Law 100-16
100th Congress

Joint Resolution

Mar. 27, 1987
[S.J. Res. 63]

To designate March 21, 1987, as Afghanistan Day.

Whereas more than seven years have passed since the unprovoked Soviet invasion of the nonaligned country of Afghanistan;

Whereas close to one hundred and fifteen thousand Soviet troops are continuing a brutal attempt to crush the nationwide Afghan resistance to the Soviets and the Marxist regime they installed;

Whereas indiscriminate air and artillery bombardments, deliberate attempts to generate refugees, and the destruction of livestock, crops, and property remain a key instrument of Soviet and Kabul regime policy;

6 UST 3114, 3217, 3316, 3516. 15 UST 2228.

Whereas Soviet and Kabul regime actions in Afghanistan violate the following international covenants: the 1949 Geneva Conventions and Customary International Law; article 7 of the International Covenant on Civil and Political Rights; and the 1954 Hague Convention;

Whereas the military operations of the Soviets and their Afghan surrogates have driven almost three million refugees into Pakistan, placing an almost intolerable burden on its economy, social service system, and ecology;

Whereas the United Nations General Assembly has in eight resolutions called for the "immediate withdrawal of foreign troops from Afghanistan", and a recent United Nations Human Rights Commission report concludes that the continuation of a military solution in Afghanistan will "lead inevitably to a situation approaching genocide";

Whereas, the twentieth semiannual report of the United States Department of State on the implementation of the Helsinki Final Act observes that Soviet policies in Afghanistan are: "in direct and willful violation of the general principles set forth in the Helsinki Final Act, including respect of the inviolability of frontiers, territorial integrity of states, and self-determination of peoples";

Whereas, in June 1986, the European Parliament overwhelmingly adopted a resolution on the situation in Afghanistan which condemns: "The deaths of some one and a half million Afghans since the beginning of the Soviet intervention, out of the total population of fifteen million, while four and a half million refugees have had to flee to Pakistan and Iran and a million Afghans are surviving in extremely difficult conditions within the country itself";

Whereas Soviet and Kabul regime aircraft have violated Pakistan's airspace seven hundred and fifty-seven times during 1986, killing forty-six innocent people and wounding seventy-seven;

Whereas over two hundred and thirty-three Soviet and Kabul-inspired terrorist incidents took place in Pakistan during 1986, often in circumstances calculated to cause the deaths of innocent civilians;

Whereas recent developments such as the deceptive withdrawal of six Soviet regiments, a "national reconciliation" scheme which leaves a regime opposed by an overwhelming majority of the Afghan people, and a ceasefire proposal with no provision for the withdrawal of Soviet forces suggest no change in the Soviet goal in Afghanistan;

Whereas the only credible indicator of Soviet commitment to negotiated political settlement in Afghanistan will be their agreement at the Geneva negotiations to a prompt and complete withdrawal of all their troops and full self-determination for the Afghan people;

Whereas, since the Soviet invasion of Afghanistan, the Congress has in numerous resolutions declared the solidarity of the American people with the struggle of the Afghan people against the Soviet invaders; and

Whereas the people of Afghanistan observe March 21 as the traditional start of their new year and as a symbol of their nation's rebirth: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating March 21, 1987, as Afghanistan Day, and calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved March 27, 1987.

LEGISLATIVE HISTORY—S.J. Res. 63:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 17, considered and passed Senate.
Mar. 19, considered and passed House.

○

PUBLIC LAW 100-17—APR. 2, 1987

SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987

Public Law 100-17
100th Congress

An Act

Apr. 2, 1987
[H.R. 2]

To authorize funds for construction of highways, for highway safety programs, and for mass transportation programs, to expand and improve the relocation assistance program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Surface Transportation and Uniform Relocation Assistance Act of 1987.
State and local governments.
23 USC 101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Surface Transportation and Uniform Relocation Assistance Act of 1987".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.

TITLE I—FEDERAL-AID HIGHWAY ACT OF 1987

Sec. 101. Short title.
Sec. 102. Approval of interstate cost estimate and extension of interstate program.
Sec. 103. Approval of cost estimate and authorization of appropriations for interstate substitute projects.
Sec. 104. Authorization of appropriations for interstate system construction.
Sec. 105. Obligation ceiling.
Sec. 106. Authorization of appropriations.
Sec. 107. Federal-aid primary formula.
Sec. 108. Elimination of roadside obstacles.
Sec. 109. Emergency call boxes.
Sec. 110. Vending machines and State police barracks.
Sec. 111. Contracts.
Sec. 112. Convict produced materials.
Sec. 113. Advance construction.
Sec. 114. Interstate discretionary funds.
Sec. 115. Flexibility of use of highway funds.
Sec. 116. Interstate 4R program.
Sec. 117. Federal share.
Sec. 118. Emergency relief.
Sec. 119. Vehicle weight.
Sec. 120. Toll facilities.
Sec. 121. Railway-highway crossings.
Sec. 122. Indian employment and contracting.
Sec. 123. Bridge program.
Sec. 124. Minimum allocation.
Sec. 125. National bridge inspection program.
Sec. 126. Income from airspace rights-of-way.
Sec. 127. Funding for bicycle projects.
Sec. 128. Strategic highway research program.
Sec. 129. Highway planning and research.
Sec. 130. Wildflowers.
Sec. 131. National Highway Institute.
Sec. 132. Prohibition against disclosure and admission as evidence of State reports and surveys.
Sec. 133. Highway technical amendments.
Sec. 134. Forest highways.
Sec. 135. Regulation of tolls.
Sec. 136. Implementation of certain orders.
Sec. 137. Combined road plan demonstration program.
Sec. 138. Project eligibility.
Sec. 139. Eligibility of park and ride facilities.
Sec. 140. Planning, design, and construction.

Sec. 141. Transfer of interstate lanes.
Sec. 142. Substitute transit project in Oregon.
Sec. 143. Payback of right-of-way expenses.
Sec. 144. Georgia State route 400.
Sec. 145. Exemption from right-of-way restriction.
Sec. 146. Right-of-way donation.
Sec. 147. Shirley Highway traffic restrictions.
Sec. 148. Railroad relocation and demonstration program.
Sec. 149. Demonstration and priority projects.
Sec. 150. Cumberland Gap National Historical Park, Virginia.
Sec. 151. Delaware River bridges.
Sec. 152. Prohibition on widening certain routes through historic district.
Sec. 153. Urban high density program.
Sec. 154. Signs identifying funding sources.
Sec. 155. Salvage operation.
Sec. 156. Release of condition relating to conveyance of a certain highway.
Sec. 157. Maryland interstate transfer.
Sec. 158. Motor vehicle study.
Sec. 159. Rail-highway crossings study.
Sec. 160. Study of highway bridges which cross rail lines.
Sec. 161. Parking for handicapped persons.
Sec. 162. Bridge management study.
Sec. 163. State maintenance program study.
Sec. 164. Feasibility study of using highway electrification systems.
Sec. 165. Cost effectiveness study of highway upgrading.
Sec. 166. Highway feasibility study.
Sec. 167. California feasibility study.
Sec. 168. New York feasibility study.
Sec. 169. Florida feasibility study.
Sec. 170. Virgin Islands feasibility study.
Sec. 171. Study of ferry boat service.
Sec. 172. Review of reports on United States route 13 relief route.
Sec. 173. Use of rock salt on highways.
Sec. 174. 55-miles per hour speed limit.

TITLE II—HIGHWAY SAFETY ACT OF 1987

Sec. 201. Short title.
Sec. 202. Highway safety.
Sec. 203. Alcohol traffic safety programs.
Sec. 204. Schoolbus safety measures.
Sec. 205. Standards for splash and spray suppressant devices.
Sec. 206. Highway safety program amendments.
Sec. 207. Highway safety education and information.
Sec. 208. Older driver study.
Sec. 209. Rescission of contract authority.

TITLE III—FEDERAL MASS TRANSPORTATION ACT OF 1987

Sec. 301. Short title.
Sec. 302. Letters of intent.
Sec. 303. Criteria for new starts.
Sec. 304. Report on funding levels and allocations of funds.
Sec. 305. Allocation of section 3 funds.
Sec. 306. Advance construction.
Sec. 307. Section 4(h)(1) reports.
Sec. 308. Leased property.
Sec. 309. Bus remanufacturing and overhauling of rolling stock.
Sec. 310. Long-term financial planning.
Sec. 311. Use of lapsed section 9A and section 9 funds.
Sec. 312. Block grant program amendments.
Sec. 313. Section 9B program.
Sec. 314. University transportation centers.
Sec. 315. Sole source procurements.
Sec. 316. Contracting for engineering and design services.
Sec. 317. Bus testing.
Sec. 318. Rulemaking.
Sec. 319. Preaward and postdelivery audit of bus purchases.
Sec. 320. Removal of limitation on the source of funding for innovative management grants.
Sec. 321. Federal share for elderly and handicapped projects.
Sec. 322. Rural transportation equity.

Sec. 323. Rural transit assistance program.
Sec. 324. Project management oversight.
Sec. 325. Crime prevention and security.
Sec. 326. Bicycle facilities.
Sec. 327. Transit technical amendments.
Sec. 328. Authorizations.
Sec. 329. Increased operating assistance during construction of interstate project.
Sec. 330. Bus service deterioration.
Sec. 331. BART study.
Sec. 332. Tactile mobility aids.
Sec. 333. Feasibility study of electric bus line.
Sec. 334. Feasibility study of abandoned trolley service.
Sec. 335. Comprehensive transit plan for the Virgin Islands.
Sec. 336. Transfer of section 9 funds.
Sec. 337. Buy America.
Sec. 338. Multi-year contract for Metro Rail Project.
Sec. 339. Bus carrier certificates for recipients of governmental assistance.
Sec. 340. Utilization requirement for certificates authorizing intrastate bus operations.

TITLE IV—UNIFORM RELOCATION ACT AMENDMENTS OF 1987

Sec. 401. Short title.
Sec. 402. Definitions.
Sec. 403. Certification.
Sec. 404. Declaration of findings and policy.
Sec. 405. Moving and related expenses.
Sec. 406. Replacement housing for homeowner.
Sec. 407. Replacement housing for tenants and certain others.
Sec. 408. Relocation planning, assistance coordination, and advisory services.
Sec. 409. Housing replacement by Federal agency as last resort.
Sec. 410. Assurances.
Sec. 411. Federal share of costs.
Sec. 412. Duties of lead agency.
Sec. 413. Payments under other laws.
Sec. 414. Transfer of surplus property.
Sec. 415. Repeals.
Sec. 416. Uniform policy on real property acquisition practices.
Sec. 417. Assurances.
Sec. 418. Effective date.

TITLE V—HIGHWAY REVENUE ACT OF 1987

Sec. 501. Short title.
Sec. 502. 5-year extension of Highway Trust Fund taxes and related exemptions.
Sec. 503. 5-year extension of Highway Trust Fund.
Sec. 504. Certain transfers from Highway Trust Fund to be made proportionately from Mass Transit Account.
Sec. 505. Treatment of long-term lessors of heavy trucks and trailers.
Sec. 506. Determination of price where tax paid by manufacturer.
Sec. 507. Imposition of highway use tax on all motor vehicles operating in United States.
Sec. 508. Application of certain revenue rulings.

23 USC 101 note.

SEC. 2. SECRETARY DEFINED.

As used in this Act, the term "Secretary" means the Secretary of Transportation.

Federal-Aid Highway Act of 1987.

TITLE I—FEDERAL-AID HIGHWAY ACT OF 1987

23 USC 101 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal-Aid Highway Act of 1987".

SEC. 102. APPROVAL OF INTERSTATE COST ESTIMATE AND EXTENSION OF INTERSTATE PROGRAM.

(a) Fiscal Year 1988.—The Secretary shall apportion for fiscal year 1988 the sums authorized to be appropriated for such year by section 108(b) of the Federal-Aid Highway Act of 1956 for expenditure on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of the Committee Print Numbered 100-5 of the Committee on Public Works and Transportation of the House of Representatives.

23 USC 104 note.

23 USC 101 note.

(b) Extension of Interstate Program Through Fiscal Year 1993.—

(1) Extension of ice approval process.—Section 104(b)(5)(A) of title 23, United States Code, is amended by inserting after "September 30, 1990." the following: "The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1989. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years 1991 and 1992. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1991. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal year 1993.".

(2) Administrative adjustment of ice; excess apportionments.—Such section 104(b)(5)(A) is further amended by adding at the end the following: "On October 1 of each of fiscal years 1988, 1989, 1990, and 1991, whenever Congress has not approved a cost estimate under this subparagraph, the Secretary shall make the apportionment required by this subparagraph using the Federal share of the last estimate submitted to Congress, adjusted to reflect (i) all previous credits, apportionments of interstate construction funds and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds. If, before apportionment of funds under this subparagraph for any fiscal year, the Secretary and a State highway department agree that a portion of the apportionment to such State is not needed for such fiscal year, the amount of such portion shall be made available under section 118(b)(2) of this title.".

(3) Conforming amendment.—The second paragraph of section 101(b) of such title is amended—

(A) by striking out "thirty-four years' " and inserting in lieu thereof "thirty-seven years' "; and

(B) by striking out "1990" and inserting in lieu thereof "1993".

(c) Minimum Apportionment.—For any fiscal year beginning after September 30, 1987, no State, including the State of Alaska,

Alaska.
23 USC 104 note.

shall receive less than ½ of 1 percent of the total apportionment for the Interstate System under section 104(b)(5)(A) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, rehabilitation, and reconstruction of the Interstate System within such State, the excess amount shall be eligible for expenditure for those purposes for which funds apportioned under paragraphs (1), (2), and (6) of such section 104(b) may be expended and shall also be available for expenditure to carry out section 152 of title 23, United States Code.

SEC. 103. APPROVAL OF COST ESTIMATE AND AUTHORIZATION OF APPROPRIATIONS FOR INTERSTATE SUBSTITUTE PROJECTS.

23 USC 103 note.

(a) Fiscal Year 1987.—The Secretary shall apportion for fiscal year 1987 the sums to be apportioned for such year under section 103(e)(4) of title 23, United States Code, for expenditure on substitute highway and transit projects, using the apportionment factors contained in the Committee Print Numbered 100-6 of the Committee on Public Works and Transportation of the House of Representatives.

(b) Authorization of Appropriations; Period of Availability of Apportioned Funds; Extension of Substitute ICE Approval Process.—Section 103(e)(4) of title 23, United States Code, is amended to read as follows:

"(4) Interstate substitute program.—

"(A) Withdrawal of approval.—Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw approval of any route or portion thereof on the Interstate System which was selected and approved in accordance with this title, if the Secretary determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if the Secretary receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof.

"(B) Substitute projects.—When the Secretary withdraws approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, or up to and including the 1983 interstate cost estimate, whichever is earlier, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of approval of each substitute project under this paragraph, or the date of approval of the 1983 interstate cost estimate, whichever is earlier, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or highway construction projects on any public road, or both, which will serve the area or areas from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or the States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located. Each project constructed under this paragraph on a Federal-aid system shall be subject to the provisions of this title applicable to such system. Each project constructed under this paragraph not on a Federal-aid system shall be subject to the provisions of this title applicable to projects on the Federal-aid secondary system.

"(C) DEADLINE FOR WITHDRAWAL.—The Secretary shall not approve any withdrawal of a route under this paragraph after September 30, 1983—

"(i) except that with respect to any route which on November 6, 1978, is under judicial injunction prohibiting its construction the Secretary may approve withdrawals until September 30, 1986, and

"(ii) except that with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction, the Secretary may approve withdrawals on such route until September 30, 1985.

"(D) PROJECT APPROVAL; FEDERAL SHARE.—Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of each substitute project shall not exceed 85 percent of the cost thereof.

"(E) AVAILABILITY OF FUNDS FOR SUBSTITUTE PROJECTS.—

"(i) TIME PERIOD.—The sums apportioned and the sums allocated under this paragraph for public mass transit projects and for highway construction projects in a State shall remain available for obligation in such State for the fiscal year for which apportioned or allocated, as the case may be, and for the succeeding fiscal year.

"(ii) REAPPORTIONMENT OR REALLOCATION.—Any sums which are apportioned or allocated to a State and are unobligated (other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of the period of availability established by clause (i) shall be apportioned or allocated, as the case may be, among those States which have obligated all sums (other than such an amount) apportioned or allocated, as the case may be, to them. Such reapportionments shall be in accordance with the latest approved or adjusted estimate of the cost of completing substitute projects, and such reallocations shall be at the discretion of the Secretary.

"(F) ADMINISTRATION OF TRANSIT FUNDS.—The sums obligated for mass transit projects under this paragraph shall become part of, and be administered through, the Urban Mass Transportation Fund.

"(G) AUTHORIZATION OF APPROPRIATIONS FOR HIGHWAY PROJECTS.—For the fiscal year ending September 30, 1983, $257,000,000 shall be available out of the Highway Trust Fund for expenditure at the discretion of the Secretary for projects under highway assistance programs. There shall be available, out of the Highway Trust Fund (other than the Mass Transit Account), to the Secretary for expenditure under this paragraph for projects under highway assistance programs $700,000,000 per fiscal year for each of fiscal years 1984 and 1985, $693,825,000 for fiscal year 1986, and $740,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

"(H) DISTRIBUTION OF SUBSTITUTE HIGHWAY FUNDS.—

"(i) BETWEEN DISCRETIONARY AND APPORTIONED PROGRAMS.—Subject to section 149(d) of the Federal-Aid Highway Act of 1987, 25 percent of the funds made available by subparagraph (G) for each of fiscal years 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991 for substitute highway projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 75 percent of such funds shall be apportioned in accordance with cost estimates approved by Congress or adjusted by the Secretary.

"(ii) FISCAL YEARS 1985, 1986, AND 1987 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for fiscal years 1985, 1986, and 1987.

"(iii) FISCAL YEARS 1988, 1989, 1990, AND 1991 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of the enactment of the Federal-Aid Highway Act of 1987. Upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for fiscal year 1988. If such estimate is not approved by Congress by September 30, 1987, the Secretary shall adjust such estimate in accordance with this clause and use the Federal share of the adjusted estimate in making apportionments for fiscal year 1988. The Secretary shall adjust such estimate annually thereafter in accordance with this clause and shall use the Federal share of such adjusted estimate in making apportionments for substitute highway projects for fiscal years 1989, 1990, and 1991. The adjustments required by this clause shall reflect previous withdrawals of interstate segments, changes in State estimates in the division of funds between substitute highway and transit projects, amounts made available in prior fiscal years, and the availability and reapportionment of funds under subparagraph (E).

"(I) AUTHORIZATION OF APPROPRIATIONS FOR TRANSIT PROJECTS.—There are authorized to be appropriated for liquidation of obligations incurred for substitute transit projects under this paragraph the sums provided in section 4(g) of the Urban Mass Transportation Act of 1964.

49 USC app. 1603.

"(J) DISTRIBUTION OF SUBSTITUTE TRANSIT FUNDS.—

"(i) BETWEEN DISCRETIONARY AND APPORTIONED PROGRAMS.—Fifty percent of the funds appropriated for each fiscal year beginning after September 30, 1983, for carrying out substitute transit projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 50 percent of such funds shall be apportioned in accordance with cost estimates approved by Congress or adjusted by the Secretary.

"(ii) FISCAL YEARS 1985, 1986, AND 1987 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for fiscal years 1985, 1986, and 1987.

"(iii) FISCAL YEARS 1988, 1989, 1990, AND 1991 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of the enactment of the Federal-Aid Highway Act of 1987. Upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for fiscal year 1988. If such estimate is not approved by Congress by September 30, 1987, the Secretary shall adjust such estimate in accordance with this clause and use the Federal share of the adjusted estimate in making apportionments for fiscal year 1988. The Secretary shall adjust such estimate annually thereafter in accordance with this clause and shall use the Federal share of such adjusted estimate in making apportionments for substitute transit projects for fiscal years 1989, 1990, and 1991. The adjustments required by this clause shall reflect previous withdrawals of Interstate segments, changes in State estimates in the division of funds between substitute highway and transit projects, amounts made available in prior fiscal years, and the availability and reapportionment of funds under subparagraph (E).

"(K) REDUCTION OF INTERSTATE APPORTIONMENT.—

"(i) IN GENERAL.—Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the

Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all interstate routes in that State as reflected in the latest cost estimate approved by the Congress.

"(ii) EXCEPTION.—In any State where the withdrawal of an interstate route or portion thereof has been approved under this section prior to the date of the enactment of the Federal-Aid Highway Act of 1976, the unobligated apportionments for the Interstate System in that State on such date of enactment shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown in the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all interstate routes in that State, as shown in such cost estimate; except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph before such date of enactment.

23 USC 101 note.

"(L) APPLICABILITY OF UMTA.—

"(i) SUPPLEMENTARY FUNDS.—Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964.

49 USC app. 1601 note.

"(ii) LABOR PROTECTION.—The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964 shall apply in carrying out this paragraph.

49 USC app. 1602.

"(M) LIMITATION ON INTERSTATE DESIGNATIONS.—After the date of the enactment of the Federal-Aid Highway Act of 1978, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provision of law. The preceding sentence shall not apply to a designation made under section 139 of this title.

23 USC 101 note.

"(N) OPEN TO TRAFFIC REQUIREMENT.—After September 30, 1979, the Secretary shall not withdraw his approval under this paragraph of any route or portion thereof on the Interstate System open to traffic before the date of the proposed withdrawal. Any withdrawal of approval of any such route or portion thereof before September 30, 1979, is hereby determined to be authorized by this paragraph.

"(O) LIMITATION ON SUBSTITUTION FOR STATUTORILY DESIGNATED ROUTES.—Any route or segment which was statutorily designated after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection.

"(P) RIGHT-OF-WAY PAYBACK.—

"(i) ENFORCEMENT.—Of sums apportioned or allocated under this paragraph to a State, the Secretary shall not obligate for projects in such State an amount equal to the amount of Federal funds expended to purchase the right-of-way for any withdrawn route or portion thereof if the right-of-way is not first disposed of (or applied to a project in accordance with paragraph (5)(B), (6)(B), or (7)) by the State.

"(ii) LIMITATION ON APPLICABILITY.—Clause (i) shall not apply to sums apportioned or allocated under this paragraph to a State for a fiscal year if the projected total amount of funds to be apportioned and allocated under this paragraph to such State in succeeding fiscal years exceeds the amount of Federal funds expended to purchase the right-of-way.

"(iii) RELEASE OF FUNDS.—The Secretary may obligate for projects in a State under this paragraph any funds withheld from obligation in such State if the State repays an equivalent amount in accordance with paragraph (5)(B), (6)(B), or (7), as the case may be, or if the Secretary determines that such repayment is not required under such paragraph.".

(c) SUBSTITUTE TRANSIT PROJECTS.— 23 USC 103 note.

(1) INCREASE IN COST TO COMPLETE.—The cost of completing substitute transit projects under section 103(e)(4)(B) of title 23, United States Code, is increased by $100,000,000.

(2) APPORTIONMENT FACTORS.—Notwithstanding section 103(e)(4) of such title, funds appropriated to carry out projects as a result of enactment of paragraph (1) shall be made available in accordance with the apportionment factors contained in the Committee Print Numbered 100-2 of the Committee on Public Works and Transportation of the House of Representatives.

(d) CONTRACT DEADLINE FOR SUBSTITUTE PROJECTS.—

(1) ELIMINATION.—Subsection (e) of section 107 of the Federal-Aid Highway Act of 1978 (23 U.S.C. 103 note) is amended—

(A) in the first sentence by striking out "and all Interstate substitute projects pursuant to subsection (e)(4) of section 103 of title 23, United States Code (for which the Secretary finds that sufficient Federal funds are available)"; and

(B) in the second sentence by striking out "and in the case" and all that follows through the period at the end of such subsection and inserting in lieu thereof a period.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect September 29, 1986. 23 USC 103 note.

(e) INCLUSION OF CERTAIN COSTS AS NON-FEDERAL SHARE.—If the State of Oregon completes construction of a segment of an east-west highway which segment connects 158th Avenue and Cornelius Pass Road in Washington County, Oregon, with funds made available under section 103(e)(4) of title 23, United States Code, the Secretary shall include as part of the non-Federal share of the cost of construction of such segment all funds expended by private land developers after January 1, 1980, on construction of such segment. Oregon.

(f) CONFORMING AMENDMENTS.—(1) Section 103(e) of title 23, United States Code, is amended—

(A) by inserting "INTERSTATE SYSTEM.—" before "(1) The Interstate";

(B) in paragraph (1) by inserting "DESIGNATION; MILEAGE LIMITATION.—" before "The Interstate";

(C) in paragraph (2) by inserting "MODIFICATIONS.—" before "In addition";

(D) in paragraph (3) by inserting "ADDITIONAL MILEAGE FOR IMPROVED EFFICIENCY.—" before "In addition";

(E) in paragraph (5) by inserting "LIMITATION ON REFUNDS FOR WITHDRAWALS BEFORE NOVEMBER 6, 1978.—" before "Notwithstanding" and by striking out "; and" at the end of such paragraph and inserting in lieu thereof a period;

(F) in paragraph (6) by inserting "LIMITATION ON REFUNDS FOR WITHDRAWALS ON AND AFTER NOVEMBER 6, 1978.—" before "Notwithstanding" and by striking out the semicolon at the end of such paragraph and inserting in lieu thereof a period;

(G) in paragraph (7) by inserting "ADDITIONAL LIMITATION ON REFUNDS.—" before "In any" and by striking out "; and" at the end of such paragraph and inserting in lieu thereof a period;

(H) in paragraph (8) by inserting "PROTECTION OF PROPERTY RIGHTS.—" before "Nothing";

(I) in paragraph (9) by inserting "LIMITATION ON FUNDING OF MODIFIED MILEAGE PROJECTS.—" before "Interstate mileage";

(J) by indenting paragraph (1) and aligning such paragraph and paragraphs (2), (3), (5), (6), (7), (8), and (9) with paragraph (4) of such section, as amended by subsection (b) of this section; and

(K) by aligning subparagraphs (A) and (B) of paragraphs (5) and (6) with subparagraph (A) of such paragraph (4).

(2) Section 107(c)(2) of the Highway Improvement Act of 1982 (23 U.S.C. 103 note) is amended—

(A) by striking out "the second sentence" and inserting in lieu thereof "subparagraph (B)"; and

(B) by striking out "such sentence" and inserting in lieu thereof "such subparagraph".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS FOR INTERSTATE SYSTEM CONSTRUCTION.

23 USC 101 note.

The first sentence of subsection (b) of section 108 of the Federal-Aid Highway Act of 1956 is amended by striking out "and" after "September 30, 1987," and all that follows through the period at the end of such sentence and inserting in lieu thereof the following: "the additional sum of $3,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of $3,150,000,000 for the fiscal year ending September 30, 1989, the additional sum of $3,150,000,000 for the fiscal year ending September 30, 1990, the additional sum of $3,150,000,000 for the fiscal year ending September 30, 1991, the additional sum of $3,150,000,000 for the fiscal year ending September 30, 1992, and the additional sum of $1,400,000,000 for the fiscal year ending September 30, 1993.".

23 USC 104 note.

SEC. 105. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law (other than subsection (f) of this section), the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $12,350,000,000 for fiscal year 1987;
(2) $12,350,000,000 for fiscal year 1988;
(3) $12,350,000,000 for fiscal year 1989;
(4) $12,350,000,000 for fiscal year 1990; and
(5) $12,350,000,000 for fiscal year 1991.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations—

(1) under section 125 of title 23, United States Code;
(2) under section 157 of such title;
(3) under section 320 of such title;

(4) under section 147 of the Surface Transportation Assistance Act of 1978;

23 USC 144 note.

(5) under section 9 of the Federal-Aid Highway Act of 1981;

95 Stat. 1701.

(6) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;

96 Stat. 2119.

(7) under section 118 of the National Visitor Center Facilities Act of 1968; and

40 USC 801 note.

(8) under section 404 of the Surface Transportation Assistance Act of 1982.

49 USC app. 2304.

Such limitations shall also not apply to obligations of funds made available by subsections (b) and (c) of section 149 of this Act.

(c) Distribution of Obligation Authority.—For each of fiscal years 1987, 1988, 1989, 1990, and 1991 the Secretary shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(d) Limitation on Obligation Authority.—During the period October 1 through December 31 of each of fiscal years 1987, 1988, 1989, 1990, and 1991, no State shall obligate more than 35 percent of the amount distributed to such State under subsection (c) for such fiscal year, and the total of all State obligations during such period shall not exceed 25 percent of the total amount distributed to all States under such subsection for such fiscal year.

(e) Redistribution of Unused Obligation Authority.—Notwithstanding subsections (c) and (d), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1 of each of fiscal years 1987, 1988, 1989, 1990, and 1991, revise a distribution of the funds made available under subsection (c) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

23 USC 101 note.
23 USC 101 note.

(3) not distribute amounts authorized for administrative expenses, studies under sections 159, 164, 165, and 167 of this Act, Federal lands highways programs, and the strategic highway research program and amounts made available under section 149(d) of this Act.

(f) Additional Obligation Authority.—

(1) In general.—Subject to paragraph (2), a State which after August 1 and on or before September 30 of fiscal year 1987, 1988, 1989, 1990, or 1991 obligates the amount distributed to

such State in such fiscal year under subsections (c) and (e) may obligate for Federal-aid highways and highway safety construction on or before September 30 of such fiscal year an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(A) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(B) for highway assistance projects under section 103(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

(2) LIMITATION ON ADDITIONAL OBLIGATION AUTHORITY.—During the period August 2 through September 30 of each of fiscal years 1987, 1988, 1989, 1990, and 1991, the aggregate amount which may be obligated by all States pursuant to paragraph (1) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(A) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(B) for highway assistance projects under section 103(e)(4) of such title,

which would not be obligated in such fiscal year if the total amount of obligational authority provided by subsection (a) for such fiscal year were utilized.

(3) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply to any State which on or after August 1 of fiscal year 1987, 1988, 1989, 1990, or 1991, as the case may be, has the amount distributed to such State under subsection (c) for such fiscal year reduced under subsection (e)(2).

(g) OBLIGATION CEILING FOR HIGHWAY SAFETY PROGRAMS.—Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, shall not exceed $10,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(h) CONFORMING AMENDMENT.—Section 157(b) of title 23, United States Code, is amended by striking out the period at the end of the last sentence and inserting in lieu thereof "and section 105(c) of the Federal-Aid Highway Act of 1987.".

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

(a) FROM THE HIGHWAY TRUST FUND.—For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE 4R PROGRAM.—For resurfacing, restoring, rehabilitating, and reconstructing the National System of Interstate and Defense Highways $2,815,000,000 per fiscal year for each of fiscal years 1988, 1989, 1990, 1991, and 1992.

(2) FEDERAL-AID PRIMARY SYSTEM.—For the Federal-aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes $2,325,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(3) FEDERAL-AID SECONDARY SYSTEM.—For the Federal-aid secondary system in rural areas $600,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990. and 1991.

(4) Federal-aid urban system.—For the Federal-aid urban system $750,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(5) Bridge replacement and rehabilitation.—For bridge replacement and rehabilitation under section 144, $1,630,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(6) Elimination of hazards.—For projects for elimination of hazards under section 152, $170,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(7) Indian reservation roads.—For Indian reservation roads $80,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(8) Forest highways.—For forest highways $55,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(9) Public lands highways.—For public lands highways $40,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(10) Parkways and park highways.—For parkways and park highways $60,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(11) FHWA highway safety programs.—For carrying out section 402 by the Federal Highway Administration $10,000,000 for fiscal years 1987, 1988, 1989, 1990, and 1991.

(12) FHWA highway safety research and development.—For carrying out sections 307(a) and 403 by the Federal Highway Administration $10,000,000 per fiscal year for fiscal years 1987, 1988, 1989, 1990, and 1991.

(13) Railroad-highway crossings.—For carrying out projects for the elimination of railway-highway crossings on any public road, $160,000,000 for each of fiscal years 1987, 1988, 1989, 1990, and 1991.

(b) Transportation of Certain Nuclear Waste.—There is authorized to be appropriated for fiscal years beginning after September 30, 1986, $58,000,000, to remain available until expended, for the upgrading of certain highways in the State of New Mexico for the transportation of nuclear waste generated during defense-related activities.

(c) Disadvantaged Business Enterprises.—

(1) General rule.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts authorized to be appropriated under titles I and III of this Act or obligated under titles I, II, and III (other than section 203) of the Surface Transportation Assistance Act of 1982 after the date of the enactment of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

23 USC 101, 401; 49 USC app. 1601 note; 96 Stat. 2138.

(2) Definitions.—For purposes of this subsection—

(A) Small business concern.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $14,000,000, as adjusted by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State.

(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, résumé of principal owners, financial capacity, and type of work preferred.

96 Stat. 2100.

(5) APPLICABILITY.—Section 105(f) of the Surface Transportation Assistance Act of 1982 shall not apply to amounts authorized under such Act and obligated after the date of the enactment of this Act.

SEC. 107. FEDERAL-AID PRIMARY FORMULA.

Section 108 of the Highway Improvement Act of 1982 (23 U.S.C. 104 note) is amended by striking out "and 1986" each place it appears and inserting in lieu thereof "1986, 1987, 1988, 1989, 1990, and 1991".

SEC. 108. ELIMINATION OF ROADSIDE OBSTACLES.

The second undesignated paragraph of section 101(a) of title 23, United States Code, relating to the definition of construction, is amended by inserting after "grade crossings," the following: "elimination of roadside obstacles,".

SEC. 109. EMERGENCY CALL BOXES.

The tenth undesignated paragraph of section 101(a) of title 23, United States Code, relating to the definition of highway safety improvement project, is amended by inserting after "pavement marking," the following: "installs or replaces emergency motorist-aid call boxes,".

SEC. 110. VENDING MACHINES AND STATE POLICE BARRACKS.

(a) VENDING MACHINES.—Section 111 of title 23, United States Code, is amended by inserting "(a) IN GENERAL.—" before "All agreements" and by adding at the end thereof the following new subsection:

"(b) VENDING MACHINES.—Notwithstanding subsection (a), any State may permit the placement of vending machines in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in such State. Such vending machines may only dispense such food, drink, and other articles as the State highway department determines are appropriate and desirable. Such vending machines may only be operated by the State. In permitting the placement of vending machines, the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the 'Randolph-Sheppard Act' (20 U.S.C. 107a(a)(5)). The costs of installation, operation, and maintenance of vending machines shall not be eligible for Federal assistance under this title.".

(b) State Police Barracks.—Notwithstanding any provision of section 111 of title 23, United States Code, the Commonwealth of Massachusetts is authorized to construct a State Police Barracks, including customary access and egress, on State owned property at the intersection of I-93 and Route 3, in Quincy, Massachusetts.

SEC. 111. CONTRACTS.

(a) Letting of Contracts.—Section 112(b) of title 23, United States Code, is amended by inserting "or that an emergency exists" before the period at the end of the first sentence.

(b) Contracting for Engineering and Design Services.—Section 112(b) of such title is further amended by striking out "Construction" and inserting in lieu thereof "(1) In general.—Subject to paragraph (2), construction" and by adding at the end thereof the following new paragraph:

"(2) Contracting for engineering and design services.—

"(A) General rule.—Each contract for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services with respect to a project subject to the provisions of subsection (a) of this section shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under title IX of the Federal Property and Administrative Services Act of 1949 or equivalent State qualifications-based requirements. 40 USC 541.

"(B) Applicability.—

"(i) In a complying state.—If, on the date of the enactment of this paragraph, the services described in subparagraph (A) may be awarded in a State in the manner described in subparagraph (A), subparagraph (A) shall apply in such State beginning on such date of enactment, except to the extent that such State adopts by statute a formal procedure for the procurement of such services.

"(ii) In a noncomplying state.—In the case of any other State, subparagraph (A) shall apply in such State beginning on the earlier of (I) August 1, 1989, or (II) the 10th day following the close of the 1st regular session of the legislature of a State which begins after the date of the enactment of this paragraph, except to the extent that such State adopts or has adopted by statute a formal procedure for the procurement of the services described in subparagraph (A).".

(c) Standardized Contract Clause Concerning Site Conditions.—Section 112 of such title is amended by redesignating subsection (e), and any references thereto, as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) Standardized Contract Clause Concerning Site Conditions.—

Regulations.

23 USC 106.

"(1) GENERAL RULE.—The Secretary shall issue regulations establishing and requiring, for inclusion in each contract entered into with respect to any project approved under section 106 of this title a contract clause, developed in accordance with guidelines established by the Secretary, which equitably addresses each of the following:

"(A) Site conditions.

"(B) Suspensions of work ordered by the State (other than a suspension of work caused by the fault of the contractor or by weather).

"(C) Material changes in the scope of work specified in the contract.

The guidelines established by the Secretary shall not require arbitration.

"(2) LIMITATION ON APPLICABILITY.—Paragraph (1) shall apply in a State except to the extent that such State adopts or has adopted by statute a formal procedure for the development of a contract clause described in paragraph (1) or adopts or has adopted a statute which does not permit inclusion of such a contract clause.".

(d) CONFORMING AMENDMENTS.—Section 112(b) of such title is further amended—

(1) by inserting "BIDDING REQUIREMENTS.—" after "(b)"; and

(2) by indenting paragraph (1), as designated by subsection (a) of this section, and aligning such paragraph with paragraph (2), as added by such subsection.

SEC. 112. CONVICT PRODUCED MATERIALS.

(a) IN GENERAL.—Subsection (b) of section 114 of title 23, United States Code, is amended to read as follows:

"(b) CONVICT LABOR AND CONVICT PRODUCED MATERIALS.—

"(1) LIMITATION ON CONVICT LABOR.—Convict labor shall not be used in construction of highways or portions of highways located on a Federal-aid system unless it is labor performed by convicts who are on parole, supervised release, or probation.

"(2) LIMITATION ON CONVICT PRODUCED MATERIALS.—Materials produced by convict labor may only be used in such construction—

"(A) if such materials are produced by convicts who are on parole, supervised release, or probation from a prison; or

"(B) if such materials are produced by convicts in a qualified prison facility and the amount of such materials produced in such facility for use in such construction during any 12-month period does not exceed the amount of such materials produced in such facility for use in such construction during the 12-month period ending July 1, 1987.

"(3) QUALIFIED PRISON FACILITY DEFINED.—As used in this subsection, 'qualified prison facility' means any prison facility in which convicts, during the 12-month period ending July 1, 1987, produced materials for use in construction of highways or portions of highways located on a Federal-aid system.".

(b) CONFORMING AMENDMENTS.—(1) Subsection (a) of such section is amended by inserting "CONSTRUCTION WORK IN GENERAL.—" before "The construction of".

(2) Section 202 of the Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriation Act, 1985 is repealed.

23 USC 114 note.

(3) Section 1761(d) of title 18, United States Code, is repealed.

SEC. 113. ADVANCE CONSTRUCTION.

(a) SUBSTITUTE, URBAN, SECONDARY, BRIDGE, PLANNING, RESEARCH, AND SAFETY CONSTRUCTION PROJECTS.—Subsection (a) of section 115 of title 23, United States Code, is amended to read as follows:

"(a) SUBSTITUTE, URBAN, SECONDARY, BRIDGE, PLANNING, RESEARCH, AND SAFETY CONSTRUCTION PROJECTS.—

"(1) GENERAL RULE.—Subject to paragraph (2), when a State—

"(A)(i) has obligated all funds apportioned or allocated to it under section 103(e)(4)(H), section 104(b)(2), section 104(b)(6), section 104(f), section 130, section 144, section 152, or section 307 of this title, or

"(ii) has used or demonstrates that it will use all obligation authority allocated to it for Federal-aid highways and highway safety construction, and

"(B) proceeds with a project funded under such an apportionment or allocation without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit the State to implementation of projects with the aid of Federal funds previously apportioned or allocated to it or limit a State to implementation of a project with obligation authority previously allocated to it for Federal-aid highways and highway safety construction,

the Secretary, upon approval of an application of the State, is authorized to pay to the State the Federal share of the cost of the project when additional funds are apportioned or allocated to the State under such section or when additional obligation authority is allocated to it.

"(2) PLANS, SPECIFICATIONS, AND APPLICABLE STANDARDS.—The Secretary may only make payments to a State with respect to a project if—

"(A) prior to commencement of the project the Secretary approves the plans and specifications therefor in the same manner as other projects, and

"(B) the project conforms to the applicable standards under this title.

"(3) LIMITATION WITH RESPECT TO CURRENTLY AUTHORIZED FUNDS.—The Secretary may not approve an application under this section unless an authorization for section 103(e)(4), 104, 130, 144, 152, or 307 of this title, as the case may be, is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State. No application may be approved which will exceed the State's expected apportionment of such authorizations. This paragraph shall have no effect during the period beginning January 1, 1987, and ending September 30, 1990.".

(b) PRIMARY PROJECTS.—Subsection (b)(1) of such section is amended to read as follows:

"(b) INTERSTATE AND PRIMARY PROJECTS.—

"(1) IN GENERAL.—When a State proceeds to construct any project on the Federal-aid primary system or the Interstate

System without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon approval of application of the State, is authorized to pay to the State the Federal share of the cost of construction of the project when additional funds are apportioned to the State under section 104(b)(1) or 104(b)(5), as the case may be, if— 23 USC 104.

"(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects, and

"(B) the project conforms to the applicable standards under section 109 of this title.".

(c) LIMITATION FOR FISCAL YEARS 1987–1990.—Such section 115 is further amended by adding at the end the following new subsection:

"(d) LIMITATION ON ADVANCED FUNDING FOR FISCAL YEARS 1987–1990.—The Secretary may not approve an application of a State under this section with respect to a project with funds apportioned, or currently authorized to be apportioned, under section 103(e)(4)(H), 104, 130, 144, 152, or 307 if the amount of approved applications with respect to such projects exceeds the total of unobligated funds apportioned or allocated to the State under such section, plus such State's expected apportionment under such section from existing authorizations plus an amount equal to such State's expected apportionment under such section (other than section 104(b)(5)(A)) for one additional fiscal year. This subsection shall only be effective during the period beginning January 1, 1987, and ending September 30, 1990.". Effective date.

(d) CONFORMING AMENDMENTS.—(1) Such section 115 is amended—

(A) by striking out the heading for such section and inserting in lieu thereof the following:

"§ 115. Advance construction";

(B) in subsection (b)(2) by inserting "BOND INTEREST FOR PROJECTS UNDER CONSTRUCTION ON JANUARY 1, 1983.—" after "(2)";

(C) in subsection (b)(3) by inserting "BOND INTEREST.—" after "(3)";

(D) in subsection (b) by aligning paragraphs (2) and (3) with paragraph (1), as amended by subsection (b) of this section;

(E) in subsection (c) by inserting "COMPLETION OF PROJECTS.—" after "(c)"; and

(F) in subsection (c) by striking out "or 144" and inserting in lieu thereof "134, 144, 152, or 307".

(2) The analysis for chapter 1 of such title 23 is amended by striking out the item relating to section 115 and inserting in lieu thereof the following:

"115. Advance construction."

SEC. 114. INTERSTATE DISCRETIONARY FUNDS.

(a) CONSTRUCTION FUNDS; ADDITIONAL PRIORITY PROJECT.—Paragraph (2) of section 118(b) of title 23, United States Code, is amended to read as follows:

"(2) INTERSTATE CONSTRUCTION FUNDS.—

"(A) PERIOD OF AVAILABILITY.—

"(i) APPORTIONMENTS BEFORE OCTOBER 1, 1989.—Except as otherwise provided in this subsection, sums apportioned before October 1, 1989, for the Interstate System in any State shall remain available for expenditure in the State until the end of the fiscal year for which authorized. Upon request of the State, the Secretary shall reduce the period of availability of such sums by 1 fiscal year.

"(ii) APPORTIONMENTS THEREAFTER.—Sums apportioned on or after October 1, 1989, for the Interstate System in any State shall remain available for expenditure in the State until expended.

"(B) DISCRETIONARY PROJECTS.—Sums not obligated within the time period prescribed by subparagraph (A)(i) shall lapse and, subject to section 149(d) of the Federal-Aid Highway Act of 1987, be made available by the Secretary for projects on the Interstate System (other than projects for which sums are apportioned under section 104(b)(5)(B)) in accordance with the following priorities: 23 USC 104.

"(i) First, for—

"(I) high cost projects which directly contribute to the completion of a segment of the Interstate System which is not open to traffic; and

"(II) high cost projects for construction of high occupancy vehicle lanes and other lanes on any highway in Los Angeles County, California, designated as a part of the Interstate System by section 140 of the Federal-Aid Highway Act of 1978 and the costs of construction of which are included in the interstate cost estimate for 1985. California. 92 Stat. 2711.

"(ii) Second, for projects of high cost in relation to a State's apportionment.

"(iii) Third, for projects with respect to which the Secretary may make payments under section 115 of this title.

"(C) LIMITATION ON STATES ELIGIBLE FOR DISCRETIONARY FUNDS.—Sums may only be made available under this paragraph in any State in a fiscal year if—

"(i)(I) the Secretary determines that the State has obligated all of its apportionments under section 104(b)(5)(A) of this title other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by the State to the Secretary for approval; or

"(II) the State certifies to the Secretary that the State will obligate before August 1 of the fiscal year all of its apportionments under section 104(b)(5)(A) other than such an insufficient amount; and

"(ii) the applicant for a project with respect to which the Secretary may not make payments under section 115 of this title is willing and able to—

"(I) apply the funds to a ready-to-commence project, and

"(II) in the case of construction work, begin work within 90 days of obligation.

"(D) EXCEPTION TO LIMITATION.—The Secretary may make funds available to the State of California for construction of California.

high occupancy vehicle and other lanes described in subparagraph (B)(i)(II) whether or not such State has met the requirements of clause (i) of subparagraph (C). Nothing in this subparagraph shall be construed to give construction of such lanes priority over projects described in subparagraph (B)(i)(I).

"(E) LIMITATION ON SECRETARY'S DISCRETION.—If, within 365 days after any sums become available for obligation under this paragraph, the Secretary does not make such sums available for first priority projects under subparagraph (B)(i) of this paragraph, the Secretary shall make such sums available for carrying out second and third priority projects under subparagraph (B).

"(F) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Sums made available pursuant to this paragraph shall remain available until expended.".

(b) SET ASIDE OF 4R FUNDS FOR 4R DISCRETIONARY PROJECTS.—Section 118(c) of such title is amended by inserting "SET ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.—" after "(c)", by inserting "(1) SET ASIDE FOR CONSTRUCTION PROJECTS.—" before "Before", and by adding at the end thereof the following new paragraph: 23 USC 118.

"(2) SET ASIDE FOR 4R PROJECTS.—Before any apportionment is made under section 104(b)(5)(B) of this title, the Secretary shall set aside $200,000,000 for obligation by the Secretary in accordance with subsection (b)(3) of this section and subject to section 149(d) of the Federal-Aid Highway Act of 1987.".

(c) LIMITATIONS ON STATES AND PROJECTS ELIGIBLE FOR 4R DISCRETIONARY FUNDS.—Paragraph (3) of section 118(b) of such title is amended to read as follows:

"(3) INTERSTATE 4R FUNDS.—

"(A) PERIOD OF AVAILABILITY.—Any amount apportioned to a State for the Interstate System under section 104(b)(5)(B) of this title shall continue to be available for expenditure in the State for a period of 1 year after the close of the fiscal year for which such sums are authorized.

"(B) DISCRETIONARY PROJECTS.—Sums not obligated within the time period prescribed by subparagraph (A) shall lapse and, subject to section 149(d) of the Federal-Aid Highway Act of 1987, be made available by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing any route or portion thereof on the Interstate System (other than any highway designated as a part of the Interstate System under section 139 and any toll road on the Interstate System not subject to an agreement under section 119(e) of this title). Such funds shall be made available by the Secretary to any other State applying for such funds, if the Secretary determines that— 23 USC 139.

"(i) the State has obligated all of its apportionments under section 104(b)(5)(B) other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System which has been submitted by such State to the Secretary for approval; and 23 USC 104.

"(ii) the applicant is willing and able to (I) obligate the funds within 1 year of the date the funds are made available, (II) apply them to a ready-to-commence project, and (III) in the case of construction work, begin work within 90 days of obligation.

"(C) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In selecting projects to fund under subparagraph (B), the Secretary shall give priority consideration to any project the cost of which exceeds $10,000,000 on any high volume route in an urban area or a high truck-volume route in a rural area.

Urban areas.

"(D) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Sums made available pursuant to this paragraph shall remain available until expended.".

(d) CREDIT FOR CERTAIN UNUSED RIGHT-OF-WAY.—Notwithstanding any other provision of law, the value of unused right-of-way acquired under section 104(b)(5)(A) of title 23, United States Code, or section 118(b)(2) of such title in the State of Arizona may be credited to the unobligated balance of funds apportioned to the State under section 104(b)(5)(B) of such title if requested by the State and approved by the Secretary.

Arizona.

(e) CONFORMING AMENDMENTS.—(1) The matter preceding the first colon in section 104(b) of title 23, United States Code, is amended by inserting after "subsection (a) of this section" the following: "and the set asides authorized by subsection (f) of this section and sections 118(c) and 307(d) of this title".

Ante, p. 152; post, p. 167.

(2) Section 118 of such title is amended by striking out the heading for such section and inserting in lieu thereof the following:

"§ 118. Availability of funds".

(3) Section 118(b) of such title is amended—

(A) in paragraph (1) by inserting "PERIODS OF AVAILABILITY OF FUNDS; DISCRETIONARY PROJECTS.—" before "(1)";

(B) in paragraph (1) by inserting "PERIOD OF AVAILABILITY OF NON-INTERSTATE FUNDS.—" before "Sums";

(C) in paragraph (4) by inserting "OBLIGATION AS EQUIVALENT TO EXPENDITURES; EFFECT OF RELEASE OF FUNDS.—" before "Sums"; and

(D) by indenting paragraph (1) and aligning such paragraph and paragraph (4) with paragraph (2), as amended by subsection (a) of this section.

(4) Section 118(c) of such title is further amended—

(A) by indenting paragraph (1), as designated by subsection (b) of this section, and aligning such paragraph with paragraph (2), as added by such subsection (b); and

(B) by striking out "Such amount" and inserting in lieu thereof "Subject to section 149(d) of the Federal-Aid Highway Act of 1987, such amount".

(5) The analysis for chapter 1 of such title is amended by striking out the item relating to section 118 and inserting in lieu thereof the following:

"118. Availability of funds.".

SEC. 115. FLEXIBILITY OF USE OF HIGHWAY FUNDS.

Alaska.
Puerto Rico.

Section 118(f) of title 23, United States Code, relating to availability of sums apportioned to the State of Alaska, is amended by inserting "and the Commonwealth of Puerto Rico" after "the State of Alaska".

SEC. 116. INTERSTATE 4R PROGRAM.

(a) Transfer of Interstate Construction Apportionments.—Section 119(d) of title 23, United States Code, is amended to read as follows:

Massachusetts.
Motor vehicles.

23 USC 104.

"(d) Transfer of Interstate Construction Apportionments.—Upon application by a State (other than the State of Massachusetts) and approval by the Secretary, the Secretary may transfer to the apportionments to such State under section 104(b)(1) or 104(b)(5)(B) any amount of the funds apportioned to such State for any fiscal year under section 104(b)(5)(A) if such amount does not exceed the Federal share of the costs of construction of segments of the Interstate System open to traffic in such State (other than high occupancy vehicle lanes) included in the most recent interstate cost estimate. Upon transfer of such amount, the construction on which such amount is based on open-to-traffic segments of the Interstate System in such State as included in the latest interstate cost estimate shall be ineligible and shall not be included in future interstate cost estimates approved or adjusted under section 104(b)(5)(A).".

(b) Toll Road Agreements.—Section 119 of title 23, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Toll Road Agreements.—

"(1) Requirement.—The Secretary may approve a project pursuant to subsection (a) on a toll road only if an agreement satisfactory to the Secretary has been reached with the State highway department and each public authority with jurisdiction over such toll road prior to the approval of such project that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections.

"(2) Terms.—An agreement under this subsection shall contain—

"(A) a provision requiring that if, for any reason, a toll road receiving Federal assistance under this section does not become free to the public upon collection of sufficient tolls as specified in paragraph (1) of this subsection, Federal funds used for projects on such toll road pursuant to this subsection shall be repaid to the Federal Treasury, and

"(B) a provision requiring that if such repayment does not equal or exceed Federal funds apportioned to a State by reason of including mileage on such toll road in an apportionment formula, the apportionment to the State shall be reduced by the amount needed to make the repayment equal the amount of such Federal apportionment.

92 Stat. 2692.

"(3) Treatment of section 105 agreements.—Any agreement entered into under section 105 of the Federal-Aid Highway Act of 1978 before the date of the enactment of this subsection shall be treated as an agreement entered into under this subsection.

"(f) Transfer of Funds for Primary System Projects.—

"(1) Upon certification acceptance.—If a State certifies to the Secretary that any part of the sums apportioned to the State under section 104(b)(5)(B) of this title are in excess of the needs of the State for resurfacing, restoring, rehabilitating, or reconstructing Interstate System routes and the Secretary accepts such certification, the State may transfer such excess part to its apportionment under section 104(b)(1). 23 USC 104.

"(2) UNCONDITIONAL.—Notwithstanding paragraph (1), a State may transfer to its apportionment under section 104(b)(1) of this title—

"(A) in fiscal year 1987, an amount not to exceed 20 percent of the funds apportioned to the State under section 104(b)(5)(B) which are not obligated at the time of the transfer; and

"(B) in any fiscal year thereafter, an amount equal to 20 percent of the funds apportioned to the State under section 104(b)(5)(B) for such fiscal year.".

(c) CONFORMING AMENDMENTS.—(1) Section 119(a) of such title is amended by striking out "section 105 of the Federal-Aid Highway Act of 1978" and inserting in lieu thereof "subsection (e)". *Ante*, p. 154.

(2) Section 105 of the Federal-Aid Highway Act of 1978 is amended by striking out all that follows the first sentence. 92 Stat. 2692.

SEC. 117. FEDERAL SHARE.

(a) CERTAIN HIGHWAY SAFETY CONSTRUCTION PROJECTS.—Section 120(d) of title 23, United States Code, is amended by inserting after "vanpooling" the following: "or for installation of traffic signs, highway lights, guardrails, or impact attenuators".

(b) PRIORITY PRIMARY PROJECTS.—Section 120 of such title is amended by redesignating the second subsection (i) and subsections (j) and (k) (and any reference thereto) as subsections (j), (k), and (l), respectively, and in subsection (k) as so redesignated by striking out "97-61" and inserting in lieu thereof "100-3".

(c) EMERGENCY RELIEF.—

(1) IN GENERAL.—The first sentence of subsection (f) of such section is amended to read as follows: "EMERGENCY RELIEF.—The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title on account of any project on a Federal-aid highway system, including the Interstate System, shall not exceed the Federal share payable on a project on such system as provided in subsections (a) and (c) of this section; except that (1) the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within 90 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the costs thereof; and (2) the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 percent of the cost thereof.".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to all natural disasters and catastrophic failures which occur after the date of the enactment of this Act. 23 USC 120 note.

(d) GREAT RIVER ROAD.—Such section 120 is amended—

(1) in subsection (k), as redesignated by subsection (b), by striking out ", 148, and 155," and inserting in lieu thereof "and 155"; and

(2) by adding at the end thereof the following new subsection:

"(m) Great River Road Projects.—Notwithstanding any other provision of this section, this title, or any other law, in any case where a State elects to use funds apportioned to it for any Federal-aid system for any project under section 148 of this title, the Federal share payable on account of such project shall be 95 percent of the cost thereof; except that if a State requests that the Federal share payable on account of such project be a percentage of the cost of such project which is less than 95 percent but not less than 75 percent, such percentage shall be the Federal share payable on account of such project.". 23 USC 148.

(e) Increased Non-Federal Share.—Such section 120 is further amended by adding at the end the following new subsection:

"(n) Increased Non-Federal Share.—Notwithstanding any other provision of this title and subject to such criteria as the Secretary may establish, a State may contribute an amount in excess of the non-Federal share of a project under this title so as to decrease the Federal share payable on such project.".

23 USC 120 note. Bridges.

(f) Incentive Program for the Use of Coal Ash.—Notwithstanding sections 119, 120, and 144 of title 23, United States Code, in each of fiscal years 1987, 1988, 1989, 1990, and 1991, the percentage specified in such sections as the Federal share of the cost payable on account of any highway or bridge construction project in which materials produced from coal ash are used in significant amounts shall be increased by adding 5 percent to such percentage; except that in no case shall the Federal share payable on account of any project exceed 95 percent of the cost of such project as a result of increasing such Federal share under this subsection.

SEC. 118. EMERGENCY RELIEF.

(a) Obligation Ceiling.—

(1) General rule.—Section 125(b) of title 23, United States Code, is amended by striking out "shall not exceed $30,000,000" and all that follows through "1985) in any State." and inserting in lieu thereof "in a State shall not exceed $100,000,000.".

23 USC 125 note.

(2) Retroactive applicability.—The amendment made by paragraph (1) shall apply with respect to natural disasters and catastrophic failures occurring after December 31, 1985.

(b) Territories.—

Virgin Islands. Guam. American Samoa. Northern Mariana Islands.

(1) Treated as states.—Section 125 of such title is amended by adding at the end thereof the following new subsection:

"(d) Treatment of Territories.—For purposes of this section, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered to be States and parts of the United States, and the chief executive officer of each such territory shall be considered to be a Governor of a State.".

(2) Limitation on obligations.—The first sentence of subsection (b) of such section 125 is amended by inserting "(1)" before "obligations" and by inserting before the period at the end the following: ", and (2) the total obligations for projects under this section in any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not exceed $5,000,000".

23 USC 125 note.

(3) Effective date.—The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act.

SEC. 119. VEHICLE WEIGHT.

(a) Exception to General Vehicle Weight Rule.—The second sentence of subsection (a) of section 127 of title 23, United States Code (relating to vehicle weight limitations for the Interstate System), is amended—

(1) by inserting "(1)" before "is 36 feet or more";

(2) by inserting after "36 feet or more" the following: ", or (2) in the case of a motor vehicle hauling any tank trailer, dump trailer, or ocean transport container before September 1, 1988, is 30 feet or more"; and

(3) by inserting after "except in the case of the overall gross weight of any group of two or more consecutive axles" the following: "on any vehicle (other than a vehicle comprised of a motor vehicle hauling any tank trailer, dump trailer, or ocean transport container on or after September 1, 1988)".

(b) Withholding of Funds.—Subsection (a) of such section 127 is amended by striking out "lapse." and inserting in lieu thereof the following: "lapse if not released and obligated within the availability period specified in section 118(b)(1) of this title.".

(c) Ocean Transport Container Defined.—Such section 127 is amended by adding at the end thereof the following new subsection:

"(c) Ocean Transport Container Defined.—For purposes of this section, the term 'ocean transport container' has the meaning given the term 'freight container' by the International Standards Organization in Series 1, Freight Containers, 3rd Edition (reference number IS0668-1979(E)) as in effect on the date of the enactment of this subsection.".

(d) Conforming Amendments.—Such section is further amended—

(1) in subsection (a) by inserting "In General.—" before "No funds"; and

(2) in subsection (b) by inserting "Reasonable Access.—" before "No State".

SEC. 120. TOLL FACILITIES.

(a) Pilot Program.—Section 129 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) Pilot Program.—

"(1) Authorization for federal participation.—Subject to the provisions of this subsection, the Secretary shall establish a pilot program which permits Federal participation in 7 toll facilities on the same basis and in the same manner as in the construction of free highways under this chapter.

"(2) Limitation on types of facilities.—The Secretary may only permit Federal participation under this subsection in the following type of facilities:

"(A) The construction of a new toll highway, bridge, or tunnel (other than a highway on the Interstate System).

Bridges.

"(B) The reconstruction of an existing highway, bridge, or tunnel to expand its capacity (other than a highway, bridge, or tunnel on the Interstate System).

"(3) Limitation on number of facilities.—The Secretary may only permit Federal participation under this subsection in 7 facilities. One of such facilities shall be carried out in each of the following: Orange County, California, the State of Texas, the State of Pennsylvania, the State of Florida, and the State of South Carolina. The locations of the other 2 facilities shall be at

California.
Texas.
Pennsylvania.
Florida.
South Carolina.

the discretion of the Secretary; except that not more than 2 facilities carried out under this subsection may be located in a State. The Governor of the State of Pennsylvania shall select the facility to be carried out in such State.

Bridges.

"(4) LIMITATION ON FEDERAL SHARE.—Notwithstanding any other provision of law, the Federal share payable for the construction or reconstruction of a toll highway, bridge, or tunnel under this subsection shall not exceed 35 percent.

Bridges.

"(5) PUBLIC OWNERSHIP REQUIREMENT.—Each highway, bridge, tunnel, or approach thereto under this subsection must be publicly owned and operated; except that, under this subsection, Federal funds may participate in the approaches to a toll highway, toll bridge, or toll tunnel whether the highway, bridge, or tunnel is to be or has been constructed by a State or other public authority.

"(6) LIMITATIONS ON USE OF REVENUES.—Before the Secretary may permit Federal participation under this subsection in a State, the State highway department must enter into an agreement with the Secretary which provides that all toll revenues received from operation of the tolled facility constructed or reconstructed under this subsection will be used only on the tolled facility, and only for construction or reconstruction costs, or for the costs necessary for the proper operation, maintenance, and debt service of the tolled facility, including resurfacing, reconstruction, rehabilitation, and restoration.

"(7) LIMITATION ON FEDERAL PARTICIPATION TO ORIGINAL CONSTRUCTION.—Except for reconstruction to expand capacity, toll facilities may receive Federal participation under this chapter only once for the original construction or reconstruction of the facility.

"(8) EFFECT ON APPORTIONMENT.—Toll mileage constructed or reconstructed under this subsection shall not be used to increase a State's apportionment under any apportionment formula.

"(9) NEW TOLL HIGHWAY DEFINED.—For purposes of this subsection, the term 'new toll highway, bridge, or tunnel' shall mean initial construction of a highway, bridge, or tunnel on a new location at any time before it is open to traffic and shall not include any improvements to a toll highway, bridge, or tunnel after it is open to traffic.".

(b) BIENNIAL CERTIFICATION.—Such section 129 is amended by adding at the end the following new subsection:

"(k) BIENNIAL CERTIFICATION.—

Bridges.

Ante, p. 154.

"(1) TO GOVERNOR.—Each operator of toll roads, toll tunnels, toll ferries, and toll bridges (other than an international toll facility or toll facility subject to an agreement under this section or section 119(e) of this title) on a Federal-aid system in a State shall biennially certify to the Governor of the State that such facilities are adequately maintained and that the operator of such toll facility has the ability to fund the replacement or repair of any such facilities that are not adequately maintained without using Federal-aid highway funds. Failure to certify shall preclude Federal funding out of the Highway Trust Fund of any facilities owned or operated by the operator of such toll facility.

"(2) REPORT TO SECRETARY.—The Governor of each State shall report biennially to the Secretary on the toll facilities subject to paragraph (1) of this subsection with respect to which a certification has been made in accordance with paragraph (1) and those with respect to which such a certification has not been made. If funds from the Highway Trust Fund are used to repair or replace toll facilities with respect to which such a certification has or has not been made, the apportionments to such State for the following fiscal year under section 104 of this title shall be reduced by the amount of Highway Trust Fund moneys expended on such facilities; except that such reduction shall not be made if the State has executed under this section or section 119(e) of this title an agreement with the Secretary covering such toll facilities.".

23 USC 104.

Ante, p. 154.

(c) VOIDING OF CERTAIN AGREEMENTS.—

Maryland.

(1) WEST VIRGINIA AND KANSAS TURNPIKES AND FORT MC HENRY TUNNEL.—Upon the request of the appropriate State highway department of the West Virginia Turnpike (I–77 in the State of West Virginia), the Fort McHenry Tunnel, Maryland, and the Kansas Turnpike, Kansas, and upon such department entering into an agreement with the Secretary that toll revenues from operation of the tolled facility will be used only on such facility for construction and reconstruction costs and for the costs necessary for the proper operation and debt service of such facility (including resurfacing, reconstruction, rehabilitation, and restoration), the Secretary may void any agreement entered into with such department with respect to such facility before the date of the enactment of this subsection under section 129(a), 129(d), or 129(e) of title 23, United States Code.

New York.

(2) NEWBURGH-BEACON BRIDGE.—Upon the request of the New York State Bridge Authority with respect to the Newburgh-Beacon Bridge and upon such Authority entering into an agreement with the Secretary that toll revenues from operation of such bridge will be used only on facilities subject to the jurisdiction of such Authority for construction and reconstruction costs and the costs necessary for the proper operation and debt service of such bridge (including resurfacing, reconstruction, rehabilitation, and restoration), the Secretary may void any agreement entered into with such operator with respect to such bridge before the date of the enactment of this subsection under section 129(a), 129(d), or 129(e) of title 23, United States Code.

Florida.

(d) EXTENSION OF TOLLS TO FINANCE CERTAIN INELIGIBLE CONSTRUCTION EXPENSES.—Notwithstanding section 129(e) of title 23, United States Code, upon request of the State of Florida, the Secretary shall modify the agreement entered into with the highway department of such State under such section to permit the collection of tolls to liquidate such indebtedness as may be incurred to finance any cost associated with a feature of a project on the toll road which is subject to such agreement if such feature is a feature which the Secretary does not permit Federal participation with funds apportioned under section 104(b)(5)(A) of such title and which is recommended to be included as a part of the project by the final environmental impact statement with respect to such project.

SEC. 121. RAILWAY-HIGHWAY CROSSINGS.

(a) IN GENERAL.—Section 130 of title 23, United States Code, is amended by adding at the end the following new subsections:

"(d) SURVEY AND SCHEDULE OF PROJECTS.—Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocation, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railway-highway crossings.

"(e) FUNDS FOR PROTECTIVE DEVICES.—At least ½ of the funds authorized for and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated to carry out this section shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of this title. 23 USC 104.

"(f) APPORTIONMENT.—Twenty-five percent of the funds authorized to be appropriated to carry out this section shall be apportioned to the States in the same manner as sums are apportioned under section 104(b)(2) of this title, 25 percent of such funds shall be apportioned to the States in the same manner as sums are apportioned under section 104(b)(6) of this title, and 50 percent of such funds shall be apportioned to the States in the ratio that total railway-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project financed with funds authorized to be appropriated to carry out this section shall be 90 percent of the cost thereof.

"(g) ANNUAL REPORT.—Each State shall report to the Secretary not later than December 30 of each year on the progress being made to implement the railway-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The Secretary shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than April 1 of each year, on the progress being made by the State in implementing projects to improve railway-highway crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (d) and include recommendations for future implementation of the railroad highway crossings program.

"(h) USE OF FUNDS FOR MATCHING.—Funds authorized to be appropriated to carry out this section may be used to provide a local government with funds to be used on a matching basis when State funds are available which may only be spent when the local government produces matching funds for the improvement of railway-highway crossings.".

(b) CONFORMING AMENDMENT.—Section 203 of the Highway Safety Act of 1973 is repealed. 23 USC 130 note.

SEC. 122. INDIAN EMPLOYMENT AND CONTRACTING.

Section 140 of title 23, United States Code, is amended by adding at the end the following:

"(d) INDIAN EMPLOYMENT AND CONTRACTING.—Consistent with section 703(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on projects and contracts on Indian reservation roads. The Secretary shall cooperate with

Indian tribal governments and the States to implement this subsection.".

SEC. 123. BRIDGE PROGRAM.

(a) DISCRETIONARY PROGRAM.—Section 144(g) of title 23, United States Code, is amended to read as follows:

"(g) SET ASIDES.—

"(1) DISCRETIONARY BRIDGE PROGRAM.—Of the amount authorized per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 by section 106(a)(5) of the Federal-Aid Highway Act of 1987, all but $225,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. $225,000,000 per fiscal year of the amount authorized for each of such fiscal years shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of such $225,000,000 shall, subject to section 149(d) of the Federal-Aid Highway Act of 1987, be at the discretion of the Secretary.

"(2) ELIGIBLE DISCRETIONARY PROJECTS.—Subject to section 149(d) of the Federal-Aid Highway Act of 1987, amounts made available by paragraph (1) for obligation at the discretion of the Secretary may be obligated only—

"(A) for a project for a highway bridge the replacement or rehabilitation cost of which is more than $10,000,000, and

"(B) for a project for a highway bridge the replacement or rehabilitation cost of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) for the fiscal year in which application is made for a grant for such bridge.

"(3) OFF-SYSTEM BRIDGES.—Not less than 15 percent nor more than 35 percent of the amount apportioned to each State in each of fiscal years 1987, 1988, 1989, 1990, and 1991, shall be expended for projects to replace or rehabilitate highway bridges located on public roads, other than those on a Federal-aid system. The Secretary, after consultation with State and local officials, may, with respect to such State, reduce the requirement for expenditure for bridges not on a Federal-aid system when the Secretary determines that such State has inadequate needs to justify such expenditure.".

(b) APPLICABILITY OF THE GENERAL BRIDGE ACT OF 1948.— Section 144(h) of such title is amended—

(1) by striking out "which are not subject to the ebb and flow of the tide, and" and inserting in lieu thereof "(1)"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof ", and (2) which are (a) not tidal, or (b) if tidal, used only by recreational boating, fishing, and other small vessels less than 21 feet in length.".

Fish and fishing.
Vessels.

(c) INVENTORIES AND REPORTS.—Section 144(i) of such title is amended to read as follows:

"(i) INVENTORIES AND REPORTS.—The Secretary shall—

"(1) report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on projects approved under this section;

"(2) annually revise the current inventories authorized by subsections (b) and (c) of this section;

"(3) report to such committees on such inventories; and

"(4) report to such committees such recommendations as the Secretary may have for improvements of the program authorized by this section.

Such reports shall be submitted to such committees biennially at the same time as the report required by section 307(e) of this title is submitted to Congress.". *Post*, p. 167.

(d) BRIDGES TO REPLACE DESTROYED BRIDGES AND FERRYBOAT SERVICE.—

(1) IN GENERAL.—Section 144 of such title is amended by redesignating subsection (m), and any references thereto, as subsection (p) and by inserting after subsection (l) the following new subsection:

"(m) REPLACEMENT OF DESTROYED BRIDGES AND FERRYBOAT SERVICE.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this section or of any other provision of law, a State may utilize any of the funds provided under this section to construct any bridge which—

"(A) replaces any low water crossing (regardless of the length of such low water crossing),

"(B) replaces any bridge which was destroyed prior to 1965,

"(C) replaces any ferry which was in existence on January 1, 1984, or

"(D) replaces any road bridges rendered obsolete as a result of United States Corps of Engineers flood control or channelization projects and not rebuilt with funds from the United States Corps of Engineers.

"(2) FEDERAL SHARE.—The Federal share payable on any bridge construction carried out under paragraph (1) shall be 80 percent of the cost of such construction.".

23 USC 144 note. (2) APPLICABILITY.—The amendment made by subsection (a) shall apply to funds apportioned to the States under section 144 of title 23, United States Code, after September 30, 1986.

(3) CONFORMING MODIFICATION OF APPORTIONMENT FORMULA.— Subsection (e) of such section is amended by inserting after the third sentence the following new sentence: "For purposes of the preceding sentence, the total cost of deficient bridges in a State and in all States shall be reduced by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services.".

(e) OFF-SYSTEM BRIDGE PROGRAM.—Such section 144 is further amended by inserting after subsection (l) the following new subsection:

"(n) OFF-SYSTEM BRIDGE PROGRAM.—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid system for the replacement of a bridge or rehabilitation of a bridge which is wholly funded from State and local sources, is eligible for Federal funds under this section, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under this section, and is determined by the Secretary upon completion to be no longer a deficient bridge, any amount expended after the date of the enactment of this subsection from State and local sources for such project in excess of 20 percent of the cost of construction thereof may be credited to the non-Federal share of the cost of the projects in such State which are eligible for Federal funds under this section. Such crediting shall be in accordance with such procedures as the Secretary may establish.".

(f) HISTORIC BRIDGES.— 23 USC 144 note.

(1) FINDINGS.—Congress hereby finds and declares it to be in the national interest to encourage the rehabilitation, reuse and preservation of bridges significant in American history, architecture, engineering and culture. Historic bridges are important links to our past, serve as safe and vital transportation routes in the present, and can represent significant resources for the future.

(2) PROGRAM.—Such section 144 is further amended by inserting after subsection (l) the following new subsection: 23 USC 144.

"(o) HISTORIC BRIDGE PROGRAM.—

"(1) COORDINATION.—The Secretary shall, in cooperation with the States, implement the programs described in this section in a manner that encourages the inventory, retention, rehabilitation, adaptive reuse, and future study of historic bridges.

"(2) STATE INVENTORY.—The Secretary shall require each State to complete an inventory of all bridges on and off the Federal-aid system to determine their historic significance.

"(3) ELIGIBILITY.—Reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of historic bridges shall be eligible as reimbursable project costs under this title (including this section) if the load capacity and safety features of the bridge are adequate to serve the intended use for the life of the bridge; except that in the case of a bridge which is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project costs pursuant to this subsection shall not exceed the estimated cost of demolition of such bridge.

"(4) PRESERVATION.—Any State which proposes to demolish a historic bridge for a replacement project with funds made available to carry out this section shall first make the bridge available for donation to a State, locality, or responsible private entity if such State, locality, or responsible entity enters into an agreement to—

"(A) maintain the bridge and the features that give it its historic significance; and

"(B) assume all future legal and financial responsibility for the bridge, which may include an agreement to hold the State highway agency harmless in any liability action.

Costs incurred by the State to preserve the historic bridge, including funds made available to the State, locality, or private entity to enable it to accept the bridge, shall be eligible as reimbursable project costs under this chapter up to an amount not to exceed the cost of demolition. Any bridge preserved pursuant to this paragraph shall thereafter not be eligible for any other funds authorized pursuant to this title.

"(5) HISTORIC BRIDGE DEFINED.—As used in this subsection, 'historic bridge' means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.".

(3) STUDY.—

(A) TRANSPORTATION RESEARCH BOARD.—The Secretary shall make appropriate arrangements with the Transportation Research Board of the National Academy of Sciences 23 USC 144 note.

to carry out a study on the effects of the bridge program conducted under section 144 of title 23, United States Code, on the preservation and rehabilitation of historic bridges. The Transportation Research Board shall also develop recommendations of specific standards which shall apply only to the rehabilitation of historic bridges, and shall provide an analysis of any other factors which would serve to enhance the rehabilitation of historic bridges.

(B) REPORT.—Not later than 1 year after entering into appropriate arrangements under subparagraph (A), the Transportation Research Board shall submit to the Secretary and the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under subparagraph (A) and on the recommendations developed pursuant to subparagraph (A).

Idaho.
Gifts and property.

(g) STATE MATCHING SHARE.—The State or local governmental matching share for the Calder bridge project being constructed under title 23, United States Code, across the Saint Joe River, 19 miles east of Saint Maries, Idaho, including approaches—

(1) may be credited by the fair market value of land incorporated into the project if the land is in addition to existing public right-of-way and is donated to the State or local government;

(2) may be credited by the fair market value of construction on the project performed by or donated to the State or local government; and

(3) may be credited by the fair market value of preliminary engineering and the preparation of an environmental impact statement performed by or donated to the State or local government;

before, on, or after the date of the enactment of this Act.

(h) DISCRETIONARY BRIDGE CRITERIA.—Section 161 of the Highway Improvement Act of 1982 (23 U.S.C. 144 note) is amended by inserting before the period at the end of the second sentence ", including a bridge replacement of which was partially funded under the Supplemental Appropriations Act, 1983 (97 Stat. 341)".

Rhode Island.

(i) JAMESTOWN BRIDGE.—Federal-aid highway funds may be expended on the Jamestown Bridge project connecting the mainland of Rhode Island with the Island of Jamestown only—

(1) if the bridge meets all requirements and standards of title 23, United States Code, and any other applicable Federal law; and

(2) if the railing of the bridge—

(A) is designed to provide motorists with a view of the surrounding natural areas comparable to the view provided by the Newport Bridge in Rhode Island; and

(B) has been proven to be crash worthy through full scale testing in accordance with currently accepted test criteria.

SEC. 124. MINIMUM ALLOCATION.

(a) PLANNING AS A FUNDABLE ITEM; TREATMENT OF WITHHELD APPORTIONMENTS.—Section 157 of title 23, United States Code, is amended by redesignating subsection (c), and any references thereto, as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) Limitation on Planning Expenditures.—One-half of 1 percent of amounts allocated to each State under this section in any fiscal year may be available for expenditure for the purpose of carrying out the requirements of section 134 of this title (relating to transportation planning). 1½ percent of the amounts allocated to each State under this section in any fiscal year may be available for expenditure for the purpose of carrying out activities referred to in subsection (c) of section 307 of this title (relating to transportation planning and research).

23 USC 134.

"(d) Treatment of Withheld Apportionments.—For purposes of subsection (a), any funds which, but for section 154(f) or 158(a) of this title or any other provision of law under which Federal-aid highway funds are withheld from apportionment, would be apportioned to a State in a fiscal year under a section referred to in subsection (a) shall be treated as being apportioned in such year.".

(b) Program for Fiscal Years 1987 and Thereafter.—Section 157(a) of title 23, United States Code, is amended by inserting "(1) Fiscal years 1984–1987.—" before "In the fiscal year" and by adding at the end thereof the following new paragraphs:

Grants.
Taxes.

"(2) Fiscal years 1987 and 1988.—In fiscal years 1987 and 1988, on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that a State's percentage of the total apportionments in each such fiscal year and allocations for the prior fiscal year for Federal-aid highway programs (except allocations for emergency relief in accordance with section 125 of this title, the Interstate construction discretionary program in accordance with section 118(b)(2) of this title, forest highways, Indian reservation roads, and parkways and park roads in accordance with section 202 of this title, highway related safety grants authorized by section 402 of this title, nonconstruction safety grants authorized by sections 402, 406, and 408 of this title, and Bureau of Motor Carrier Safety Grants authorized by section 404 of the Surface Transportation Assistance Act of 1982) shall not be less than 85 percent of the percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data are available.

49 USC app. 2304.

"(3) Thereafter.—

Grants.
Taxes.

"(A) General rule.—In fiscal year 1989 and each fiscal year thereafter, on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that a State's percentage of the total apportionments in each such fiscal year and allocations for the prior fiscal year for Federal-aid highway programs (except allocations for forest highways, Indian reservation roads, and parkways and park roads in accordance with section 202 of this title, highway related safety grants authorized by section 402 of this title, nonconstruction safety grants authorized by sections 402, 406, and 408 of this title, and Bureau of Motor Carrier Safety Grants authorized by section 404 of the Surface Transportation Assistance Act of 1982) shall not be less than 85 percent of the percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data are available.

49 USC app. 2304.

California.

"(B) EXCEPTION FOR FISCAL YEAR 1989.—Notwithstanding subparagraph (A), the amount allocated to the State of California under this paragraph in fiscal year 1989 shall be the amount which would be allocated to such State under this subsection if paragraph (2) were in effect for such fiscal year.".

23 USC 157.

(d) AUTHORIZATION OF APPROPRIATIONS.—Subsection (e) of such section 157, as redesignated by subsection (a) of this section, is amended by striking out "September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986" and inserting in lieu thereof "on or after September 30, 1983".

(e) CONFORMING AMENDMENTS.—Subsection (a) of such section 157 is amended—

(1) by indenting and aligning paragraph (1), as designated by subsection (b) of this section, with paragraphs (2) and (3), as added by such subsection (b); and

(2) by inserting "GENERAL RULES.—" after "(a)".

SEC. 125. NATIONAL BRIDGE INSPECTION PROGRAM.

23 USC 101 *et seq*.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by striking out section 151 (relating to pavement marking demonstration program) and inserting in lieu thereof the following:

23 USC 151.

"§ 151. National bridge inspection program

"(a) NATIONAL BRIDGE INSPECTION STANDARDS.—The Secretary, in consultation with the State highway departments and interested and knowledgeable private organizations and individuals, shall establish national bridge inspection standards for the proper safety inspection and evaluation of all highway bridges.

"(b) MINIMUM REQUIREMENTS OF INSPECTION STANDARDS.—The standards established under subsection (a) shall, at a minimum—

"(1) specify, in detail, the method by which such inspections shall be carried out by the States;

"(2) establish the maximum time period between inspections;

"(3) establish the qualification for those charged with carrying out the inspections;

"(4) require each State to maintain and make available to the Secretary upon request—

Reports.

"(A) written reports on the results of highway bridge inspections together with notations of any action taken pursuant to the findings of such inspections; and

"(B) current inventory data for all highway bridges reflecting the findings of the most recent highway bridge inspections conducted; and

"(5) establish a procedure for national certification of highway bridge inspectors.

"(c) TRAINING PROGRAM FOR BRIDGE INSPECTORS.—The Secretary, in cooperation with the State highway departments, shall establish a program designed to train appropriate governmental employees to carry out highway bridge inspections. Such training program shall be revised from time to time to take into account new and improved techniques.

"(d) AVAILABILITY OF FUNDS.—To carry out this section, the Secretary may use funds made available pursuant to the provisions of section 104(a), section 307(a), and section 144 of this title.".

(b) CONFORMING AMENDMENTS.—(1) The analysis for chapter 1 of such title is amended by striking out the item relating to section 151 and inserting in lieu thereof the following:

"151. National bridge inspection program.".

(2) Section 116 of such title (relating to highway maintenance) is amended by striking out subsections (d) and (e).

SEC. 126. INCOME FROM AIRSPACE RIGHTS-OF-WAY.

(a) REQUIREMENT.—Chapter 1 of title 23, United States Code, is amended by striking out section 156 (relating to highways crossing Federal projects) and inserting in lieu thereof the following:

23 USC 101 *et seq.*

"§ 156. Income from airspace rights-of-way

23 USC 156.

"States shall charge, as a minimum, fair market value, with exceptions granted at the discretion of the Secretary for social, environmental, and economic mitigation purposes, for the sale, use, lease, or lease renewals (other than for utility use and occupancy or for transportation projects eligible for assistance under this title) of right-of-way airspace acquired as a result of a project funded in whole or in part with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account). This section applies to new airspace usage proposals, renewals of prior agreements, arrangements, or leases entered into by the State after the date of the enactment of the Federal-Aid Highway Act of 1987. The Federal share of net income from the revenues obtained by the State for sales, uses, or leases (including lease renewals) under this section shall be used by the State for projects eligible under this title.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by striking out the item relating to section 156 and inserting in lieu thereof the following:

"156. Income from airspace rights-of-way.".

SEC. 127. FUNDING FOR BICYCLE PROJECTS.

The second sentence of section 217(b)(1) of title 23, United States Code, is amended by inserting "and sums apportioned or allocated for highway substitute projects in accordance with section 103(e)(4) of this title" after "title".

SEC. 128. STRATEGIC HIGHWAY RESEARCH PROGRAM.

Section 307 of title 23, United States Code (relating to research and planning), is amended by redesignating subsections (d) and (e) (and any references thereto) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) STRATEGIC HIGHWAY RESEARCH PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials, shall carry out such research, development, and technology transfer activities as the Secretary determines to be strategically important to the national highway transportation system.

Science and technology.

"(2) COOPERATIVE AGREEMENTS.—The Secretary may make grants to, and enter into cooperative agreements with, the American Association of State Highway and Transportation Officials and the National Academy of Sciences to carry out such activities under this subsection as the Secretary deter-

Grants.

mines are appropriate. Advance payments may be made as necessary to carry out the program under this subsection.

"(3) PERIOD OF AVAILABILITY.—Funds set aside to carry out this subsection shall remain available for the fiscal year in which such funds are made available and the three succeeding fiscal years.

Bridges.

"(4) SET ASIDE.—As soon as practicable after the date of the enactment of the Federal-Aid Highway Act of 1987 in fiscal year 1987 and on October 1 of each of fiscal years 1988, 1989, 1990, and 1991, the Secretary shall set aside to carry out this subsection not to exceed ¼ of 1 percent of the funds authorized to be appropriated for such fiscal year for the Federal-aid systems, for highway assistance programs under section 103(e)(4) of this title, for bridge replacement and rehabilitation under section 144 of this title, for elimination of hazards under section 152 of this title, and for elimination of hazards of railway-highway crossings under section 130 of this title. In the case of funds authorized for apportionment on the Interstate System, the Secretary shall set aside that portion of such funds (subject to the overall limitation of ¼ of 1 percent) in the year next preceding the fiscal year for which such funds are authorized for such System.

"(5) ANNUAL REPORT.—The Secretary shall transmit a report annually beginning on January 1, 1988, to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives which provides information on the progress and research findings the program conducted under this subsection.

"(6) LIMITATION OF REMEDIES.—

Claims.

"(A) SAME REMEDY AS IF UNITED STATES.—The remedy against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, for injury, loss of property, personal injury, or death shall apply to any claim against the National Academy of Sciences for money damages for injury, loss of property, personal injury, or death caused by any negligent or wrongful act or omission arising from activities conducted under or in connection with this subsection. Any such claim shall be subject to the limitations and exceptions which would be applicable to such claim if such claim were against the United States. With respect to any such claim, the Secretary shall be treated as the head of the appropriate Federal agency for purposes of sections 2672 and 2675 of such title.

"(B) EXCLUSIVENESS OF REMEDY.—The remedy referred to in subparagraph (A) shall be exclusive of any other civil action or proceeding for the purpose of determining liability arising from any such act or omission without regard to when the act or omission occurred.

Claims.

"(C) TREATMENT.—Employees of the National Academy of Sciences and other individuals appointed by the President of the National Academy of Sciences and acting on its behalf in connection with activities carried out under this subsection shall be treated as if they are employees of the Federal Government under section 2671 of title 28, United States Code, for purposes of a civil action or proceeding with respect to a claim described in subparagraph (A); and the civil action or proceeding shall proceed in the same manner as any proceeding under chapter 171 of such title, or any proceeding under chapter 171 of such title or action against the United States filed pursuant to section 1346(b) of such title, and shall be subject to the limitations and exceptions applicable to such a proceeding or action.

28 USC 2671 *et seq.*

"(D) REMOVAL.—Upon certification by the Attorney General that a civil action or proceeding with respect to a claim described in subparagraph (A) is being brought in a State court, such civil action or proceeding shall be removed from the State court without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceeding shall be deemed a tort action brought against the United States under the provisions of title 28, United States Code. For purposes of removal, the certification of the Attorney General under this subparagraph shall be conclusive.

Claims.

"(E) SOURCES OF PAYMENTS.—Payment of any award, compromise, or settlement of a civil action or proceeding with respect to a claim described in subparagraph (A) shall be paid first out of insurance maintained by the National Academy of Sciences, second from funds made available to carry out this subsection, and then from sums made available under section 1304 of title 31, United States Code. For purposes of such section, such an award, compromise, or settlement shall be deemed to be a judgment, award, or settlement payable under section 2414 or 2672 of title 28, United States Code. The Secretary may establish a reserve of funds made available to carry out this subsection for making payments under this paragraph.".

Claims.

SEC. 129. HIGHWAY PLANNING AND RESEARCH.

Section 307(c)(1) of title 23, United States Code, is amended by inserting after "section 104 of this title" the following: "and for highway projects under section 103(e)(4)".

SEC. 130. WILDFLOWERS.

Section 319 of title 23, United States Code, is amended by inserting "(a) LANDSCAPE AND ROADSIDE DEVELOPMENT.—" before "The Secretary" and by adding at the end thereof the following new subsection:

"(b) PLANTING OF WILDFLOWERS.—

"(1) GENERAL RULE.—The Secretary shall require the planting of native wildflower seeds or seedlings, or both, as part of any landscaping project under this section. At least ¼ of 1 percent of the funds expended for such landscaping project shall be used for such plantings.

"(2) WAIVER.—The requirements of this subsection may be waived by the Secretary if a State certifies that native wildflowers or seedlings cannot be grown satisfactorily or planting areas are limited or otherwise used for agricultural purposes.

Agriculture and agricultural commodities.

"(3) GIFTS.—Nothing in this subsection shall be construed to prohibit the acceptance of native wildflower seeds or seedlings donated by civic organizations or other organizations and individuals to be used in landscaping projects.".

Education.

SEC. 131. NATIONAL HIGHWAY INSTITUTE.

Subsections (b) and (c) of section 321 of title 23, United States Code, are amended to read as follows:

"(b) SET ASIDE.—Not to exceed ¼ of 1 percent of all funds apportioned to a State under sections 104(b)(1) and 104(b)(5) of this title shall be available for expenditure by the State highway department, subject to approval by the Secretary, for payment of not to exceed 75 percent of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

"(c) FEDERAL RESPONSIBILITY.—Education and training of Federal, State, and local highway employees authorized by this section shall be provided—

"(1) by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility; or

Grants.
Contracts.

"(2) in any case where such education and training are to be paid for under subsection (b) of this section, by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, institutions, individuals, and the Institute.".

SEC. 132. PROHIBITION AGAINST DISCLOSURE AND ADMISSION AS EVIDENCE OF STATE REPORTS AND SURVEYS.

23 USC 401 *et seq.*

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

23 USC 409.

"§ 409. Admission as evidence of certain reports and surveys

"Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled for the purpose of identifying evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or railway-highway crossings, pursuant to sections 130, 144, and 152 of this title or for the purpose of developing any highway safety construction improvement project which may be implemented utilizing Federal-aid highway funds shall not be admitted into evidence in Federal or State court or considered for other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in such reports, surveys, schedules, lists, or data.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of such title is amended by adding at the end the following:

"409. Admission as evidence of certain reports and surveys.".

SEC. 133. HIGHWAY TECHNICAL AMENDMENTS.

23 USC 104 note.

(a) SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.—(1) The third sentence of section 108(d) of the Surface Transportation Assistance Act of 1982 is amended by striking out "this title," and inserting in lieu thereof "title 23, United States Code,".

23 USC 217.

(2) The second section 126 of such Act (relating to bicycle transportation) is amended by striking out "SEC. 126." and inserting in lieu thereof "SEC. 126A.".

23 USC 127.

(3) Section 133 of such Act is amended by striking out "(a)" the first place it appears.

Motor vehicles.
23 USC 146 note.

(4) The first sentence of section 163 of such Act is amended to read as follows: "Notwithstanding any other provision of this Act or any

other law, no funds apportioned or allocated to a State for Federal-aid highways shall be obligated for a project for constructing, resurfacing, restoring, rehabilitating, or reconstructing a Federal-aid highway which has a lane designated as a carpool lane unless the use of such lane includes use by motorcycles.".

(5) The second sentence of section 163 of such Act is amended by striking out the comma and inserting in lieu thereof "and acceptance of such certification by the Secretary,".

23 USC 146 note.

(6) Section 165(b) of such Act is amended by inserting "or" after the semicolon at the end of clause (3).

23 USC 101 note.

(7) Section 411(d) of such Act (relating to length limitations) is amended by inserting "and boat" after "automobile".

Vessels.
49 USC app. 2311.

(b) TITLE 23.—(1) The analysis for chapter 1 of title 23, United States Code, is amended—

(A) in the item relating to section 127 by striking out "and width", and

(B) by striking out the item relating to section 146 and inserting in lieu thereof:

"146. Carpool and vanpool projects.".

(2) The fifth undesignated paragraph of section 101(a) of such title is amended by striking out "forest or trail" and inserting in lieu thereof "forest road or trail".

(3) Section 101(a) of such title is amended by striking out the thirteenth undesignated paragraph (relating to the definition of "park road") and inserting in lieu thereof the following:

"The term 'park road' means a public road that is located within, or provides access to, an area in the national park system with title and maintenance responsibilities vested in the United States.".

(4) Section 106(c) of such title is amended by striking out "10 per centum" and inserting in lieu thereof "15 percent" and by striking out the second sentence.

(5) Section 113 of such title is amended by striking out "August 30, 1935" and inserting in lieu thereof "March 3, 1931" and by striking out "267a" and inserting in lieu thereof "276a".

(6) Section 121(d) of such title is amended by striking out "10 per centum" and inserting in lieu thereof "15 percent" and by striking out the third sentence.

(7) The first sentence of section 122 of such title is amended by inserting "or for substitute highway projects approved under section 103(e)(4) of this title" before "and the retirement".

(8) Section 123(a) of such title is amended by striking out "the Federal-aid primary or secondary" and all that follows through "urban areas," and inserting in lieu thereof "any Federal-aid system,".

(9)(A) Subsection (b) of section 125 of such title is amended by striking out "the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors" each place it appears and inserting in lieu thereof "the Federal-aid highway systems, including the Interstate System".

(B) Subsection (c) of such section is amended by striking out "routes functionally classified as arterials or major collectors" and inserting in lieu thereof "on any of the Federal-aid highway systems".

(10) The third sentence of section 138 of such title is amended by inserting before "which requires" the following: "(other than any project for a park road or parkway under section 204 of this title)".

Ante, p. 162.

(11) Section 144(e) of such title is amended by adding at the end thereof the following: "Funds apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to the other States in accordance with this subsection.".

(12) Section 152(g) of such title is amended by striking out "the Congress" and inserting in lieu thereof "the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives".

(13) The second sentence of section 204(b) of such title is amended by inserting "the Secretary or" before "the Secretary of the Interior".

(14) Section 204(e) of such title is amended by striking out "of 1975".

(15) Section 210(g) of such title is amended by striking out "Commerce" and inserting in lieu thereof "Transportation".

American Samoa.
Northern Mariana Islands.

(16) The first sentence of section 215(a) of such title is amended by striking out "and American Samoa" and inserting in lieu thereof "American Samoa, and the Commonwealth of the Northern Mariana Islands".

(17) Section 307(f) of such title, as redesignated by section 128 of this Act, is amended by striking out "the Congress" and inserting in lieu thereof "the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives".

(18) Section 315 of such title is amended by striking out "204(d), 205(a), 207(b), and 208(c)" and inserting in lieu thereof "204(f) and 205(a)".

American Samoa.
Northern Mariana Islands.

(19) Section 401 of such title is amended by striking out "and American Samoa." and inserting in lieu thereof "American Samoa, and the Commonwealth of the Northern Mariana Islands.".

(20) Section 402(c) of such title is amended—

(A) by striking out "For the fiscal years ending June 30, 1967, June 30, 1968, and June 30, 1969, such funds shall be apportioned 75 per centum on the basis of population and 25 per centum as the Secretary in his administrative discretion may deem appropriate and thereafter such" and inserting in lieu thereof "Such";

American Samoa.
Northern Mariana Islands.

(B) by striking out "and American Samoa" and inserting in lieu thereof "American Samoa, and the Commonwealth of the Northern Mariana Islands"; and

(C) by striking out "After December 31, 1969, the" and inserting in lieu thereof "The".

33 USC 1414.

(c) Miscellaneous.—(1) Section 104(i)(4)(D) of the Marine Protection, Research, and Sanctuaries Act of 1972, as added by section 424 of the Surface Transportation Assistance Act of 1982, is amended by inserting "to   " after "grant a permit".

49 USC app. 2716.

(2) Section 12019(5) of the Commercial Motor Vehicle Safety Act of 1986 is amended—

(A) by striking out "and"; and

(B) by inserting "or" before "semitrailer operated".

23 USC 130 note.

(3) Section 163(o) of the Federal-Aid Highway Act of 1973 is amended to read as follows:

"(o) Reports.—The Secretary of Transportation shall make biennial reports and a final report to the President, the Committee on

Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives with respect to activities pursuant to this section.".

(4) Section 123(c) of the Federal-Aid Highway Act of 1978 is amended by striking "Congress" and inserting in lieu thereof "the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives". 23 USC 141 note.

(d) PARK ROADS.—Section 303(c) of title 49, United States Code, is amended by inserting before "requiring the use" the following: "(other than any project for a park road or parkway under section 204 of title 23)".

(e) REPEAL OF OUTDATED PROVISIONS.—

(1) TITLE 23.—The following sections of title 23, United States Code, and the items in the analysis for chapters 2 and 3 of such title relating to such sections are repealed: 211 (relating to timber access road hearings), 213 (relating to Rama Road), 219 (relating to safer off-system roads), and 322 (relating to demonstration project—rail crossings). 23 USC 201 *et seq*, 301 *et seq*.

(2) OTHER HIGHWAY LAWS.—Section 119 of the Federal-Aid Highway Amendments of 1974 (relating to bikeway demonstration program) and section 141 of the Federal-Aid Highway Act of 1978 (relating to bicycle program) are repealed. 23 USC 217 note. 23 USC 217 note.

(f) ALTERNATIVE ROUTE.—The authorization of that portion of the Interstate System in Mobile County, Alabama, designated as I–210, connecting I–65 and I–10 in the vicinity of Prichard-Mobile, Alabama, authorized by the Department of Transportation and Related Agencies Appropriation Act, 1981, shall include, as an alternative, authorization to construct an interstate spur commencing at I–65 in the area of Prichard, Alabama, and terminating in the vicinity of downtown Mobile, Alabama. The total mileage of such spur shall not exceed 6.25 miles. In no case shall the eligible cost of construction of the spur exceed the eligible cost of the originally authorized route if it had been constructed. Alabama. 94 Stat. 1681.

SEC. 134. FOREST HIGHWAYS.

Notwithstanding section 202(a) of title 23, United States Code, the Secretary shall, after making the transfer provided by section 204(g) of such title, as soon as practicable after the date of the enactment of this Act in fiscal year 1987 and on October 1 of each of fiscal years 1988, 1989, and 1990, allocate 66 percent of the remainder of the authorization for forest highways provided for such fiscal year by this Act in the same percentage as the amounts allocated for expenditure in each State and the Commonwealth of Puerto Rico from funds authorized for forest highways for the fiscal year ending June 30, 1958, adjusted (1) to eliminate the 0.003243547 percent for the State of Iowa to the State by deed executed May 26, 1964, and (2) to redistribute the percentage formerly apportioned to the State of Iowa to other participating States on a proportional basis. The remaining funds authorized to be appropriated for forest highways for such fiscal year shall be allocated pursuant to section 202(a) of such title. Puerto Rico. Iowa. 23 USC 202 note.

SEC. 135. REGULATION OF TOLLS.

(a) Section 4 of the Act of March 23, 1906 (34 Stat. 85; 33 U.S.C. 494), commonly known as the "Bridge Act of 1906", is amended by striking out the last sentence.

(b) Section 17 of the Act of June 10, 1930 (46 Stat. 552; 33 U.S.C. 498a), is repealed.

(c) The Act entitled "An Act to provide for the regulations of tolls over certain bridges", approved June 27, 1930 (46 Stat. 821; 33 U.S.C. 498b), is repealed.

(d) Sections 1 through 5 of the Act of August 21, 1935 (49 Stat. 670; 33 U.S.C. 503-507) are repealed.

(e) Sections 503 and 506 of the General Bridge Act of 1946 (60 Stat. 847, 848; 33 U.S.C. 526, 529) are repealed.

(f) Section 133 of Public Law 93-87 (87 Stat. 267; 33 U.S.C. 526a) is repealed.

(g) Section 6 of the International Bridge Act of 1972 (86 Stat. 732; 33 U.S.C. 535d) is repealed.

(h) Section 6(g)(4) of the Department of Transportation Act (80 Stat. 937; 49 U.S.C. App. 1655(g)(4)) is repealed.

33 USC 508.

33 USC 525 note, 535 note.

(i) Tolls for passage or transit over any bridge constructed under the authority of the Act of March 23, 1906 (34 Stat. 84; 33 U.S.C. 491-498), commonly known as the "Bridge Act of 1906", the General Bridge Act of 1946, and the International Bridge Act of 1972 shall be just and reasonable.

23 USC 104 note.

SEC. 136. IMPLEMENTATION OF CERTAIN ORDERS.

Loans.

In implementing any order issued by the President which provides for or requires a percentage reduction in new budget authority, unobligated balances, obligated balances, new loan guarantee commitments, new direct loan obligations, spending authority, or obligation limitations for the Federal-aid highway, mass transit and highway safety programs and with respect to which the budget account activity as identified in the program and financing schedule contained in the Appendix to the Budget of the United States Government for such programs includes more than one specific highway, mass transit, or highway safety program or project for which budget authority is provided by this Act or an amendment made by this Act, the Secretary shall apply the percentage reduction equally to each such specific program or project.

23 USC 103 note.

SEC. 137. COMBINED ROAD PLAN DEMONSTRATION PROGRAM.

(a) PROGRAM.—The Secretary, in cooperation with up to 5 States, shall conduct a combined road plan demonstration to test the feasibility of approaches for combining, streamlining, and increasing the flexibility in the administration of the Federal-aid secondary program, Federal-aid urban program, and the off-system bridge, urban bridge, and secondary bridge programs. The demonstration shall place as much responsibility as feasible with State and local governments. Notwithstanding any provision of title 23, United States Code, the Secretary may—

(1) grant design exceptions and permit construction without final inspection; and

Urban areas.

(2) permit the use of Federal-aid secondary, Federal-aid urban, and bridge funds for Federal-aid secondary projects, Federal-aid urban projects, and bridge projects on the secondary and urban systems and off-system bridge projects.

(b) REPORT.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives—

(1) an interim report on the program being carried out under this section within 3 years after the date of the enactment of this Act; and

(2) a final report evaluating the effectiveness of the demonstration program and making needed recommendations as soon as practicable after completion of the demonstration under this section.

SEC. 138. PROJECT ELIGIBILITY.

Section 108(b) of the Federal-Aid Highway Act of 1956 is amended by adding at the end thereof the following: "Notwithstanding the fifth sentence of this subsection, the costs of a project which will upgrade an interstate route and will complete a gap on the Interstate System providing access to an international airport and which was described as the preferred alternative in a final environmental impact statement submitted to the Secretary of Transportation on September 30, 1983, shall be eligible for funds authorized by this subsection as if such costs were included in the 1981 interstate cost estimate and shall be included as eligible costs in any future interstate cost estimate, except that (1) such costs may be further developed in the design and environmental process under normal Federal-aid interstate procedures, and (2) the amount of such costs shall not include the portion of the project between High Street and Causeway Street.".

Ante, p. 142.

SEC. 139. ELIGIBILITY OF PARK AND RIDE FACILITIES.

Florida.
Contracts.

(a) Eligibility for Interstate Construction Funds.—Notwithstanding any other provision of law, policy, and regulation and any interpretation thereof, construction in the vicinity of Fort Lauderdale, Florida, of 4 park and ride facilities and direct access connectors between such facilities and high occupancy vehicle lanes being constructed on a north-south interstate route which connects Miami and Jacksonville, Florida, shall be eligible for funds (not to exceed $84,000,000) authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and is included as an eligible project in the 1985 interstate cost estimate, and the cost of such construction not to exceed $84,000,000 shall be included in any future interstate cost estimate. The Secretary shall enter into project agreements consistent with the provisions of title 23 of the United States Code for construction of such facilities and connectors.

Ante, p. 142.

(b) Size of Facilities.—The size of each park and ride facility constructed pursuant to subsection (a) shall be sufficient to accommodate commuter demand anticipated 20 years after the date on which construction of such facility is approved.

Florida.

(c) Eligibility for 4R Funding.—Notwithstanding any other provision of law, if construction of the facilities and direct access connectors described in subsection (a) costs more than $84,000,000, the State of Florida may use funds apportioned to it under section 104(b)(5)(B) of title 23, United States Code, to complete construction of such facilities and connectors.

SEC. 140. PLANNING, DESIGN, AND CONSTRUCTION.

Arkansas.
Missouri.
Urban areas.

Notwithstanding any other provision of law, the State of Arkansas may use funds apportioned to it under section 104(b)(5)(A) of title 23, United States Code, for the planning, design, and construction from Interstate Route I-40 to the boundary between Arkansas and Missouri of a 2-lane north-south highway which is on the Federal-aid primary system in Arkansas and passes through an urbanized area.

SEC. 141. TRANSFER OF INTERSTATE LANES.

(a) Eligibility of Interstate Lane Project.—Any project to construct eligible interstate lanes, as defined in subsection (f), shall be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and shall be included as an eligible project in any future interstate cost estimate unless the costs of such project are made not eligible for such funds by subsection (c).

Ante, pp. 142, 175.

California.

(b) Approval of Substitute Transit Project.—Notwithstanding any other provision of law, upon the joint request of the Governor of the State of California and the local governments concerned, the Secretary may approve a substitute transit project for construction of a fixed guideway system in lieu of construction of any eligible interstate lanes if such substitute project is in or adjacent to the proposed right-of-way for such lanes.

(c) Eligibility for Federal Assistance.—Upon approval of any substitute transit project under subsection (b), the costs of construction of the eligible interstate lanes for which such project is substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and a sum equal to the Federal share of such costs, as included in the latest interstate cost estimate approved by Congress, shall be available to the Secretary to incur obligations under section 103(e)(4) of title 23, United States Code, for the Federal share of the costs of such substitute project.

Contracts.

(d) Limitation on Eligibility.—By September 30, 1989, any substitute transit project approved under subsection (b) (for which the Secretary finds that sufficient Federal funds are available) must be under contract for construction or construction must have commenced. If any such substitute transit project is not under contract for construction or construction has not commenced by such date, then immediately after such date, the Secretary shall withdraw approval of such project and no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code, for any such project.

(e) Administrative Provisions.—

(1) Status of substitute project.—A substitute transit project approved under subsection (b) shall be deemed to be a substitute transit project for purposes of section 103(e)(4) of title 23, United States Code (other than subparagraphs (C) and (O)).

California.

(2) Reduction of unobligated interstate apportionments.—Unobligated apportionments for the Interstate System in the State of California shall, on the date of approval of a substitute transit project under subsection (b), be reduced in the proportion that the Federal share of the costs of the construction of the eligible interstate lanes for which such project is substituted bears to the Federal share of the total cost of all interstate routes in such State as reflected in the latest cost estimate approved by Congress.

(3) Administration through FHWA.—The Secretary shall administer this section through the Federal Highway Administration.

California.

(f) Eligible Interstate Lanes Defined.—For purposes of this section, the term "eligible interstate lanes" means any high occupancy vehicle lanes and other lanes—

(1) which are to be constructed on any highway in Los Angeles County, California, designated as a part of the National System of Interstate and Defense Highways by section 140 of the Federal-Aid Highway Act of 1978; and 92 Stat. 2711.

(2) the costs of construction of which are included in the interstate cost estimate for 1985.

SEC. 142. SUBSTITUTE TRANSIT PROJECT IN OREGON.

(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the joint request of the Governor of the State of Oregon and the local governments concerned, the Secretary may approve a substitute transit project for construction of a light rail transit system in lieu of construction of any eligible interstate lanes if such substitute project is in or adjacent to the proposed right-of-way for such lanes.

(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute transit project under subsection (a), the costs of construction of the eligible interstate lanes for which such project is substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and a sum equal to the Federal share of such costs, as included in the latest interstate cost estimate approved by Congress, shall be available to the Secretary to incur obligations under section 103(e)(4) of title 23, United States Code, for the Federal share of the costs of such substitute project.

Ante, pp. 142, 175.

Contracts.

(c) LIMITATION ON ELIGIBILITY.—By September 30, 1989, any substitute transit project approved under subsection (a) (for which the Secretary finds that sufficient Federal funds are available) must be under contract for construction or construction must have commenced. If any such substitute transit project is not under contract for construction or construction has not commenced by such date, then immediately after such date, the Secretary shall withdraw approval of such project and no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code, for such project.

(d) ADMINISTRATIVE PROVISIONS.—

(1) STATUS OF SUBSTITUTE PROJECT.—A substitute transit project approved under subsection (a) shall be deemed to be a substitute transit project for purposes of section 103(e)(4) of title 23, United States Code (other than subparagraphs (C) and (O)).

(2) REDUCTION OF UNOBLIGATED INTERSTATE APPORTIONMENT.—Unobligated apportionments for the Interstate System in the State of Oregon shall, on the date of approval of a substitute transit project under subsection (a), be reduced in the proportion that the Federal share of the costs of the construction of the eligible interstate lanes for which such project is substituted bears to the Federal share of the total cost of all interstate routes in such State as reflected in the latest cost estimate approved by Congress.

(3) ADMINISTRATION THROUGH FHWA.—The Secretary shall administer this section through the Federal Highway Administration.

(e) ELIGIBLE INTERSTATE LANES DEFINED.—For purposes of this section, the term "eligible interstate lanes" means any bus lanes which are to be constructed on Interstate Route I-205 in Oregon.

SEC. 143. PAYBACK OF RIGHT-OF-WAY EXPENSES.

New York.

(a) Effect of Repayment.—Upon repayment by the State of New York to the Treasurer of the United States of an amount as determined by the Secretary to be equal to the amount of Federal funds expended to acquire property for the portion of I-478 which was withdrawn from the Interstate System in accordance with the provisions of section 103(e)(4) of title 23, United States Code, less any amount not required to be repaid with respect to such property under section 103(e)(7) of such title, the State of New York shall be absolved of any further responsibility for repayment and will be deemed to have met all of the repayment requirements of section 103(e)(7) of such title.

(b) Use of Repaid Funds.—The amount repaid to the United States under this section shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)". Such repayment shall be credited to the unprogrammed balance of funds apportioned to the State of New York in accordance with section 104(b)(1) of title 23, United States Code. The amount so credited shall be in addition to all other funds then apportioned to such State and shall be available for expenditure in accordance with the provisions of such title.

SEC. 144. GEORGIA STATE ROUTE 400.

(a) Credit and Use of Federal Funds.—The amount of all Federal-aid highway funds paid to the State of Georgia on account of the section of State Route 400, a 6-lane, limited access major arterial highway connecting Interstate Route I-285 and Interstate Route I-85 in Fulton County, Georgia, may be repaid to the Treasurer of the United States. The amount so repaid shall be deposited to the credit of the appropriation for "Federal Aid Highways (Trust Fund)". Such repayment shall be credited to the unobligated balance of Federal-aid highway funds of the same class last appropriated to the State of Georgia. The amount so credited shall be in addition to all other funds then apportioned or allocated to such State during the fiscal year for which the credit was received and shall be available for expenditure in accordance with the provisions of title 23, United States Code.

(b) Applicability of Toll Restrictions.—As provided in subsection (a) of this section, upon the repayment of Federal-aid highway funds, and removal from the Federal-aid highway programs, such sections of State Route 400 shall be free of any and all restrictions contained in title 23, United States Code, or in any regulations issued thereunder, with respect to the imposition and collection of tolls or other charges thereon or for the use thereof.

SEC. 145. EXEMPTION FROM RIGHT-OF-WAY RESTRICTION.

Michigan.
Contracts.
Exports.

A facility located in part on the right-of-way of Interstate Route I-94 in Michigan and in the vicinity of the interchange of I-94 and Michigan State Route 25 is hereby exempt from the restrictions contained in section 111 of title 23, United States Code, prohibiting certain commercial establishments on rights-of-way of the Interstate System. Such exemption shall be for the purpose of permitting the Michigan Department of Transportation to enter into a lease agreement allowing the use of such facility for the sale of only those articles which are for export and for consumption outside the United States.

SEC. 146. RIGHT-OF-WAY DONATION.

(a) CREDIT FOR DONATED LANDS AND DONATION PROCEDURES.—Section 323 of title 23, United States Code, is amended—

(1) by inserting "(a) DONATIONS OF PROPERTY BEING ACQUIRED.—" before "Nothing"; and

(2) by adding at the end the following new subsections:

"(b) CREDIT FOR DONATED LANDS.—

"(1) GENERAL RULE.—Notwithstanding any provision of this title, the State matching share for a project with respect to which Federal assistance is provided out of the Highway Trust Fund (other than the Mass Transit Account) may be credited by the fair market value of land incorporated into the project and lawfully donated to the State after the date of the enactment of this subsection.

"(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of the donated land shall be established as determined by the Secretary. Fair market value shall not include increases and decreases in the value of donated property caused by the project. For purposes of this subsection, the fair market value of donated land shall be established as of the date the donation becomes effective or when equitable title to the land vests in the State, whichever is earlier.

"(3) LIMITATION ON APPLICABILITY.—This subsection shall not apply to donations made by an agency of a Federal, State, or local government.

"(4) LIMITATION ON AMOUNT OF CREDIT.—The credit received by a State pursuant to this subsection may not exceed the State's matching share for the project to which the donation is applied.

"(c) PROCEDURES.—A gift or donation in accordance with subsection (a) may be made at any time during the development of a project. Any document executed as part of such donation prior to the approval of an environmental document prepared pursuant to the National Environmental Policy Act of 1969 shall clearly indicate that—

42 USC 4321 note.

"(1) all alternatives to a proposed alignment will be studied and considered pursuant to such Act;

"(2) acquisition of property under this section shall not influence the environmental assessment of a project including the decision relative to the need to construct the project or the selection of a specific location; and

"(3) any property acquired by gift or donation shall be revested in the grantor or successors in interest if such property is not required for the alignment chosen after public hearings, if required, and completion of the environmental document.".

(b) DONATED LANDS IN CALIFORNIA.—

(1) TREATMENT AS PROJECT COST.—Notwithstanding any other provision of law, the fair market value of any lands which have been or in the future are donated or dedicated to the State of California necessary for the right-of-way for relocation and construction of California State Route 73 in Orange County, California, from its interchange with Interstate Route I–405 to its interchange with Interstate Route I–5 shall be included as a part of the cost of such relocation and construction project and shall be credited first toward payment of the non-Federal share of the cost of such relocation and construction project.

(2) CREDIT.—The fair market value of lands referred to in paragraph (1) shall be established by the Secretary. If such fair market value exceeds the non-Federal share of the relocation and construction project referred to in paragraph (1), then the excess amount, upon the request of the State of California, shall be credited toward the non-Federal share of the cost of any other project on the Federal-aid system in Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, California.

Ante, p. 179.

(3) TREATMENT OF IRREVOCABLE OFFER.—To further the purposes of this section and section 323 of title 23, United States Code, any recorded irrevocable offer of dedication or donation of property within the right-of-way for the project referred to in paragraph (1) shall be considered as part of the State right-of-way acquisition for purposes of this subsection if such offer is irrevocable and effective no later than such time as the State of California requests final reimbursement for the Federal share.

(4) LIMITATION.—In no case shall the amount of Federal-aid reimbursement to the State of California on account of the relocation and construction project referred to in paragraph (1) exceed the actual cost to the State for such project.

Virginia.
District of Columbia.
Motor vehicles.

SEC. 147. SHIRLEY HIGHWAY TRAFFIC RESTRICTIONS.

(a) EXPRESS LANES.—

(1) RUSH HOUR RESTRICTIONS.—Except in the case of an emergency as determined by the State of Virginia or the District of Columbia, the State of Virginia and the District of Columbia shall prohibit the use of the Shirley Highway express lanes by a vehicle other than a bus, an emergency vehicle, a vehicle carrying 4 or more persons, and a motorcycle—

(A) on northbound lanes, during the hours of 6 o'clock ante meridiem to 9 o'clock ante meridiem on Monday through Friday, exclusive of holidays, and

(B) on southbound lanes, during the hours of 3:30 o'clock post meridiem to 6 o'clock post meridiem on Monday through Friday, exclusive of holidays.

The State of Virginia and the District of Columbia may not prohibit the use of such lanes during such hours by a bus, an emergency vehicle, or a vehicle carrying 4 or more persons.

(2) USE OF EXPRESS LANES AT OTHER TIMES.—The State of Virginia and the District of Columbia may not prohibit the use of the Shirley Highway express lanes during hours other than the hours described in paragraph (1) by a vehicle which is not also prohibited from using the other lanes of the Shirley Highway.

(b) DEFINITIONS.—For purposes of this section—

(1) EMERGENCY VEHICLE.—The term "emergency vehicle" includes a public utility vehicle on legitimate emergency business.

(2) MOTORCYCLE.—The term "motorcycle" means a motor vehicle designed to travel on not more than 3 wheels in contact with the ground.

(3) SHIRLEY HIGHWAY EXPRESS LANES.—The term "Shirley Highway express lanes" means the high occupancy vehicle lanes on Interstate Route I-395 in the District of Columbia and Virginia and on Interstate Route I-95 from its intersection with Interstate Route I-395 to Woodbridge, Virginia.

(c) ENFORCEMENT.—The Secretary shall withhold 1 percent of the amount required to be apportioned to the State of Virginia or to the

District of Columbia under sections 104 and 144 of title 23, United States Code, on the first day of the fiscal year succeeding any fiscal year in which the State of Virginia or the District of Columbia, as the case may be, is in violation of any provision of this section.

SEC. 148. RAILROAD RELOCATION AND DEMONSTRATION PROGRAM.

(a) FEDERAL SHARE.—Section 163(n) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is amended by striking out "95 per centum of the cost." and inserting in lieu thereof "the Federal share provided in section 120(a) of title 23, United States Code.".

(b) AUTHORIZATION.—Section 163(p) of such Act is amended by inserting after "September 30, 1986," the following: "and $15,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991,".

SEC. 149. DEMONSTRATION AND PRIORITY PROJECTS.

(a) PROJECT DESCRIPTIONS.—

(1) PASSAIC COUNTY, NEW JERSEY.—The Secretary shall utilize the procedures adopted to carry out the demonstration project under section 141 of the Federal-Aid Highway Act of 1976 and the methods for processing highway projects required to be established by section 129 of the Surface Transportation Assistance Act of 1982 to accelerate design and construction of a highway project which completes a gap on the Federal-aid primary system in an urban area along the Passaic River in Passaic County, New Jersey, and for which most of the right-of-way has been acquired.

23 USC 124 note.

23 USC 105 note.

(2) BRICK TOWNSHIP, NEW JERSEY.—The Secretary shall carry out a highway project to demonstrate methods of improving traffic operations and reducing accidents (A) at a high-volume rotary intersection in Brick Township, New Jersey, and (B) on a route connecting such intersection with another high-volume rotary intersection in Wall Township, New Jersey.

(3) JOHNSTOWN, PENNSYLVANIA.—The Secretary shall carry out a demonstration project in the vicinity of Johnstown, Pennsylvania, for the purpose of demonstrating methods by which a highway construction project on a segment of the Federal-aid primary system will enhance highway safety and economic development in an area of high unemployment.

(4) FORT SMITH, ARKANSAS.—The Secretary shall carry out a highway project to demonstrate the economic growth and development benefits of widening a segment of the Federal-aid urban system connecting a community college and a large commercial center in the vicinity of Fort Smith, Arkansas, and of improving traffic signalization on such segment.

(5) MINNESOTA.—The Secretary shall carry out a demonstration project on the Federal-aid urban system for the purpose of demonstrating the economic and safety benefits—

(A) of constructing (i) a grade separation between a railroad line and a highway, and (ii) a half diamond interchange, in the vicinity of Moorhead, Minnesota; and

(B) of reconstructing 2 deteriorated segments of a major east-west highway on the Federal-aid primary system in the vicinities of Fosston and Bagley, Minnesota.

(6) LOYSBURG, PENNSYLVANIA.—The Secretary shall carry out a highway project to construct a 2-lane bypass around Loysburg in Bedford County, Pennsylvania, for the purpose of dem-

onstrating methods of accelerating project construction and resolving environmental concerns among Federal and State agencies.

(7) SAN BERNARDINO COUNTY, CALIFORNIA.—The Secretary shall carry out a demonstration project in the vicinity of the Ontario International Airport in San Bernardino County, California, for the purpose of demonstrating methods of improving highway access to an airport which is projected to incur a substantial increase in air service.

(8) ALTOONA, PENNSYLVANIA.—The Secretary shall carry out a highway project to close a gap of approximately 12 miles in a multilane limited access road connecting the city of Altoona to the borough of Tyrone in Blair County, Pennsylvania, for the purpose of demonstrating state of the art delineation technology. For comparison purposes, the highway section to be constructed shall connect a highway section constructed with current delineation technology and an older highway section constructed with traditional delineation technology. The project shall demonstrate the latest horizontal and vertical delineation techniques and utilize innovative techniques in highway delineation treatments to improve traffic control and highway safety. All delineation elements shall be designed to provide the optimum life-cycle costs, thereby maximizing the highway safety benefits and minimizing future maintenance costs. The Secretary shall provide necessary technical assistance in the design and construction of the project. Upon completion of the project, the highway shall be added to the Federal-aid primary system.

(9) LOUISIANA.—

(A) LAFAYETTE.—The Secretary is authorized to carry out a highway project to demonstrate the benefits to traffic flow and transportation of labor and materials by construction of a highway to provide limited continuous access between an interstate route and a highway on the Federal-aid primary system in Lafayette, Louisiana.

(B) SHREVEPORT.—The Secretary is authorized to carry out a highway project which will demonstrate methods of reducing traffic congestion in the central business district of Shreveport, Louisiana, improving access to such district, providing highway continuity, and satisfying national defense requirements by connecting an interstate route with another interstate route which serves as a bypass around such city.

(10) MIAMI, FLORIDA.—The Secretary is authorized to carry out a highway project which will demonstrate the most cost effective method of improving interstate motor vehicle access for passengers and cargo moving to and from the port of Miami, Florida.

(11) ARKANSAS-MISSOURI.—

(A) BELLA VISTA, ARKANSAS.—The Secretary is authorized to carry out a highway project in the State of Arkansas on a segment of a north-south highway on the Federal-aid primary system from the vicinity of the junction of Interstate Routes I-40 and I-540 to the boundary between the States of Arkansas and Missouri in the vicinity of Bella Vista, Arkansas, for the purpose of demonstrating methods of improving highway safety and of accelerating highway construction. Such project shall increase the number of lanes on such segment from 2 to 4.

(B) CARTHAGE, MISSOURI.—The Secretary is authorized to carry out a highway project on a segment of a north-south highway on the Federal-aid primary system from the vicinity of Carthage, Missouri, to the boundary between the States of Arkansas and Missouri in the vicinity of Noel, Missouri, for the purpose of demonstrating methods of improving highway safety and accelerating highway construction. Such project shall increase the number of lanes on such segment from 2 to 4.

(C) DESIGN FEATURES; TECHNICAL ASSISTANCE.—The projects authorized by subparagraphs (A) and (B) of this paragraph shall also demonstrate the latest high-type geometric design features and new advances in highway traffic control and safety hardware. All design elements, including the highway pavement, shall be designed to provide the best life-cycle costs, thereby minimizing future maintenance costs. The Secretary shall provide necessary technical assistance in the design and construction of such projects.

(12) SANFORD, FLORIDA.—The Secretary shall carry out a highway project to demonstrate methods of reducing costs and expediting construction of an interchange in the vicinity of Sanford, Florida, and the intersection of Route 46A and an interstate route by contracting with a private business to design and construct such project.

(13) SAN JOSE, CALIFORNIA.—The Secretary is authorized to carry out a demonstration project in the vicinity of San Jose and Santa Clara, California, for the purpose of demonstrating a unified method of reducing traffic congestion on a Federal-aid urban highway which is the result of the intersection of such highway with 2 other Federal-aid urban highways and a railroad crossing in a ¼-mile segment of such highway.

(14) DISTRICT OF COLUMBIA.—

(A) PROJECT DESCRIPTION.—The Secretary shall carry out a demonstration project in the vicinity of the C&O Canal in the District of Columbia for the purpose of substantially improving motor vehicle access at a major traffic generator without decreasing the efficiency of a Federal-aid primary highway. The Secretary shall enter into such arrangements as may be necessary to carry out such project with the Secretary of the Interior.

(B) LIMITATION.—No Federal assistance shall be provided to carry out the demonstration project under this paragraph until private sources dedicate at least 2.5 acres of land as a scenic easement for project purposes.

(15) COMPTON, CALIFORNIA.—The Secretary shall carry out a highway project for construction of a grade separation on a route on the Federal-aid urban system in Compton, California, for the purpose of demonstrating methods of relieving traffic congestion and enhancing economic development.

(16) MODESTO, CALIFORNIA.—The Secretary shall carry out a highway project to demonstrate methods by which construction of a grade separation for a railroad crossing of a highway on the Federal-aid primary system enhances urban redevelopment and

the effectiveness of a planned transportation center in Modesto, California.

(17) COLUMBIA, MISSOURI.—The Secretary shall carry out a highway project for construction of 2 additional lanes on a 2-lane 106-mile highway on the Federal-aid primary system which begins in the vicinity of Columbia, Missouri, and ends in the vicinity of Lancaster, Missouri, for the purpose of demonstrating methods of improving highway safety, reducing traffic congestion, and encouraging economic development.

(18) EAST MILTON, MASSACHUSETTS.—The Secretary is authorized to carry out a highway project to demonstrate the advantages of joint development and use of air rights in the construction of a deck over a depressed portion of an interstate route in East Milton, Massachusetts.

(19) FAIRHOPE, ALABAMA.—The Secretary, in cooperation with the State of Alabama, shall carry out a highway project in the vicinity of Fairhope and Foley, Alabama, to demonstrate methods of accelerating the widening of a highway traffic segment of highway on the Federal-aid primary system necessary for the rapid evacuation of individuals during emergency weather conditions.

(20) WILDER, KENTUCKY.—The Secretary shall carry out a highway project in the vicinity of Wilder in Campbell County, Kentucky, to demonstrate the economic benefits to a port facility, industrial complex, and foreign trade zone and methods of enhancing highway safety by reconstruction of a segment of a highway on the Federal-aid urban system which connects an interstate route with a port facility. Such project shall increase the number of lanes on such highway from 2 to 4 and may include realignment of such highway.

(21) JO DAVIESS, ILLINOIS.—The Secretary shall carry out a highway project to demonstrate the safety benefits of providing additional and improved vehicular passing opportunities on, adding truck climbing lanes to, and straightening, a 50-mile segment of an east-west highway on the Federal-aid primary system which carries a high volume of traffic in Jo Daviess and Stephenson Counties, Illinois.

(22) ALLENTOWN, PENNSYLVANIA.—The Secretary is authorized to carry out a highway project in the city of Allentown, Pennsylvania, for the purpose of demonstrating methods of accelerating construction to eliminate a major rail-highway crossing at grade, reducing traffic delays for both rail and motor vehicle traffic, and minimizing the impact on the surrounding urban environment.

(23) RIVERSIDE, CALIFORNIA.—The Secretary shall carry out a highway project to demonstrate methods of improving safety on a highway on the Federal-aid primary system in Riverside, California, which is designated as a priority primary route under section 147 of title 23, United States Code, by Committee Print Numbered 100-3 of the Committee on Public Works and Transportation of the House of Representatives.

(24) BUFFALO, NEW YORK.—The Secretary shall carry out a highway project in Buffalo, New York, for the purpose of demonstrating methods of facilitating redevelopment of a waterfront area by construction of a connector off a highway on the Federal-aid primary system. Upon completion of the project, the connector shall be added to the Federal-aid urban system.

(25) CLEVELAND, OHIO.—The Secretary shall carry out a highway project to replace a ramp which provides access to an industrial area of Cleveland, Ohio, for the purpose of demonstrating the relationship between infrastructure improvement and economic vitality.

(26) PATTON ISLAND, ALABAMA.—The Secretary shall carry out a highway project to construct a bridge to cross the Tennessee River in Lauderdale and Colbert Counties, Alabama, in the vicinity of Patton Island, Alabama, for the purpose of demonstrating methods of improving highway transportation and enhancing economic development.

(27) WOOD COUNTY, OHIO.—The Secretary shall carry out a highway project to construct an interchange connecting Interstate Route I-75 and a 4-lane, east-west highway in Perrysburg Township in Wood County, Ohio, for the purpose of demonstrating methods of reducing traffic congestion, improving traffic flow, and enhancing economic development.

(28) CHICAGO, ILLINOIS.—The Secretary shall carry out the following highway projects in Chicago, Illinois:

(A) A highway project to rehabilitate a drawbridge over the north branch of the Chicago River and realign an adjacent intersection which will demonstrate the use of the latest innovative bridge repair techniques on a bascule bridge.

(B) A highway project to remove and replace an existing bridge on Lake Shore Drive in the Jackson Park Historic Landscape District and the Midway Plaissance with a new bridge in the same location and to widen the approach road to such bridge which will demonstrate the historic recreation of a national register bridge and replacement of a deteriorated bridge.

(C) A highway project between Chicago Avenue and Claybourn Avenue to disinvest a bridge over Goose Island which will demonstrate methods of reducing municipal and Federal burdens for rehabilitation and maintenance of a surplus highway facility.

(29) WAYNE COUNTY, MICHIGAN.—The Secretary shall carry out two road improvement projects in Wayne County, Michigan, to demonstrate the benefits of enhancing safety and improving economic vitality of a depressed area.

(30) COOK COUNTY, ILLINOIS.—

(A) CHICAGO.—The Secretary shall carry out a highway project which demonstrates methods of utilizing a low cost alternative to reconstruction of a 1-mile segment of an east-west road between Nagle and Oak Park Avenues, Chicago, Illinois, which is deficient due to soil conditions.

(B) SOUTHWEST CHICAGO.—The Secretary shall carry out a highway project to construct three parking facilities adjacent to the Rock Island commuter rail lines in Southwest Chicago, Illinois, which will demonstrate the effectiveness of construction of parking facilities in relieving on-street parking congestion and unsafe parking practices.

(C) OAK LAWN.—The Secretary shall carry out a highway project in Oak Lawn, Illinois, which demonstrates methods of improving highway safety by widening and resurfacing a 4-lane major arterial with lane widths which are less than minimum State and Federal standards.

(D) CALUMET PARK.—The Secretary shall carry out a highway project which demonstrates methods of improving highway safety and access to a segment of the Interstate System by reconstruction of a congested major arterial in Calumet Park and Blue Island, Illinois.

(E) CUMBERLAND STATION.—The Secretary shall carry out a highway project to construct the first level of a 2 level addition to an existing park and ride facility in the vicinity of Cumberland Station on the O'Hare Rapid Transit Line, Chicago, Illinois, which will demonstrate methods of reducing commuter traffic and traffic congestion and increasing utilization of available capacity on a rapid transit line.

(F) ELEVATED ROAD.—The Secretary shall carry out a highway project to demonstrate the benefits of utilizing precast, prefabricated concrete structural segments in the reconstruction of an elevated road on a major artery in the southwestern portion of Chicago, Illinois, in order to minimize traffic disruption during the reconstruction.

(G) PARKING FACILITIES.—The Secretary shall carry out a demonstration project for the construction of two parking lots at sites (i) where future stations are to be located on the Southwest Rapid Transit Line in Chicago, Illinois, and (ii) to which buses now provide mass transit service. Such project shall be carried out before the beginning of service on such rapid transit line in order to demonstrate methods of facilitating the transfer of passengers between different modes of transportation and of establishing ridership before the opening of a rapid transit line.

(31) KANSAS CITY, MISSOURI.—The Secretary shall carry out a highway project on a north-south route on the Federal-aid primary system in Kansas City, Missouri, to demonstrate methods by which construction of the first and southern-most phase of a 5-phase highway project will facilitate construction of the full 5-phase project. Construction of the 5-phase project—

(A) will connect the northern terminus of another route on the Federal-aid primary system and an east-west interstate route,

(B) will demonstrate the interrelationship between construction of a major urban transportation artery and economic development initiatives in facilitating reinvestment in an urban area experiencing economic decay, and

(C) will demonstrate methods of reducing traffic congestion through construction of a roadway that is compatible with adjacent residential neighborhoods and commercial areas.

(32) MOUNT VERNON, KENTUCKY.—The Secretary is authorized to carry out a highway project on a segment of the Federal-aid primary system which connects Interstate Route I-75 in the vicinity of Mount Vernon, Kentucky, with Kentucky State Route 80 in the vicinity of Shopville, Kentucky, for the purposes of demonstrating methods of improving highway safety and traffic flow and improving access to a national river and recreation area.

(33) PINE CITY, MINNESOTA.—The Secretary is authorized to carry out a highway project in Pine City, Minnesota, to demonstrate methods of enhancing economic development and improving highway safety and traffic flow by construction of an

interchange between a highway on the Interstate System and a county State-aid highway.

(34) PASO ROBLES, CALIFORNIA.—The Secretary is authorized to carry out a highway project in the city of Paso Robles, California, to construct a 2-lane, east-west bridge which will span the Salinas River, a highway, and a railroad line and will be located south of the existing bridges spanning such river in such city, for the purposes of demonstrating methods of improving highway safety and traffic flow and enhancing economic development.

(35) SUFFOLK COUNTY, NEW YORK.—The Secretary is authorized to carry out a highway project from Wheeler Road to Veterans Memorial Highway in the town of Islip, Suffolk County, New York, for the purpose of demonstrating construction techniques to accelerate upgrading of an existing highway to freeway standards with minimum disruption of traffic.

(36) CONNECTICUT.—

(A) SOUTHINGTON.—The Secretary shall carry out a highway project to demonstrate the latest construction techniques in reconstructing a north-south segment of highway on the Federal-aid urban system in the vicinity of Southington, Connecticut.

(B) KENT CENTER.—The Secretary shall carry out a highway project to change horizontal and vertical alignment of a north-south highway on the Federal-aid primary system south of Kent Center, Connecticut, to demonstrate methods of solving safety and flooding problems.

(37) DOVER TOWNSHIP, NEW JERSEY.—The Secretary is authorized to carry out a highway project to construct a bridge across the Toms River in the township of Dover, New Jersey, for the purpose of demonstrating methods of reducing traffic congestion on an existing bridge and facilitating the redevelopment of the central business district of such township.

(38) LOS ANGELES COUNTY, CALIFORNIA.—The Secretary is authorized to carry out a highway project in Los Angeles County, California, for the purpose of demonstrating methods of improving vehicular circulation related to the intermodal transportation of port-related traffic and alleviating congestion caused by increased port activities.

(39) GREATER PITTSBURGH INTERNATIONAL AIRPORT.—The Secretary shall carry out in the vicinity of the Greater Pittsburgh International Airport a highway project for construction of a highway which is designated as a priority primary route under section 147 of title 23, United States Code, by Committee Print Numbered 100-3 of the Committee on Public Works and Transportation of the House of Representatives to demonstrate methods of improving economic development and airport terminal placement.

(40) STEUBEN COUNTY, NEW YORK.—The Secretary shall carry out a highway project in Steuben County, New York, for the purpose of demonstrating the extent to which the economy of an industrialized high unemployment area can be improved by completion of key elements of a modern, grade-separated access controlled highway which serves such area.

(41) SONOMA AND MARIN COUNTIES, CALIFORNIA.—

(A) SANTA ROSA.—The Secretary shall carry out a highway project for the purpose of demonstrating the extent to which traffic congestion is relieved by reconstruction of a north-south arterial which (i) connects Santa Rosa, California, and Petaluma, California, (ii) is parallel to a major north-south segment of the Federal-aid primary system, and (iii) serves as an alternative for traffic between such cities.

(B) HEALDSBURG.—The Secretary shall carry out a highway project for the purpose of demonstrating the extent to which traffic congestion is relieved on the major north-south segment of the Federal-aid primary system described in subparagraph (A) by construction of high occupancy vehicle lanes along a right-of-way which is parallel to such segment and connects San Rafael, California, and Healdsburg, California.

(42) VOYAGEURS NATIONAL PARK, MINNESOTA.—The Secretary shall carry out a highway project which demonstrates methods of enhancing use of a national park and reducing traffic congestion by reconstruction of an access road to Voyageurs National Park, Minnesota.

(43) SAVANNAH, GEORGIA.—The Secretary, in cooperation with the State of Georgia, shall carry out a highway project for replacing an existing functionally obsolete bridge across the Savannah River in Savannah, Georgia, with a modern, high-level structure for the purpose of demonstrating methods of improving safety and the free flow of both vehicular and waterborne traffic including traffic related to national defense.

(44) NEW SEWICKLY, PENNSYLVANIA.—The Secretary shall carry out a highway project to construct a 2-lane highway between the township of New Sewickly, Pennsylvania, and the borough of Conway, Pennsylvania, for the purpose of demonstrating methods of accommodating increasing truck traffic and improving highway safety.

(45) CROYLE TOWNSHIP, PENNSYLVANIA.—The Secretary shall carry out a highway project to upgrade a 1.3-mile access road to the Johnstown Flood National Memorial in the vicinity of Croyle Township, Pennsylvania, for the purpose of demonstrating methods of improving public access to a flood memorial.

(46) LAWRENCE, MASSACHUSETTS.—The Secretary shall carry out in Lawrence, Massachusetts, a highway project to demonstrate methods of enhancing the benefits of an economic rehabilitation project under construction by construction of a service road which provides access between Massachusetts Avenue and Merrimack Street substantially along an alignment located between the Shawsheen River and an interstate route.

(47) LOUISIANA.—

(A) The Secretary shall carry out a highway project on the west bank of the Mississippi River in the vicinity of Port Allen, Louisiana, for the purpose of demonstrating methods by which—

(i) the inclusion of a diamond interchange on the Interstate System, including ingress and egress ramps with an overpass, located between the existing Mississippi River Bridge access and an existing rural interchange; and

(ii) the connection and improvement of access to the Interstate System by means of approaches from a 2-

lane highway and a parish road to such diamond interchange;

will eliminate safety hazards and reduce heavy truck traffic congestion from the Mississippi River Bridge exit ramp on the Interstate System and the City of Port Allen and the Texas-Pacific Railroad crossing and improve conditions for access to the Port of Greater Baton Rouge and the Intracoastal Canal.

(B) The Secretary shall carry out a highway project in the vicinity of Baton Rouge, Louisiana, for the purpose of demonstrating the benefits of reducing traffic congestion in the immediate vicinity of a split-diamond interchange which connects an east-west highway on the Interstate System, 2 4-lane highways not on such system, and a 2-lane highway not on such system by providing—

(i) a direct exit lane from the westbound lanes of the highway on such system to one of such 4-lane highways;

(ii) a direct access ramp and acceleration lane from such 4-lane highway to the eastbound lanes of the highway on such system; and

(iii) a direct exit lane from the eastbound lanes of the highway on such system to the other of such 4-lane highways.

(C) The Secretary shall carry out a highway project in the vicinity of northeast Baton Rouge, Louisiana, for the purpose of demonstrating the efficacy of reducing traffic congestion and improving traffic flow in the immediate vicinity of a highway on the Interstate System to connect such highway to a metropolitan airport terminal access road by construction of a direct access off-ramp link.

(48) MINDEN, LOUISIANA.—The Secretary shall carry out a highway project for the purpose of demonstrating methods of enhancing economic development by construction of a frontage road which provides Minden, Louisiana, alternative access to a highway immediately connecting to a highway on the Interstate System.

(49) ANAHEIM, CALIFORNIA.—The Secretary shall carry out a project for research, development, and implementation of a computerized transportation management system to assist the city of Anaheim, California, and adjoining jurisdictions in managing highway traffic congestion caused in part by an interstate route passing through an area of concentrated population and commercial development for the purpose of demonstrating the usefulness of such a system in reducing traffic congestion.

(50) PINE BLUFF, ARKANSAS.—The Secretary shall carry out a highway bridge project at Lock and Dam 4 near Pine Bluff, Arkansas.

(51) CLARKSVILLE, TENNESSEE.—The Secretary shall carry out a highway project to demonstrate methods of improving highway safety by making improvements to a road providing direct access from the Fort Campbell Military Reservation to the city of Clarksville, Tennessee.

(52) CLARINDA, IOWA.—The Secretary shall carry out a highway project to reconstruct and rehabilitate a highway between Shenandoah and Clarinda, Iowa, for the purpose of demonstrating methods by which improved highway transportation in an

economically depressed rural area will increase economic activity in such area.

(53) SAN DIEGO COUNTY, CALIFORNIA.—The Secretary shall carry out a highway project to expand a highway which connects an interstate route in the vicinity of Oceanside, California, with another interstate route in the vicinity of Escondido, California, for the purpose of demonstrating methods of reducing traffic congestion and accidents.

(54) SAINT CHARLES COUNTY, MISSOURI.—The Secretary shall carry out a highway project to construct a bypass highway to connect an east-west interstate route in Saint Charles County, Missouri, with the interstate beltway around Saint Louis, Missouri, for the purpose of demonstrating methods of alleviating traffic congestion, especially commuter traffic congestion.

(55) JONESBORO, ARKANSAS.—The Secretary shall carry out a highway project for construction of 4 grade separations on a 4-lane bypass route in the vicinity of Jonesboro, Arkansas, for the purpose of demonstrating methods of improving highway safety.

(56) ILLINOIS.—

(A) MOUNT VERNON.—The Secretary is authorized to carry out a highway project to reconstruct a segment of approximately 1.4 miles of a State route connecting to an interstate route in the vicinity of Mount Vernon, Illinois, for the purpose of demonstrating methods of improving highway safety.

(B) EVANSVILLE.—The Secretary is authorized to carry out a highway project to upgrade a principal route through the village of Evansville, Illinois, for the purpose of demonstrating methods of improving traffic flow.

(C) UNION COUNTY.—The Secretary is authorized to carry out a highway project to improve a road leading to a landmark in the vicinity of the city of Alto Pass, Union County, Illinois, for the purpose of demonstrating methods of improving access to such a landmark and of enhancing tourism.

(57) CONCORD, CALIFORNIA.—The Secretary shall carry out a highway project between Concord, California, and West Pittsburg, California, for the purpose of demonstrating methods of improving highway safety and traffic flow by lowering the grade of, realigning, and widening an existing highway on the Federal-aid primary system.

(58) GEORGIA.—The Secretary shall carry out a highway project which demonstrates methods of improving highway safety and reducing traffic accidents by reconstruction of a 3.8-mile segment of highway between Interstate Route I-285 and the fork of Georgia State Route 141 as a 6-lane controlled access freeway with one-way frontage roads in each direction.

(59) PIKE COUNTY, KENTUCKY.—The Secretary shall carry out a highway project to reconstruct a highway on the Federal-aid primary system between Open Fork Road and Road Fork of Big Creek Road in Pike County, Kentucky, for the purpose of demonstrating methods of improving highway safety in a mountainous area.

(60) MADISON COUNTY, ILLINOIS.—The Secretary shall carry out a highway project to demonstrate the economic growth and development benefits of reconstructing a segment of road in

Madison County, Illinois, which serves a high-growth industrial area.

(61) ERWIN, TENNESSEE.—The Secretary shall carry out a highway project to extend, approximately 15 miles, a highway on the Appalachian development highway system between River View in Erwin, Tennessee, and Sam's Gap on the North Carolina-Tennessee border for the purpose of demonstrating methods of improving transportation in a mountainous area.

(62) NEW RIVER, WEST VIRGINIA.—The Secretary is authorized to carry out a demonstration project to construct a parkway connecting to an interstate route, in accordance with the recommendations of the New River Parkway Authority, in the vicinity of the New River, West Virginia, for the purpose of demonstrating benefits to recreation, tourism, and industrial, economic, and community development.

(63) KITTANNING-BROOKVILLE, PENNSYLVANIA.—The Secretary is authorized to carry out a project for reconstruction of approximately 30 miles of a 2-lane road on the Federal-aid primary system between Kittanning and Brookville, Pennsylvania, for the purpose of demonstrating cost-effective methods of improving rural highways to accommodate wider and longer trucks.

(64) AURORA-HOYT LAKES, MINNESOTA.—The Secretary is authorized to carry out a project for construction of a highway connecting Aurora-Hoyt Lakes and Silver Bay, Minnesota, for the purpose of demonstrating methods of reducing traffic congestion in and around a recreational area.

(65) KANAWHA COUNTY, WEST VIRGINIA.—The Secretary shall carry out a highway project which demonstrates methods of improving traffic flow in a rural area by reconstruction of the Chelyan Bridge in Kanawha County, West Virginia.

(66) ROANOKE SOUND, NORTH CAROLINA.—The Secretary shall carry out a highway project which demonstrates methods of improving tourism, commercial enterprise, and water and highway transportation by construction of a bridge on an east-west Federal-aid primary route which connects Manteo and Whalebone, North Carolina, and traverses Roanoke Sound.

(67) LINCOLN, ILLINOIS.—The Secretary shall carry out a highway project which demonstrates methods of improving highway safety and reducing traffic congestion by construction of a controlled access freeway which connects Interstate Route I-55 in the vicinity of Lincoln, Illinois, and Interstate Route I-74 in the vicinity of Morton, Illinois.

(68) SPARKS, NEVADA.—The Secretary shall carry out a highway project which demonstrates methods of improving economic development and diversification, and eliminating traffic and highway safety hazards by construction in the city of Sparks, Nevada, of an interchange which connects Interstate Route I-80 and Sparks Boulevard.

(69) BURBANK-GLENDALE-PASADENA AIRPORT, CALIFORNIA.—The Secretary shall carry out a highway project which demonstrates methods of coordinating construction of ground access to an airport and construction of terminal and parking facilities at such airport. The Secretary shall carry out such project at the Burbank-Glendale-Pasadena Airport, California, by making a grant for construction of such ground access to the airport authority for such airport.

(70) **El segundo, california.**—The Secretary shall carry out a highway project to increase the capacity of a tunnel in the vicinity of an airport serving El Segundo, California, which will demonstrate methods of mitigating increased traffic congestion which is projected to result from completion of a segment of the Interstate System.

(71) **Alameda island, california.**—The Secretary shall carry out a highway project to demonstrate methods of improving access to, and alleviating congestion on, a north-south route designated as part of the Interstate System under section 139 of title 23, United States Code, and its access roads, including access roads from Oakland International Airport and Alameda Island, California, to such interstate route.

(72) **Douglas county, kansas.**—The Secretary shall carry out a highway project in Douglas County, Kansas, to demonstrate methods of reducing traffic congestion and facilitating the usage by motorists on the Interstate System of recreational facilities by construction of a north-south limited access trafficway of approximately 4 miles in length which will connect an east-west interstate route to a reservoir and a university research park.

(73) **Chadville, pennsylvania.**—The Secretary shall carry out a highway project to relocate and reconstruct to 4 lanes a 3.5-mile north-south segment of the Federal-aid primary system from the vicinity of Uniontown Bypass at Chadville, Pennsylvania, to Pennsylvania Legislative Route 26082 in the vicinity of Fairchance, Pennsylvania, which will demonstrate methods of enhancing the development of a major industrial site.

(74) **Chambersburg, pennsylvania.**—The Secretary shall carry out a highway project which demonstrates how construction of an interchange on a north-south interstate route will provide access to Chambersburg, Pennsylvania, and relieve traffic congestion on an existing interchange on such interstate route.

(75) **Beaumont, texas.**—The Secretary shall carry out a highway project which demonstrates how construction of an overpass over an interstate route in the vicinity of the city of Beaumont, Texas, will relieve traffic congestion on such interstate route and provide direct access between the central business district of such city and another part of such city.

(76) **Saint louis county, minnesota.**—The Secretary shall carry out a highway project for the construction of an access road from County Road 413 in Saint Louis County, Minnesota, to a recreational complex on the Bois Forte Chippewa Reservation (Vermilion Sector) to demonstrate methods of providing jobs and enhancing economic development in a severely and chronically depressed area.

(77) **Gloucester county, virginia.**—The Secretary, in consultation with the Governor of Virginia, the Secretary of Defense, and the Secretary of the Interior, shall carry out site selection and environmental studies and design and engineering for replacement or expansion of a bridge connecting Gloucester County with York County and the cities of Newport News and Hampton, Virginia, for the purpose of demonstrating methods of facilitating the resolution of Federal intra-governmental conflicts.

(78) **Brazoria county, texas.**—The Secretary shall carry out a highway project in Brazoria County, Texas, to demonstrate

how the extension of a State highway to connect with another State highway can relieve traffic congestion in Fort Bend County, Texas.

(79) HAMMOND, INDIANA.—The Secretary shall enter into such arrangements as may be necessary to carry out a demonstration project in Hammond, Indiana, for the relocation of railroad lines for the purpose of eliminating railroad-highway grade crossings. If the city of Hammond, Indiana, elects to carry out all or any portion of the demonstration project authorized by this paragraph before the funds authorized to be appropriated to carry out this paragraph are made available, the Secretary shall reimburse with such funds the city for the costs of carrying out such project or portion.

(80) ERIE COUNTY, NEW YORK.—The Secretary is authorized to carry out a highway project in Erie County, New York, to demonstrate methods of enhancing safety and reducing traffic congestion and delays at the terminus of an interstate route by relocating the terminus of such route.

(81) TAMPA, FLORIDA.—The Secretary is authorized to carry out the remaining design work for a highway project for construction of a grade separation on a route on the Federal-aid primary system in the vicinity of Tampa, Florida, for the purpose of demonstrating methods of improving motor vehicle access between rapidly growing urban areas as well as relieving motor vehicle congestion resulting from the transportation of freight to and from areas for the transshipment of waterborne commerce.

(82) POST FALLS, IDAHO.—The Secretary is authorized to carry out a project to reconstruct Seltice Way (former United States Route 10) to a multilane facility through the City of Post Falls, Idaho, beginning at Pleasant View Road and ending at Huetter Road.

(83) BOISE, IDAHO.—The Secretary is authorized to carry out a project to construct a multilane highway of 6.5 miles, in Boise, Idaho, from the Curtis Road interchange to Broadway Avenue, including interchanges, intersections, bridges, elevated structures, and the Orchard Street connection to Chinden Boulevard.

(84) LAFAYETTE-WEST LAFAYETTE, INDIANA.—The Secretary is authorized to carry out—

(A) acquisition of right-of-way, grading, and construction of ramps and a double span bridge to carry State Road 26 over the Wabash River connecting the cities of Lafayette and West Lafayette, Indiana;

(B) acquisition of right-of-way, grading, construction of a 2.6-mile single track rail corridor, construction of a second rail span at the Wabash Avenue Overpass and transfer of Amtrak passenger services to a relocated depot facility at Second and Main Streets; and

(C) acquisition of right-of-way, grading, construction of ramps and two rail corridor overpasses and associated replacement street work to reconstruct the vehicular approach to the east end of Harrison Bridge which carries United States Route 231 over the Wabash River connecting the cities of Lafayette and West Lafayette.

(85) DUBUQUE-DEWITT, IOWA.—The Secretary is authorized to carry out a project which replaces the route from the intersection of United States Route 61 and Grandview Avenue in

Dubuque, Iowa, extending northerly to a point near East 14th Street, and to improve the service level of the remaining connection from Interstate Route I-80 to Dubuque extending from United States Route 30 at Dewitt to Grandview Avenue in Dubuque.

(86) OLATHE, KANSAS.—The Secretary is authorized to carry out a project to construct an interchange at 119th Street and Interstate Route I-35 in the City of Olathe, Kansas.

(87) WEST CALCASIEU PARISH, LOUISIANA.—The Secretary is authorized to carry out a project to provide for an access road which parallels Interstate Route I-10 at Sulphur, Louisiana, in West Calcasieu Parish, in order to provide access to and from the Interstate System and access from Louisiana Highway 108 to Louisiana Highway 3077.

(88) SOUTHEAST BATON ROUGE, LOUISIANA.—The Secretary is authorized to carry out a project in southeast Baton Rouge, Louisiana, to widen off- and on-ramps of an interstate route interchange; to widen and improve approaches on both sides of the Interstate System of a 2-lane highway, including access ramps and turnouts; to construct a schoolbus loading area adjacent thereto; and to coordinate a partial relocation of a 2-lane highway not on such system.

(89) EAST LAFAYETTE, LOUISIANA.—The Secretary is authorized to carry out a project to construct an access road to Interstate Route I-10 from Louisiana Highway 354 in East Lafayette, Louisiana.

(90) EAST LAFAYETTE, LOUISIANA.—The Secretary is authorized to carry out a project to construct a full-diamond interchange to connect Louisiana Avenue to Interstate Route I-10 in East Lafayette, Louisiana.

(91) BRUNSWICK, MAINE.—The Secretary is authorized to carry out a project to construct the Brunswick-Topsham Bypass in Maine. The bypass will be a new limited access highway which will run from the vicinity of the interchange of Interstate Route I-95 and State Route 196 in Topsham, cross the Androscoggin River, and connect with United States Route 1 in Brunswick, Maine.

(92) UNITED STATES ROUTE 48, MARYLAND.—The Secretary is authorized to carry out a project on United States Route 48 in Washington County, Maryland, to construct an eastbound ramp to United States Route 40 and a westbound access road from Mountain Road.

(93) MARYLAND ROUTE 162.—The Secretary is authorized to carry out a project to realign an intersection to tie Maryland Route 162 directly into Poplar Avenue. Such project includes—

(A) construction of additional lanes at the intersection to allow northbound Maryland Route 162 to westbound Poplar Avenue to become a through movement;

(B) widening 2 miles of Maryland Route 162 from Poplar Avenue to Maryland Route 176 to 4 lanes; and

(C) widening ½-mile of Poplar Avenue from Maryland Route 170 to Maryland Route 162 to 4 lanes.

(94) ROUTE 4, MARYLAND.—The Secretary is authorized to carry out a project to replace a bridge carrying Maryland Route 4 over the Patuxent River.

(95) ROUTE 3, MARYLAND.—The Secretary is authorized to carry out a project to construct an interchange to connect Maryland Route 3 and Belair Drive.

(96) ROUTE 197, MARYLAND.—The Secretary is authorized to carry out a project to construct a 4-lane divided highway to bypass Bowie, Maryland, from Rustic Hill Drive to south of the Amtrak line in Prince Georges County.

(97) MARYLAND ROUTE 115.—The Secretary is authorized to carry out a project to relocate Maryland Route 115 from Montgomery Village Avenue to Shady Grove Road, Montgomery County. This project involves the construction of a 4-lane divided highway.

(98) MARYLAND ROUTE 213.—The Secretary is authorized to carry out a project to rehabilitate the Chester River Bridge on Maryland Route 213 at Chestertown, Maryland.

(99) MARYLAND ROUTE 838.—The Secretary is authorized to carry out a project to replace a bridge connecting Maryland Route 838 to the Wye Island natural resources management area.

(100) BELCHERTOWN, MASSACHUSETTS.—The Secretary is authorized to carry out a project to construct a road of approximately 3,600 feet between Liberty Street and Massachusetts Route 21 in Belchertown, Massachusetts.

(101) MICHIGAN.—The Secretary is authorized to carry out—

(A) a project for construction of the United States Route 31 freeway in Mason County, Michigan, from the south county line northward 11.1 miles to United States Route 10;

(B) improvements, including road widening and resurfacing to existing United States Routes 10 and 31 from the United States Route 10-United States Route 31 interchange east to Scotville, Michigan; and

(C) improvements on United States Route 31 from Scotville north seventeen miles to Preuss Road in Manistee County, Michigan.

(102) BLOOMINGTON, MINNESOTA.—The Secretary is authorized to carry out a project for the design and site location for the replacement of the Bloomington Ferry Bridge, located in Hennepin and Scott Counties, Minnesota.

(103) NEW AUGUSTA, MISSISSIPPI.—The Secretary is authorized to carry out a project to widen 14.7 miles of United States Highway 98 from 1.5 miles east of United States Highway 49 in Forrest County, east to State Route 29 in New Augusta, Mississippi.

(104) HIGHWAY 30, NEBRASKA.—The Secretary is authorized to carry out a project to replace the bridge that carries Highway 30 over the Missouri River between Blair, Nebraska and Missouri Valley, Iowa.

(105) LAS VEGAS, NEVADA.—The Secretary is authorized to carry out a project to construct an interchange at Sahara Avenue and Interstate Route I-15, in the city of Las Vegas, Nevada.

(106) HENDERSON, NEVADA.—The Secretary is authorized to carry out a project to improve the Boulder Highway in Henderson, Nevada The project involves 6.36 miles along United States Route 93/95 from the intersection of Sunset Road to the intersection of Horizon Drive.

(107) LOS ALAMOS-SANTA FE, NEW MEXICO.—The Secretary is authorized to carry out a project for a new route from Los Alamos, New Mexico to Santa Fe, New Mexico.

(108) LONG ISLAND EXPRESSWAY, NEW YORK.—The Secretary is authorized to carry out a study to examine the feasibility of adding a fourth lane in each direction on Interstate Route I-495 in New York.

(109) NASSAU EXPRESSWAY, NEW YORK.—The Secretary is authorized to carry out a project to extend the Nassau Expressway from Burnside Avenue to Broadway in New York.

(110) WESTCHESTER PARKWAY, NEW YORK.—The Secretary is authorized to carry out a project on the Westchester Parkway, New York, to widen the segment between the Hawthorne Interchange and Washburn Road, reconstruct the southbound lanes in the vicinity of Pleasantville Road, and reconstruct the Pleasantville Road Interchange.

(111) NORTH DAKOTA.—The Secretary is authorized to carry out the following projects on access highways to public recreation areas on certain lakes and State parks in North Dakota in order to accommodate present and projected traffic density:

(A) MORTON COUNTY.—The Secretary is authorized to carry out a project for bridge replacement and access road to Sweetbriar and Crown Butte Lakes, North Dakota.

(B) MERCER COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927 from 4 miles north of Hazen, North Dakota north 8 miles to Hazen Bay, Lake Sakakawea.

(C) RANSOM COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Ransom County, County FAS Route 3705 from State Highway 46, south 17 miles to State Highway 27 and a 1-mile spur to Fort Ransom State Park.

(D) BENSON AND RAMSEY COUNTIES.—The Secretary is authorized to carry out a project to construct an access road in Benson and Ramsey Counties FAS Route 0322 from United States Route 281 at Minnewaukan, east to Tri-County Park, north to State Highway 19.

(E) MOUNTRAIL COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mountrail County from Parshall west 10 miles to Parshall Bay on Lake Sakakawea.

(F) EMMONS COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Emmons County FAS Route 1503 from Beaver Bay 13 miles west of Linton, south 23 miles to the South Dakota State line.

(G) MCKENZIE COUNTY.—The Secretary is authorized to carry out a project to construct an access road in McKenzie County from Charleson south and east 8 miles to Lake Sakakawea.

(H) GRAND FORKS COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Grand Forks County from 1 mile east of Larimore, north 5 miles to Larimore Dam recreation area.

(I) GRAND FORKS COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Grand Forks County from County Road 19, 4 miles south of

Fordville, east and south 9 miles to Fordville Dam recreation area.

(J) STEELE COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Steele County State Highway 200, 9 miles east of Finley, north 9 miles to the Golden Lake recreation area.

(K) MCKENZIE COUNTY.—The Secretary is authorized to carry out a project to construct an access road in McKenzie County from United States Route 85 south of Williston, east 4.2 miles to several bays on Lake Sakakawea.

(L) BOTTINEAU AND RENVILLE COUNTIES.—The Secretary is authorized to carry out a project to construct an access road in Bottineau and Renville Counties, FAS Routes 3828 and 0526 from Lake Darling 1 mile west of Grano, east 10 miles.

(M) MOUNTRAIL COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mountrail County, FAS Route 3123 from State Highway 23, 6 miles east of Newtown, south 2.5 miles to Van Hook Bay on Lake Sakakawea.

(112) GLADSTONE, NORTH DAKOTA.—The Secretary is authorized to carry out a project to improve access to a regional grain elevator, FAS Routes 2117 and 4531 from State Highway 21 at Regent, north 34 miles to Gladstone and Interstate Route I-94, Gladstone, North Dakota.

(113) EUGENE, OREGON.—The Secretary is authorized to carry out a preliminary engineering study to plan and design alternatives to the Ferry Street Bridge in Eugene, Oregon.

(114) PROVIDENCE, RHODE ISLAND.—The Secretary is authorized to carry out a project for United States Route 1 in Providence, Rhode Island, to make improvements on Allens Avenue and Eddy Street to add a center turning lane, widen the road, provide for shoulders, and improve safety on approximately 3 miles of road.

(115) WEST WARWICK, RHODE ISLAND.—The Secretary is authorized to carry out a project on Wakefield Street in West Warwick, Rhode Island, to improve pavement surfaces, curbs, and sidewalks, to add drainage facilities, and to widen approximately 3.5 miles of such street.

(116) MYRTLE BEACH, SOUTH CAROLINA.—The Secretary is authorized to carry out a project to construct a new controlled access road from Interstate Route I-95 at Florence, South Carolina to United States Route 17, north of Myrtle Beach, South Carolina, including a connector from northwest of Conway, South Carolina, to United States Route 17, south of Myrtle Beach.

(117) KEYSTONE, SOUTH DAKOTA.—The Secretary is authorized to carry out a project to construct an additional lane on South Dakota Route 244 from Mount Rushmore National Memorial to the vicinity of Keystone.

(118) WEST TODD COUNTY, SOUTH DAKOTA.—The Secretary is authorized to carry out a project for grading and interim surfacing of United States Route 18 in South Dakota from the West Todd County line, east.

(119) IROQUOIS-DE SMET, SOUTH DAKOTA.—The Secretary is authorized to carry out a project for grading and resurfacing United States Route 14 in South Dakota from Iroquois to De Smet.

(120) Dallas, texas.—The Secretary is authorized to carry out a project to construct and upgrade 8.1 miles from Beltline Road in Dallas County to SR-121 in Collin County.

(121) Blue ridge parkway, virginia.—The Secretary is authorized to carry out a 10-mile extension of the Blue Ridge Parkway to the Explore Project (a tourist destination located in the Roanoke Valley in western Virginia to be designed and built by the National Park Service and to be transferred to and maintained by the Blue Ridge Parkway portion of the National Park Service).

(b) Authorization of Appropriations From Highway Trust Fund.—There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account) per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out—

(1) subsection (a)(1) $5,000,000;
(2) subsection (a)(2) $2,000,000;
(3) subsection (a)(3) $1,100,000;
(4) subsection (a)(4) $850,000;
(5) subsection (a)(5) $500,000;
(6) subsection (a)(6) $550,000;
(7) subsection (a)(7) $2,900,000;
(8) subsection (a)(8) $9,000,000;
(9) preliminary engineering and design under subsection (a)(9) $600,000;
(10) preliminary engineering and design under subsection (a)(10) $1,030,000;
(11)(A) preliminary engineering and design, utility relocation, land acquisition, and initial construction under subsection (a)(11)(A) $4,500,000; and
(B) preliminary engineering and design, utility relocation, land acquisition, and initial construction under subsection (a)(11)(B) $4,500,000;
(12) subsection (a)(12) $1,400,000;
(13) subsection (a)(13) $2,900,000;
(14) subsection (a)(14) $800,000;
(15) subsection (a)(15) $750,000;
(16) subsection (a)(16) $1,300,000;
(17) preliminary engineering and design, utility relocation, land acquisition, and initial construction under subsection (a)(17) $1,100,000;
(18) subsection (a)(18) $350,000;
(19) subsection (a)(19) $2,100,000;
(20) subsection (a)(20) $900,000;
(21) subsection (a)(21) $300,000;
(22) subsection (a)(22) $600,000;
(23) subsection (a)(23) $800,000;
(24) subsection (a)(24) $1,250,000;
(25) subsection (a)(25) $800,000;
(26) subsection (a)(26) $1,500,000;
(27) subsection (a)(27) $2,000,000;
(28) subsection (a)(28) $1,200,000;
(29) subsection (a)(29) $220,000;
(30) subsection (a)(30) $1,208,000;
(31) subsection (a)(31) $1,500,000;
(32) subsection (a)(32) $1,400,000;
(33) subsection (a)(33) $260,000;
(34) subsection (a)(34) $310,000;

(35) subsection (a)(35) $975,000;

(36) subsection (a)(36) $385,000;

(37) subsection (a)(37) $200,000;

(38) subsection (a)(38) $7,400,000;

(39) preliminary engineering and design under subsection (a)(39) $550,000;

(40) subsection (a)(40) $800,000;

(41)(A) subsection (a)(41) $1,050,000; and

(B) land acquisition under subsection (a)(41)(B) $2,400,000;

(42) subsection (a)(42) $453,000;

(43) subsection (a)(43) $6,650,000;

(44) subsection (a)(44) $1,340,000;

(45) subsection (a)(45) $72,000;

(46) subsection (a)(46) $400,000;

(47) subsection (a)(47) $1,080,000;

(48) subsection (a)(48) $75,000;

(49) subsection (a)(49) $90,000;

(50) subsection (a)(50) $200,000;

(51) subsection (a)(51) $500,000;

(52) subsection (a)(52) $900,000;

(53) subsection (a)(53) $1,880,000;

(54) preliminary engineering and design under subsection (a)(54) $1,300,000;

(55) subsection (a)(55) $1,230,000;

(56) subsection (a)(56) $195,800;

(57) land acquisition under subsection (a)(57) $400,000;

(58) subsection (a)(58) $2,500,000;

(59) subsection (a)(59) $1,500,000;

(60) subsection (a)(60) $220,000;

(61) subsection (a)(61) $2,000,000;

(62) subsection (a)(62) $1,760,000;

(63) subsection (a)(63) $1,000,000;

(64) preliminary engineering and design under subsection (a)(64) $150,000;

(65) preliminary engineering and design under subsection (a)(65) $200,000;

(66) subsection (a)(66) $1,800,000;

(67) subsection (a)(67) $3,400,000;

(68) subsection (a)(68) $1,170,000;

(69) subsection (a)(69) $600,000;

(70) preliminary engineering and design under subsection (a)(70) $300,000;

(71) preliminary engineering and design, environmental analysis, and implementation of environmental mitigation measures under subsection (a)(71) $800,000;

(72) subsection (a)(72) $900,000;

(73) subsection (a)(73) $900,000;

(74) subsection (a)(74) $500,000;

(75) subsection (a)(75) $600,000;

(76) subsection (a)(76) $100,000;

(77) subsection (a)(77) $400,000;

(78) subsection (a)(78) $300,000;

(79) subsection (a)(79) $563,000;

(80) subsection (a)(80) $800,000;

(81) subsection (a)(81) $1,370,000;

(82) subsection (a)(82) $1,800,000;

(83) subsection (a)(83) $500,000;

(84) subsection (a)(84) $4,000,000;
(85) subsection (a)(85) $4,000,000;
(86) subsection (a)(86) $2,600,000;
(87) subsection (a)(87) $590,000;
(88) subsection (a)(88) $520,000;
(89) subsection (a)(89) $250,000;
(90) subsection (a)(90) $250,000;
(91) subsection (a)(91) $3,000,000;
(92) subsection (a)(92) $56,000;
(93) subsection (a)(93) $310,000;
(94) subsection (a)(94) $258,000;
(95) subsection (a)(95) $862,000;
(96) subsection (a)(96) $540,000;
(97) subsection (a)(97) $856,000;
(98) subsection (a)(98) $398,000;
(99) subsection (a)(99) $260,000;
(100) subsection (a)(100) $100,000;
(101) subsection (a)(101) $4,000,000;
(102) subsection (a)(102) $3,240,000;
(103) subsection (a)(103) $2,058,000;
(104) subsection (a)(104) $540,000;
(105) subsection (a)(105) $900,000;
(106) subsection (a)(106) $600,000;
(107) subsection (a)(107) $4,000,000;
(108) subsection (a)(108) $200,000;
(109) subsection (a)(109) $600,000;
(110) subsection (a)(110) $800,000;
(111)(A) subsection (a)(111)(A) $180,000;
(B) subsection (a)(111)(B) $120,000;
(C) subsection (a)(111)(C) $300,000;
(D) subsection (a)(111)(D) $370,000;
(E) subsection (a)(111)(E) $280,000;
(F) subsection (a)(111)(F) $590,000;
(G) subsection (a)(111)(G) $80,000;
(H) subsection (a)(111)(H) $80,000;
(I) subsection (a)(111)(I) $100,000;
(J) subsection (a)(111)(J) $160,000;
(K) subsection (a)(111)(K) $80,000;
(L) subsection (a)(111)(L) $160,000; and
(M) subsection (a)(111)(M) $60,000;
(112) subsection (a)(112) $810,000;
(113) subsection (a)(113) $250,000;
(114) subsection (a)(114) $400,000;
(115) subsection (a)(115) $380,000;
(116) subsection (a)(116) $4,000,000;
(117) subsection (a)(117) $300,000;
(118) subsection (a)(118) $930,000;
(119) subsection (a)(119) $754,000;
(120) subsection (a)(120) $4,000,000; and
(121) subsection (a)(121) $1,500,000.

(c) Minimum Allocation.—

(1) In general.—If the total amount authorized for projects in a State in a fiscal year under subsection (b) is less than $829,060, the Secretary shall allocate an additional amount to such State for such fiscal year. The additional amount shall be an amount which, when added to the total amount authorized for projects

in such State for such fiscal year under subsection (b), equals $829,060.

(2) USE OF FUNDS.—Subject to subsections (d) and (e), amounts allocated under paragraph (1) shall be available to a State to carry out any project on a Federal-aid system.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $12,200,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out this subsection.

(d) AMOUNTS AVAILABLE FROM DISCRETIONARY FUNDS.—

(1) DETERMINATION OF AMOUNT FOR EACH PROJECT.—For each project authorized by subsection (a), the Secretary shall make available in any fiscal year an amount equal to 60 percent of the amount authorized for such project for such fiscal year by subsection (b). For each project constructed by a State with funds allocated under subsection (c), the Secretary shall make available to such State for such project an amount equal to 60 percent of the amount of such funds used for such project.

(2) AMOUNTS DERIVED FROM DISCRETIONARY FUNDS.—The amounts required to carry out paragraph (1) shall be derived from the discretionary funds described in paragraph (3). For each of fiscal years 1987, 1988, 1989, 1990, and 1991, the Secretary shall reserve from each such discretionary fund an amount equal to—

(A) the total required to carry out paragraph (1) for such fiscal year, multiplied by

(B) a fraction, the numerator of which is the amount available to be distributed at the discretion of the Secretary for such fiscal year from such discretionary fund, and the denominator of which is the amount available to be distributed at the discretion of the Secretary for such fiscal year from all such discretionary funds.

(3) DISCRETIONARY FUNDS.—The discretionary funds referred to in paragraph (2) are the funds available to be distributed at the discretion of the Secretary under—

(A) section 103(e)(4) of title 23, United States Code, for highway assistance projects;

(B) section 118(b) of such title; *Ante*, p. 150.

(C) section 118(c) of such title; and

(D) section 144(g) of such title; *Ante*, p. 161.

except that such discretionary funds shall not include the funds available under section 118(b) of such title in fiscal year 1987.

(4) APPLICABILITY OF CERTAIN PROVISIONS.—A provision of title 23, United States Code, shall only apply to amounts to be obligated under this subsection to the extent that the Secretary determines that application of such provision is consistent with this section.

(e) STATE SHARE.—

(1) GENERAL RULE.—A State in which a project authorized by subsection (a) is located, or which constructs a project with funds received under an allocation under subsection (c), shall provide for such project an amount equal to 40 percent of the amount authorized for such project or the amount provided for such project from such allocation. Such amount shall be provided from non-Federal sources.

(2) LOCAL GOVERNMENT OPTION.—Any portion of the State share under this subsection and subsection (f) may be provided by a political subdivision of the State, at the election of such political subdivision.

(f) ADDITIONAL FUNDS.—

(1) GENERAL RULE.—If amounts provided under subsections (b), (c), (d), and (e) of this section are not sufficient to complete a project authorized by subsection (a), a State may use any funds apportioned or allocated to the State for Federal-aid highways (other than interstate construction, highway-railway crossings, and hazard elimination funds) and any State funds to complete such project.

(2) FEDERAL SHARE.—If Federal-aid highway funds are used to complete a project pursuant to this subsection, the use of such funds shall be subject to the appropriate Federal share applicable with respect to such class of funds under title 23, United States Code.

(g) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section (other than subsection (k)) to the State in which such project or projects are located upon request of such State.

(h) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section (other than subsection (k))—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(i) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by subsections (b) and (c) shall not be subject to any obligation limitation.

23 USC 101 *et seq.*

(j) REPORTS.—

(1) STATUS REPORTS.—Not later than January 31 of calendar years 1988, 1989, 1990, and 1991, the Secretary shall submit to Congress a report on the status of the projects authorized by this section.

(2) PASSAIC COUNTY, NEW JERSEY.—Not later than 180 days after completion of the demonstration project under subsection (a)(1), the Secretary shall submit a report to Congress on the results of such project (including the timesavings), along with a description of the procedures used to accelerate design and construction of such project, a summary of the manner in which the techniques used in carrying out such project in an urban area differed from the techniques used in the demonstration

project carried out under section 141 of the Federal-Aid Highway Act of 1976 in a rural area, and an analysis of the costs and benefits of the accelerated completion of the project conducted under such paragraph (1).

23 USC 124 note.

Reports.

(3) ALTOONA, PENNSYLVANIA.—Not later than 1 year, 6 years, and 11 years after the completion of the state of the art delineation technology project under subsection (a)(8), the Secretary shall submit reports to the Congress, including but not limited to the results of such project, the effects of using the best delineation technology on safety and other considerations, recommendations for applying the results to other highway projects, and any changes that may be necessary by law to permit further use of such delineation techniques.

Reports.

(4) ARKANSAS-MISSOURI.—Not later than 1 year, 6 years, and 11 years after the completion of the projects under subsection (a)(11), the Secretary shall submit reports to the Congress, including but not limited to the results of such projects, the effects of using design features and advances described in such paragraph on safety and other considerations, recommendations for applying the results to other highway projects, and any changes that may be necessary by law to permit further use of such features and advances.

(5) LIMITATION ON FUNDING.—The cost of any reports required by this subsection (other than status reports under paragraph (1) with respect to a project) shall be paid for with funds made available under subsection (b) of this section for such project.

(k) PRIORITY PROJECTS.—

(1) PROJECT DESCRIPTIONS.—

(A) DRY RIDGE, KENTUCKY.—The Secretary is authorized to carry out a highway project to demonstrate methods of improving traffic flow and safety on a portion of a Kentucky State highway which connects an interstate route in the vicinity of Dry Ridge, Kentucky, with a highway on the Federal-aid primary system in the vicinity of Owenton, Kentucky.

(B) ISLE OF PALMS, SOUTH CAROLINA.—The Secretary is authorized to carry out a highway project connecting the Isle of Palms, South Carolina, to the mainland for the purpose of demonstrating the reduction in traffic congestion, improved emergency preparedness, and increased accessibility to a sea island by construction of a high-level fixed span bridge over a high-volume intracoastal waterway segment.

(C) IDAHO FALLS, IDAHO.—The Secretary is authorized to carry out the United States Route 20/26 Highway Project, located on United States Route 20/26 and United States Route 20 between the Idaho National Engineering Laboratory site and the city of Idaho Falls, Idaho.

(D) LAS CRUCES, NEW MEXICO.—The Secretary is authorized to carry out work on United States 70 in the State of New Mexico from Las Cruces, New Mexico to Texico, New Mexico.

(E) LAWRENCE, KANSAS.—The Secretary is authorized to carry out, in Lawrence, Kansas, a bypass project which is a model for its cost-sharing arrangement and economic development goals.

(F) WICHITA, KANSAS.—The Secretary is authorized to carry out, in Wichita, Kansas, the replacement of a conventional intersection of 2 heavily-travelled streets at Kellogg and Oliver with a new low-cost European fly-over design for the interchange.

(G) EMPORIA, KANSAS.—The Secretary is authorized to construct, in Emporia, Kansas, a new Prairie Street overpass to overcome existing flood conditions.

(H) SOUTH CAROLINA.—The Secretary is authorized to construct the South Carolina portion of the Bobby Jones Expressway bypass from I-20 near North Augusta, South Carolina, south across the Savannah River into Georgia, where it connects with I-520.

(I) FORT WORTH, TEXAS.—The Secretary is authorized to carry out reconstruction and widening of a critical interchange ("West Leg") involving major, heavily traveled east-west and north-south interstate highways (I-30 and I-35, respectively), Fort Worth, Texas.

(J) EBSENBERG, PENNSYLVANIA.—The Secretary is authorized to carry out and construct the Ebsenberg Pennsylvania bypass to divert traffic from Route 219 in Ebsenberg, Pennsylvania, to a 5.1 mile relocated segment.

(K) ST. LOUIS, MISSOURI.—The Secretary is authorized to carry out the restoration of the Martin Luther King bridge connecting the metro east area in Illinois and St. Louis, Missouri.

(L) IOWA.—The Secretary is authorized to carry out the construction of a bridge on United States Route 30 in Iowa to replace a 56-year-old structure which is too narrow to be utilized by motor carriers.

(M) EAST CHICAGO, INDIANA.—The Secretary is authorized to construct the Cline Avenue—I-94 Interchange in East Chicago, Indiana.

(N) EAST CHICAGO, INDIANA.—The Secretary is authorized to carry out the Cline Avenue Interchange improvement project in East Chicago, Indiana, for the reconstruction of an intersection of Cline Avenue and the Borman Expressway.

(O) TEXARKANA, TEXAS.—The Secretary is authorized to carry out a highway project in the United States Route 59 highway corridor in Texas, from Texarkana to Houston to Beeville.

(P) SOMERSET, PENNSYLVANIA.—The Secretary is authorized to carry out a study to determine the feasibility of constructing a 4-lane highway out of a 2-lane segment of Route 219 between Somerset, Pennsylvania, and the border of the State of Maryland.

(Q) JOHNSTOWN, PENNSYLVANIA.—The Secretary is authorized to carry out a study to determine the feasibility of constructing a 4-lane highway out of a 2-lane segment that connects Route 56, near Johnstown, Pennsylvania, to Route 22.

(R) PITTSBURGH, PENNSYLVANIA.—The Secretary is authorized to carry out a study to determine the feasibility of making Route 22 between Ebensburg and Pittsburgh, Pennsylvania, completely 4-lane.

(S) **Exton, pennsylvania.**—The Secretary is authorized to carry out a project to construct a bypass of approximately 4.9 miles parallel to Route 30, to divert motor traffic around the city of Exton, Pennsylvania.

(T) **Bella vista, arkansas.**—The Secretary is authorized to carry out a highway project in the State of Arkansas on a segment of a north-south highway on the Federal-aid primary system from the vicinity of the junction of Interstate Routes I-40 and I-540 to the boundary between the States of Arkansas and Missouri in the vicinity of Bella Vista, Arkansas, for the purpose of demonstrating methods of improving highway safety and of accelerating highway construction. Such project shall increase the number of lanes on such segment from 2 to 4.

(2) **Funding.**—A State may use any amount apportioned for fiscal year 1987, 1988, 1989, 1990, or 1991 under section 104 (other than 104(b)(5)(A)) or section 144 of title 23, United States Code, to pay the Federal share of the cost of a project under this subsection.

(3) **Federal share.**—If Federal-aid highway funds are used to complete a project pursuant to this subsection, the use of such funds shall be subject to the appropriate Federal share applicable with respect to such class of funds under title 23, United States Code.

SEC. 150. CUMBERLAND GAP NATIONAL HISTORICAL PARK, VIRGINIA.

(a) **Availability of Parkway Funds.**—Section 160(a) of the Federal-Aid Highway Act of 1973 (87 Stat. 278) is amended by adding at the end the following new sentences: "After completion of the reconstruction and relocation of Route 25E through the Cumberland Gap National Historical Park (including construction of a tunnel and the approaches thereto), funds available for parkways, notwithstanding the definition of parkways in section 101(a) of title 23, United States Code, shall be available to finance the cost of upgrading from 2 lanes to 4 lanes a highway providing access from such route through that portion of the Cumberland Gap National Historical Park which lies within the State of Virginia. The project referred to in the preceding sentence, including preparation of any environmental impact statements with respect to such project, shall not delay or affect in any way the reconstruction and relocation of Route 25E (including construction of a tunnel and approaches thereto).".

(b) **Inclusion of Approaches.**—Subsection (b) of section 160 of such Act is amended by inserting after "rights-of-way" the following: ", including approaches in the State of Virginia,".

SEC. 151. DELAWARE RIVER BRIDGES.

Pennsylvania.
New Jersey.

(a) **Repayment of Federal Funds Invested On I-80 Bridge.**—

(1) **In general.**—The Delaware River Joint Toll Bridge Commission (hereinafter in this section referred to as the "Commission"), in conjunction with the State highway agencies of the States of Pennsylvania and New Jersey, shall enter into an agreement with the Secretary to repay to the Treasury of the United States any Federal funds which previously have been obligated or otherwise expended by the Federal Government with respect to the Delaware Water Gap Bridge on I-80. Such repayment shall be credited to the Highway Trust Fund.

(2) Effect of repayment.—Upon such repayment, such States and the Commission shall be free of all restrictions contained in title 23, United States Code, and any regulation or agreement thereunder, with respect to the collection or imposition of tolls or other charges for such bridge or the use thereof.

(b) Agreement to Construct I-78 Toll Bridge.—If the State of Pennsylvania, the State of New Jersey, and the Commission determine to operate the uncompleted bridge under construction in the vicinity of Easton, Pennsylvania, and Phillipsburg, New Jersey, on I-78 as a toll bridge, such States, the Commission, and the Secretary shall enter into an agreement with respect to such I-78 bridge project as provided in section 129 of title 23, United States Code, notwithstanding the requirements of section 301 of such title or any existing agreement.

(c) Right of Review by Federal Agencies.—The Commission's authority to fix, charge or collect any fees, rentals, tolls, or other charges shall be as provided in its compact and supplements thereto (including the supplemental agreement described in subsection (e)); except that paragraph (c) of such supplemental agreement shall not be construed to eliminate the necessity for review and approval by any Federal agency, as may be required under applicable Federal law, to determine that the tolls charged by the Commission are reasonable and just consistent with the Commission's responsibilities under such compact and supplements thereto.

(d) Limitations.—

(1) No tolls on existing nontoll bridges.—Nothing in this section shall be construed to grant congressional consent to the imposition of tolls by the Commission on any existing and operating bridge under the Commission's jurisdiction on which tolls were not charged and collected on January 1, 1986.

(2) Nonapplicability to I-895 corridor.—Nothing in this section shall constitute congressional approval to construct any additional toll bridge in the previously designated I-895 corridor.

(e) Supplemental Agreement.—

(1) Consent of congress.—The consent of the Congress is hereby given to the supplemental agreement, described in paragraph (2), concerning the Delaware River Joint Toll Bridge Commission, which agreement has been enacted by the State of Pennsylvania on December 18, 1984, as Act 206, laws of 1984, and by the State of New Jersey on October 21, 1985, as Public Law 1985, chapter 342.

(2) Description of agreement.—The agreement referred to in paragraph (1) reads substantially as follows:

"SUPPLEMENTAL AGREEMENT BETWEEN THE COMMONWEALTH OF PENNSYLVANIA AND THE STATE OF NEW JERSEY

"SUPPLEMENTING THE COMPACT OR AGREEMENT ENTITLED 'AGREEMENT BETWEEN THE COMMONWEALTH OF PENNSYLVANIA AND THE STATE OF NEW JERSEY CREATING THE DELAWARE RIVER JOINT TOLL BRIDGE COMMISSION AS A BODY CORPORATE AND POLITIC AND DEFINING ITS POWERS AND DUTIES, AS HERETOFORE AMENDED AND SUPPLEMENTED, TO ESTABLISH THE PURPOSES FOR WHICH THE COMMISSION MAY FIX, CHARGE, AND COLLECT TOLLS, RATES, RENTS, AND OTHER CHARGES FOR THE USE OF COMMISSION FACILITIES AND PROPERTIES'

"The Commonwealth of Pennsylvania and the State of New Jersey do solemnly covenant and agree, each with the other, as follows:

"(a)(1) Notwithstanding any other provision of the compact hereby supplemented, or any provision of law, State or Federal to the contrary, as soon as the existing outstanding bonded indebtedness of the commission shall be refunded, defeased, retired, or otherwise satisfied and thereafter, the commission may fix, charge, and collect tolls, rates, rents, and other charges for the use of any commission facility or property and in addition to any purpose now or heretofore or hereafter authorized for which the revenues from such tolls, rates, rents, or other charges may be applied, the commission is authorized to apply or expend any such revenue for the management, operation, maintenance, betterment, reconstruction, or replacement (A) of the existing non-toll bridges, formerly toll or otherwise, over the Delaware River between the State of New Jersey and the Commonwealth of Pennsylvania heretofore acquired by the commission pursuant to the provisions of the act of the State of New Jersey approved April 1, 1912 (Chapter 297), and all supplements and amendments thereto, and the act of the Commonwealth of Pennsylvania approved May 8, 1919 (Pamphlet Laws 148), and all supplements and amendments thereto, and (B) of all other bridges within the commission's jurisdiction and control. Betterment shall include but not be limited to parking areas for public transportation services and all facilities appurtenant to approved projects.

"(2) The commission may borrow money or otherwise incur indebtedness and provide from time to time for the issuance of its bonds or other obligations for one or more of the purposes authorized in this supplemental agreement. The commission is authorized to pledge its tolls, rates, rents, and other revenues, or any part thereof, as security for the repayment, with interest, of any moneys borrowed by it or advanced to it for any of its authorized purposes, and as security for the satisfaction of any other obligation assumed by it in connection with such loan or advances.

"(3) The authority of the commission to fix, charge, and collect fees, rentals, tolls or any other charges on the bridges within its jurisdiction, including the bridge at the Delaware Water Gap, is confirmed.

"(4) The covenants of the State of New Jersey and the Commonwealth of Pennsylvania as set forth in Article VI of the compact to which this is a supplemental agreement shall be fully applicable to any bonds or other obligations issued or undertaken by the commission. Notwithstanding Article VI or any other provision of the compact, the State of New Jersey and the Commonwealth of Pennsylvania may construct a bridge across the Delaware River in the vicinity of Easton, Pennsylvania, and Phillipsburg, New Jersey, within ten miles of the existing toll bridge at that location. All the rest and remainder of the compact, as amended or supplemented, shall be in full force and effect except to the extent it is inconsistent with this supplemental agreement.

"(b) The commission is authorized to fix, charge, or collect fees, rentals, tolls, or any other charges on the proposed bridge to be constructed in the vicinity of Easton, Pennsylvania, and Phillipsburg, New Jersey, in the same manner and to the same extent that it can do so for other toll bridges under its jurisdiction and control: *Provided,* That the United States Government has approved the bridge to be a part of the National System of Interstate and Defense Highways with 90 per centum of the cost of construction to be contributed by the United States Government: *And provided further,* That the non-Federal share of such bridge project is contributed by the commission. The commission is further authorized in the same manner and to the same extent that it can do so for all the other toll bridges under its jurisdiction and control to fix, charge, and collect fees, rentals, tolls or any other charges on any other bridge within its jurisdiction and control if such bridge has been constructed in part with Federal funds.

"(c) The consent of Congress to this compact shall constitute Federal approval of the powers herein vested in the commission and shall also constitute authority to the United States Department of Transportation or any successor agency and the intent of Congress to grant and Federal approvals required hereunder to permit the commission to fix, charge, and collect fees, rentals, tolls, or any other charges on the bridges within its jurisdiction to the extent provided in subsections (a) and (b) and this subsection and the compact.

"(d) Notwithstanding the above provisions, the commission shall not fix, charge, or collect fees, rentals, tolls, or any other charges on any of the various bridges formerly toll or otherwise over the Delaware River between the State of New Jersey and the Commonwealth of Pennsylvania heretofore acquired by the commission pursuant to the provisions of the act of the State of New Jersey approved April 1, 1912 (chapter 297), and all supplements and amendments thereto, and the act of the Commonwealth of Pennsylvania approved May 8, 1919 (Pamphlet Laws 148), and all supplements and amendments thereto.

"(e) At any time that the commission shall be free of all outstanding indebtedness, the State of New Jersey and the Commonwealth of Pennsylvania may, by the enactment of substantially similar acts, require the elimination of all tolls, rates, rents, and other charges on all bridges within the commission's jurisdiction and control and, thereafter, all costs and charges in connection with the construction, management, operation, maintenance, and betterment of bridges within the jurisdiction and control of the commission shall be the financial responsibility of the States as provided by law.".

SEC. 152. PROHIBITION ON WIDENING CERTAIN ROUTES THROUGH HISTORIC DISTRICT.

Ohio.

None of the funds authorized by this Act or any other Act or any amendment made by this Act may be obligated for a project to widen any State route through the historic district of the village of

Hudson, Ohio, or for a project to construct an alternative or bypass route for such a route within 1 mile of such historic district, unless specifically approved by the village council of the village of Hudson, Ohio.

SEC. 153. URBAN HIGH DENSITY PROGRAM.

Indiana.

Of amounts available under the urban high density program, $2,806,675 is rescinded. $2,806,675 shall be made ~~available~~ out of the Highway Trust Fund by the Secretary for reconstruction of an interchange on an urban high density project designated in the State of Indiana in accordance with section 146 of title 23, United States Code (as such section was in effect on August 13, 1973).

SEC. 154. SIGNS IDENTIFYING FUNDING SOURCES.

23 USC 101 note.

If a State has a practice of erecting on projects under actual construction without Federal-aid highway assistance signs which indicate the source or sources of any funds used to carry out such projects, such State shall erect on all projects under actual construction with any funds made available out of the Highway Trust Fund (other than the Mass Transit Account) signs which are visible to highway users and which indicate each governmental source of funds being used to carry out such federally assisted projects and the amount of funds being made available by each such source.

SEC. 155. SALVAGE OPERATION.

Massachusetts.

Notwithstanding any other provision of law, the State of Massachusetts is required—

(1) to assist and coordinate the salvaging of the foundation and associated structures of the historic Great House in City Square, Charlestown, Massachusetts;

(2) to store the salvaged material during the depression and reconstruction of an interstate highway in Charlestown, Massachusetts; and

(3) to assist and coordinate the incorporation of the Great House's foundation and related structures into the reconstruction of City Square at Charlestown, Massachusetts.

SEC. 156. RELEASE OF CONDITION RELATING TO CONVEYANCE OF A CERTAIN HIGHWAY.

Maryland.

Notwithstanding paragraph (1) of subsection (b) of section 146 of the Federal-Aid Highway Act of 1970 (84 Stat. 1739) and any agreement entered into under such subsection, no conveyance of any road or portion thereof shall be required to be made under such paragraph or agreement to the State of Maryland and the State of Maryland shall not be required to accept conveyance of any such road or portion. Funds authorized by such section may be obligated and expended without regard to any requirement of such paragraph or agreement that such conveyance be made.

SEC. 157. MARYLAND INTERSTATE TRANSFER.

Section 7 of the Act entitled "An Act to apportion certain funds for construction of the National System of Interstate and Defense Highways for fiscal year 1985 and to increase the amount authorized to be expended for emergency relief under title 23, United States Code, and for other purposes", approved March 9, 1984 (98 Stat. 55-56), is amended—

(1) in the first sentence by inserting "not to exceed" before "$100,000,000";

(2) in the second sentence by striking out "$100,000,000" and inserting in lieu thereof "an amount equal to the amount of such funds"; and

(3) in the third sentence by striking out "$100,000,000" and inserting in lieu thereof "an amount equal to the amount of funds transferred under this section".

23 USC 127 note.

SEC. 158. MOTOR VEHICLE STUDY.

(a) Study.—The Secretary shall enter into appropriate arrangements with the Transportation Research Board of the National Academy of Sciences (hereinafter in this section referred to as the "Board") to conduct a study of those motor vehicle issues set forth in subsection (b) of this section. The Board shall consult with the Department of Transportation, the State highway administrations, the motor carrier industry, highway safety groups, and any other appropriate entities.

Reports.

(b) Items Included.—The study shall include an analysis of the impacts of the various positions that have been put forth with respect to each issue. The final report shall include best estimates of the effects on pavement, bridges, highway revenue and cost responsibility, and highway safety, and the changes in transportation costs and other measures of productivity for various segments of the trucking industry resulting from adoption of each of the positions identified and analyzed. Related issues of permitting, weight enforcement, and data availability and reliability shall be addressed as appropriate. The issues to be addressed shall include but not be limited to the following:

23 USC 101 note.

(1) Elimination of existing, grandfather provisions of section 127, title 23, United States Code, which allow higher axle loads and gross vehicle weights than the 20,000-pound single axle load limit, 34,000-pound tandem axle load limit, and 80,000-pound gross vehicle weight limit maximums authorized by the Federal-Aid Highway Amendments of 1974 (Public Law 93-643), including permits for divisible loads and statutory provisions providing higher weights by formula, tolerance or statutory specification.

(2) Analysis of alternative methods of determining a gross vehicle weight limit and axle loadings for all types of motor carrier vehicles.

(3) Analysis of the bridge formula contained in section 127 of such title 23 in view of current vehicle configurations, pavement and bridge stresses in accord with 1986 design and construction practices, and existing bridges on and off the Interstate System.

23 USC 101 note.

(4) Establishment of a nationwide policy regarding the provisions of "reasonable access" to the National Network for combination vehicles established pursuant to the Surface Transportation Assistance Act of 1982.

(5) Recommendation of appropriate treatment for specialized hauling vehicles which do not comply with the existing Federal bridge formula.

(c) Report.—The Board shall submit a final report to the Secretary and the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the results of the study conducted under this section, not later than 30 months after appropriate arrangements are entered into under subsection (a). Appropriate arrangements shall be concluded within 6 months after the date of the enactment of this Act.

(d) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $500,000 per fiscal year for each of fiscal years 1987 and 1988. Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, and shall remain available until expended.

23 USC 101 *et seq.*

SEC. 159. RAIL-HIGHWAY CROSSINGS STUDY.

23 USC 130 note.

(a) Study.—The Secretary shall conduct a study of national highway-railroad crossing improvement and maintenance needs. The Secretary shall consult with the State highway administrations, the Association of American Railroads, highway safety groups, and any other appropriate entities in carrying out this study.

(b) Items Included.—The issues to be addressed by the study described in subsection (a) shall include, but not be limited to, the following:

(1) An examination of any correlation which may exist between existing conditions at highway-railroad crossings and accident data at such crossings.

(2) An examination of existing hazards to motorists and railroad personnel and community impacts resulting from mobility and capacity constraints at such crossings including delays of police, fire, and emergency medical services.

(3) An analysis of the most cost effective methods of protecting the public at crossings including a review of the impact of Federal funds expended at crossings; division of cost of improvements and maintenance between Federal, State, local governments and railroads; cost effectiveness of the railroad relocation demonstration program conducted under section 163 of the Federal-Aid Highways Act of 1973 as compared to the railroad-highway crossings program conducted under section 130 of title 23, United States Code; and the cost of upgrading existing equipment at crossings to the latest technology.

23 USC 130 note.

(4) An examination of driver behavior at such crossings and what technologies are most effective in changing behavior and preventing accidents.

(5) An examination of what effect the shift in rail traffic patterns, including abandonments, mergers, and increased demand in certain corridors) has on railroad-highway crossing needs.

(6) A review of any other potential costs associated with such crossings, including accident liability, increased truck size and weight, and maintenance responsibilities.

(7) An examination of railroad and highway needs relating to crossing safety, capacity, and mobility and the needs of communities affected by railroad-highway crossings.

(8) An examination of the feasibility of addressing these needs on a corridor or system basis.

(9) An examination of the responsibility of rail and highway authorities in addressing these needs.

(c) Report.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall submit a final report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the results of the study conducted under this section along with recommendations of how crossing needs can be addressed in a cost effective manner.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $600,000 for 1987. Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, and shall remain available until expended. 23 USC 101 *et seq.*

23 USC 144 note.

SEC. 160. STUDY OF HIGHWAY BRIDGES WHICH CROSS RAIL LINES.

(a) NEEDS INVESTIGATION.—The Secretary shall conduct a comprehensive study and investigation of improvement and maintenance needs for highway bridges which cross rail lines and whose ownership has been disputed. Such study and investigation shall assess—

(1) railroad and highway needs relating to safety, capacity, and mobility and the needs of communities affected by such bridges;

(2) the feasibility of addressing these needs on a comprehensive, national basis; and

(3) the responsibility of railroad and highway authorities in addressing these needs.

(b) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the Secretary's study and investigation along with recommendations on how the bridge needs referred to in subsection (a) may best be addressed on a long term basis in a cost-effective manner.

23 USC 402 note.

SEC. 161. PARKING FOR HANDICAPPED PERSONS.

(a) STUDY.—The Secretary shall conduct a study for the purpose of determining—

(1) any problems encountered by handicapped persons in parking motor vehicles; and

(2) whether or not each State should establish parking privileges for handicapped persons and grant to nonresidents of the State the same parking privileges as are granted to residents.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under subsection (a).

(c) DEVELOPMENT OF PROPOSED UNIFORM STATE LAW.—

(1) REQUIREMENT.—If the Secretary determines under subsection (a) that each State should establish parking privileges for handicapped persons and grant to nonresidents of the State the same parking privileges as are granted to residents, the Secretary shall develop a proposed uniform State law with respect to parking privileges for handicapped persons and submit a copy of the proposed uniform State law to the Committee on Environment and Public Works of the Senate and the Commit-

tee on Public Works and Transportation of the House of Representatives and each State.

(2) FACTORS TO CONSIDER.—In developing the proposed uniform State law, the Secretary shall consult with the States and shall consider any advantages—

(A) of ensuring that parking privileges for handicapped persons may be utilized whether a handicapped person is a passenger or a driver;

(B) of the use of the international symbol of access as the exclusive symbol identifying parking zones for handicapped persons and identifying vehicles that may park in such parking zones;

(C) of displaying the international symbol of access on license plates or license plate decals and on identification placards; and

(D) of designing any identification placard so that the placard is easily visible when placed in the interior of any vehicle.

(3) REPORT.—If a proposed uniform State law with respect to parking privileges for handicapped persons is developed and submitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives under paragraph (1), within 12 months after the date of such submission and each year thereafter, the Secretary shall report to such committees on the extent to which each State has adopted the proposed uniform State law.

SEC. 162. BRIDGE MANAGEMENT STUDY.

(a) INVESTIGATION AND STUDY.—The Secretary shall make a full and complete investigation and study of State bridge management programs for the purpose of determining whether or not States participating in the Federal bridge replacement and rehabilitation program under section 144 of title 23, United States Code, need to establish a comprehensive bridge management program.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the investigation and study conducted under subsection (a) together with recommendations (including legislative and administrative recommendations) concerning State establishment of comprehensive bridge management programs and any minimum requirements of such programs which the Secretary considers appropriate based on the findings of such investigation and study.

SEC. 163. STATE MAINTENANCE PROGRAM STUDY.

23 USC 116 note.

(a) INVESTIGATION AND STUDY.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct a complete investigation of the appropriateness of establishing minimum Federal guidelines for maintenance of the Federal-aid primary, secondary, and urban systems.

(b) REPORT.—Not later than 18 months after entering into appropriate arrangements under subsection (a), the National Academy of Sciences shall submit to the Secretary and the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the investigation and study conducted under subsection (a) together with recommendations (including legislative and administrative recommendations) concerning establishment of minimum Federal guidelines for maintenance of the Federal-aid primary, secondary, and urban systems.

SEC. 164. FEASIBILITY STUDY OF USING HIGHWAY ELECTRIFICATION SYSTEMS.

(a) GRANT PURPOSE.—The Secretary shall make a grant to the California Department of Transportation for the purpose of determining the feasibility and applicability of utilizing a highway electrification system as a source of energy for highway vehicles. Such grant shall cover the costs of activities necessary to make such determination, including (but not limited to) necessary land acquisition, construction of a test facility, research, planning, analysis, and engineering.

(b) GRANT CONDITIONS.—A grant may only be made under this section if the California Department of Transportation agrees—

(1) to conduct, through the test facility to be constructed under such grant, a study to determine the feasibility and applicability of using a highway electrification system as a source of energy for highway vehicles; and

(2) to submit to the Secretary a report on the results of such study not later than three years after the date such construction is completed.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (a) of this section, out of the Highway Trust Fund (other than the Mass Transit Account), $970,000 per fiscal year for each of fiscal years 1987, 1988, and 1989.

(d) FUNDING AND APPLICABILITY OF TITLE 23.—Except as provided in subsection (e), funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, and such funds shall remain available until expended.

23 USC 101 *et seq.*

(e) FEDERAL SHARE.—The Federal share of the cost of conducting the study under this section shall not exceed 65 percent.

SEC. 165. COST EFFECTIVENESS STUDY OF HIGHWAY UPGRADING.

(a) STUDY.—The Secretary shall conduct a study—

(1) to determine the cost-effectiveness of carrying out a project to upgrade Route 219—

Pennsylvania. New York.

(A) between its intersection with Interstate Route I-80 near Dubois, Pennsylvania, and its intersection with the boundary between New York and Pennsylvania near Bradford, Pennsylvania; and

New York.

(B) between its intersection with New York Route 242 near Ellicottville, New York, and its intersection with New York Route 17 (Southern Tier Expressway) in Salamanca, New York;

to the geometric and construction standards adopted for the National System of Interstate and Defense Highways;

(2) to determine the feasibility of partially financing such project with toll revenues, of using reclaimed strip mining lands for right-of-way for such project, and of avoiding encroachment upon national and State forests and State game lands in carrying out such project; and

(3) to determine the alignment on which such project should be carried out.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the results of the study conducted under this section together with any recommendations the Secretary may have concerning the project described in subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $650,000 for fiscal year 1987.

(d) FUNDING AND APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of conducting the study under this section shall not exceed 65 percent and such funds shall remain available until expended.

23 USC 101 *et seq.*

SEC. 166. HIGHWAY FEASIBILITY STUDY.

Louisiana. Arkansas. Missouri.

(a) STUDY.—The Secretary, in cooperation with the States of Louisiana, Arkansas, and Missouri, shall study the feasibility and necessity of constructing to appropriate standards a proposed highway along a route from Shreveport, Louisiana, to Texarkana, Fort Smith, and Fayetteville, Arkansas, and Carthage and Kansas City, Missouri. Such study shall update the feasibility study conducted under section 143(6) of the Federal-Aid Highway Act of 1973.

87 Stat. 272.

(b) FEDERAL SHARE.—The Federal share of the cost of conducting the study under this section shall be 65 percent.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under this section.

SEC. 167. CALIFORNIA FEASIBILITY STUDY.

(a) STUDY.—The Secretary shall study the feasibility and necessity of constructing a bypass highway around the city of Sebastopol, California.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under this section. Such report shall compare the costs and benefits of constructing the highway referred to in subsection (a) and shall include the recommendations of the Secretary concerning the location of such highway and appropriate design standards for such highway.

(c) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this section $100,000 for fiscal yea 1987.

(d) FUNDING AND APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the

23 USC 101 *et seq.*

cost of conducting the study under this section shall not exceed 65 percent and such funds shall remain available until expended.

SEC. 168. NEW YORK FEASIBILITY STUDY.

(a) STUDY.—The Secretary shall study the feasibility and necessity of constructing a major highway on an inland route as an alternative to New York Route 5 from the central business district of Buffalo, New York, to the towns immediately south of Buffalo, New York.

(b) FEDERAL SHARE.—The Federal share of the cost of conducting the study under this section shall be 65 percent.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the results of the study conducted under this section together with any recommendations the Secretary may have concerning the project described in subsection (a).

SEC. 169. FLORIDA FEASIBILITY STUDY.

(a) STUDY.—The Secretary, in cooperation with the State of Florida, shall conduct a study of the feasibility and necessity of constructing, to appropriate standards, a tunnel of not less than 6 lanes (including approaches thereto) under the Intracoastal Waterway in the vicinity of, and north of, the Port Everglades Seaport in Fort Lauderdale, Florida, to replace a bridge on a State highway system and designated as part of the Federal-aid urban system.

(b) MATTERS INCLUDED.—The study conducted under this section shall include—

(1) an analysis of the need to reduce the congestion on the bridge referred to in subsection (a);

(2) an analysis of the extent to which the tunnel described in subsection (a) would reduce such congestion;

(3) an analysis of the extent to which such tunnel would improve navigation and the flow of vessels on the Intracoastal Waterway;

(4) an analysis of the extent to which such tunnel would improve safety and emergency services, including emergency evacuation programs;

(5) if appropriate, an analysis of alternative transportation facilities which would relieve the congestion on such bridge; and

(6) an analysis of feasible proposals for financing the construction of such tunnel and, if appropriate, each such alternative transportation facility, including cost estimates, recommendations as to the sharing of cost responsibilities, and other pertinent matters.

(c) FEDERAL SHARE.—The Federal share of the cost of conducting the study under this section shall be 65 percent.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under this section together with recommendations, including specific recommendations on the best method or methods of relieving the congestion on the bridge referred to in subsection (a).

(e) CONSULTATION.—In carrying out each phase of the study under this section, the Secretary shall consult with local officials, representatives of local civic organizations, representatives of the port, representatives of local businesses, and other interested parties.

SEC. 170. VIRGIN ISLANDS FEASIBILITY STUDY.

(a) REVIEW.—The Secretary, in cooperation with the Virgin Islands Department of Public Works, shall review existing studies relating to traffic congestion in and around Charlotte Amalie, Virgin Islands, for the purpose of determining feasible alternatives to construction of any highway which extends eastward from the vicinity of the Windward Passage Hotel on the western fringe of Charlotte Amalie and a segment of which parallels the existing Charlotte Amalie waterfront and requires extensive landfill along the waterfront. Such alternatives must reduce traffic congestion in and around Charlotte Amalie.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the results of the review under this subsection.

SEC. 171. STUDY OF FERRY BOAT SERVICE.

Nebraska.
South Dakota.

(a) STUDY.—The Secretary, in consultation with the highway departments of the States of Nebraska and South Dakota, shall conduct a study to determine the feasibility and cost of establishing public ferry boat service on the Missouri River which connects a Federal-aid highway in the vicinity of Niobrara, Nebraska, with a Federal-aid highway in the vicinity of Springfield, South Dakota, and which meets the requirements of section 129(g) of title 23, United States Code.

(b) FEDERAL SHARE.—The Federal share of the cost of conducting the study under this section shall be 65 percent.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the results of the study conducted under this section together with any recommendations the Secretary may have concerning the establishment of the ferry boat service described in subsection (a).

SEC. 172. REVIEW OF REPORTS ON UNITED STATES ROUTE 13 RELIEF ROUTE.

The Congress requests the Board of Engineers for Rivers and Harbors of the United States Army Corps of Engineers to review—

(1) the report of the State of Delaware and the Federal Highway Administration for the United States Route 13 Relief Route; Project No. F-1001(16), Contract No. 83-110-01;

(2) the report of the Chief of Engineers on the Inland Waterway from the Delaware River to Chesapeake Bay, Delaware and Maryland, printed as House Document Numbered 63-196; and

(3) other subsequent reports pertinent to the reports referred to in paragraphs (1) and (2);

for the purpose of determining how to best modify the existing canal project to provide a new structure for the selected alignment of the United States Route 13 Relief Route.

23 USC 307 note.

SEC. 173. USE OF ROCK SALT ON HIGHWAYS.

It is the sense of Congress—

(1) that, to enhance environmental protection, and mitigate potential damages to highways and vehicles, Congress encourages efforts to advance the research and development of alternative chemical de-icers to rock salt;

(2) that Congress encourages research on alternative chemical de-icers to rock salt under the strategic highway research program under section 307(d) of title 23, United States Code; and *Ante*, p. 167.

(3) that once alternative de-icers are commercially available, the full cost of all de-icing materials, including damages to highways, vehicles, and the environment, should be considered by State and local governments in determining their snow and ice control strategies.

SEC. 174. 55-MILES PER HOUR SPEED LIMIT.

(a) In General.—Subsection 154(a) of title 23, United States Code, is amended—

(1) by inserting "other than a highway on the Interstate System located outside of an urbanized area of 50,000 population or more, (2) a maximum speed limit on any highway within its jurisdiction on the Interstate System located outside of an urbanized area of 50,000 population or more in excess of 65 miles per hour" immediately after "hour"; and

(2) by renumbering "(2)" as "(3)" at the two places "(2)" appears.

(b) Conforming Amendment.—Subsection 154(f) of title 23, United States Code, is amended by inserting "on public highways with speed limits posted at 55 miles per hour" immediately after "hour".

Highway Safety Act of 1987.

TITLE II—HIGHWAY SAFETY ACT OF 1987

23 USC 401 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Highway Safety Act of 1987".

SEC. 202. HIGHWAY SAFETY.

(a) Authorizations of Appropriations.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) NHTSA highway safety programs.—For carrying out section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration $126,000,000 for fiscal years 1988, 1989, 1990, and 1991.

(2) NHTSA highway safety research and development.—For carrying out section 403 of such title by the National Highway Traffic Safety Administration $33,000,000 for fiscal years 1987, 1988, 1989, 1990, and 1991.

(b) Extension of NHTSA Highway Safety Programs for Fiscal Year 1987.—Section 203(a) of the Surface Transportation Assistance Act of 1982 is amended— 96 Stat. 2138.

(1) in paragraph (1) by striking out "and" and by inserting before the period at the end of such paragraph ", and $126,000,000 for the fiscal year ending September 30, 1987";

(2) in paragraph (2) by striking out "and" and by inserting "and September 30, 1987" after "1986,"; and

(3) in paragraph (4)(B) by striking out "and September 30, 1986," and inserting in lieu thereof "September 30, 1986, and September 30, 1987,".

(c) MINIMUM OBLIGATIONS OF NHTSA HIGHWAY SAFETY AUTHORIZATIONS.—

(1) ENFORCEMENT OF SPEED LIMIT.—Out of the funds authorized to be appropriated under subsection (a)(3) of this section for each of fiscal years 1988, 1989, 1990, and 1991, not less than $20,000,000 per fiscal year shall be obligated under section 402 of title 23, United States Code, for the purpose of enforcing the speed limit established by section 154 of such title.

Motor vehicles.

(2) SAFETY BELT PROGRAMS.—Each State shall expend in each fiscal year not less than 2 percent of the amount apportioned to it for such fiscal year of the sums authorized by subsection (a)(3) of this section, for programs to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

(d) OBLIGATION CEILING FOR HIGHWAY SAFETY PROGRAMS.—Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the National Highway Traffic Safety Administration under section 402 of title 23, United States Code, shall not exceed $121,000,000 for fiscal year 1987 and $126,000,000 per fiscal year for each of fiscal years 1988, 1989, 1990, and 1991.

SEC. 203. ALCOHOL TRAFFIC SAFETY PROGRAMS.

(a) PERIOD OF ELIGIBILITY.—Section 408(c) of title 23, United States Code, is amended—

(1) in the first sentence by striking out "three" and inserting in lieu thereof "5"; and

(2) in the second sentence by striking out "third fiscal year" and inserting in lieu thereof "third, fourth, and fifth fiscal years".

(b) AVAILABILITY OF FUNDS.—Section 408(g) of title 23, United States Code, is amended by inserting before the period at the end of the second sentence the following: "and except that sums authorized by this subsection shall remain available until expended".

(c) DEMONSTRATION OF CERTAIN DRUG AND ALCOHOL TESTING TECHNOLOGY.—

(1) IN GENERAL.—The Secretary is authorized—

(A) to test a new drug and alcohol testing technology which measures corneal retinal potential as exhibited in the brain function wave form; and

Motor vehicles.

(B) to test the application of ignition interlock devices that prohibit the operation of motor vehicles by intoxicated individuals;

to determine the potential for applying such technology and devices in preventing drug and alcohol related traffic deaths.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall report to Congress on the effectiveness and the potential for application of the technology and devices described in paragraph (1).

23 USC 402 note.

SEC. 204. SCHOOLBUS SAFETY MEASURES.

(a) STUDY.—

(1) NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of the principal causes of fatalities and injuries to schoolchildren riding in schoolbuses and of the use of seatbelts in schoolbuses and other measures that may improve the safety of schoolbus transportation. The purpose of the study and investigation is to determine those safety measures that are the most effective in protecting the safety of schoolchildren while boarding, leaving, and riding in schoolbuses.

(2) REPORT.—In entering into any arrangements with the National Academy of Sciences for conducting the study and investigation under this subsection, the Secretary shall request the National Academy of Sciences to submit, not later than 18 months after the date on which such arrangements are completed, to Congress and the Secretary a report on the results of such study and investigation. The report shall contain a list of those safety measures determined by the Academy to be most effective in protecting the safety of schoolchildren while boarding, leaving, and riding in schoolbuses.

Federal Register, publication.

(3) REVIEW OF REPORT.—Upon receipt of the report under paragraph (2), the Secretary shall review such report for the purpose of determining those safety measures that are the most effective in protecting the safety of schoolchildren while boarding, leaving, and riding in schoolbuses. Not later than 2 months after the date of receipt of such report, the Secretary shall publish in the Federal Register a list of those safety measures which the Secretary determines are the most effective in protecting the safety of such children.

(4) INFORMATION.—Upon request of the National Academy of Sciences, the Secretary shall furnish to the Academy any information which the Academy deems necessary for the purpose of conducting the study and investigation under this subsection.

(b) SCHOOLBUS SAFETY GRANT PROGRAM.—

(1) SET-ASIDE.—Before apportioning any funds made available to carry out section 402 of title 23, United States Code, for each of fiscal years 1989, 1990, and 1991, the Secretary may set aside an amount not to exceed $5,000,000 for making grants to States to implement those schoolbus safety measures published by the Secretary under subsection (a).

(2) APPLICATION.—Any State interested in receiving under this subsection a grant to implement schoolbus safety measures in fiscal year 1989, 1990, or 1991 shall submit to the Secretary an application for such grant. Applications under this subsection shall be submitted at such time and in such form and contain such information as the Secretary may require by regulation.

(3) LIMITATION.—No State shall receive more than 30 percent of the funds set aside pursuant to this subsection for any fiscal year in grants under this subsection.

49 USC app. 2314.

SEC. 205. SPLASH AND SPRAY SUPPRESSANT DEVICES.

Section 414(b) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2314(b)) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) within 1 year after the date of the enactment of the Highway Safety Act of 1987, establish final minimum standards with respect to the performance and installation of splash and spray suppression devices for use on truck tractors, semitrailers, and trailers unless the Secretary has determined that there is no available technology which—

"(A) can significantly reduce splash and spray from truck tractors, semitrailers, and trailers, and

"(B) can significantly improve visibility of drivers,

as demonstrated during testing on highways, at test facilities, and in laboratories to take into account possible wind and rain conditions;".

SEC. 206. HIGHWAY SAFETY PROGRAM AMENDMENTS.

(a) GUIDELINES.—Section 402 of title 23, United States Code, is amended by striking out "standard" and "standards" each place they appear and inserting in lieu thereof "guideline" and "guidelines", respectively.

(b) WAIVERS FOR EXPERIMENTAL PROGRAMS.—Subsection (a) of such section is amended by striking out the last sentence.

(c) ELIMINATION OF CERTAIN CONDITION.—Subsection (b)(1) of such section is amended by striking out subparagraph (D), relating to comprehensive driver training programs, and by redesignating subparagraphs (E) and (F) (and any references thereto) as subparagraphs (D) and (E), respectively.

(d) RULEMAKING PROCESS.—Subsection (j) of such section is amended to read as follows:

"(j) RULEMAKING PROCESS.—The Secretary shall, not later than September 1, 1987, begin a rulemaking process to determine those programs most effective in reducing accidents, injuries, and deaths. Not later than April 1, 1988, the Secretary shall promulgate a final rule establishing those programs determined to be most effective in reducing accidents, injuries, and deaths. If such rule is promulgated by April 1, 1988, then it shall take effect October 1, 1988. If such rule is not promulgated by April 1, 1988, it shall take effect October 1, 1989. After a rule is promulgated in accordance with this subsection, the Secretary may from time to time thereafter revise such rule under a rulemaking process described in the first sentence of this subsection. Any rule under this subsection shall be promulgated taking into account consideration of the States having a major role in establishing programs described in the first sentence of this subsection. When a rule promulgated in accordance with this subsection takes effect, only those programs established by such rule as most effective in reducing accidents, injuries, and deaths shall be eligible to receive Federal financial assistance under this section.".

Effective date.
Effective date.

SEC. 207. HIGHWAY SAFETY EDUCATION AND INFORMATION.

(a) NATIONAL HIGHWAY SAFETY CAMPAIGN.—Subsection (d) of section 209 of the Highway Safety Act of 1978 is amended to read as follows:

23 USC 401 note.

"(d) NATIONAL HIGHWAY SAFETY CAMPAIGN.—Utilizing those techniques, methods, and practices determined most effective under subsection (b), the Secretary of Transportation shall conduct a national highway safety campaign utilizing the local and national television and radio to educate and inform the public of techniques, methods, and practices to reduce the number and severity of highway accidents. Not later than the 180th day after the date of submission of the first report to Congress required by subsection (b) of this section, the Secretary shall commence the conduct of such campaign.".

(b) LIMITATION ON OBLIGATIONS.—Subsection (h) of such section is amended by adding at the end thereof the following: "None of the amounts authorized by this subsection shall be available for obligation for any education or information program conducted in connection with the implementation of Federal Motor Vehicle Safety Standard 208 (49 C.F.R. 571.208).".

(c) OBLIGATION CEILING.—Subsection (i) of such section is amended by inserting before the period at the end the following: "and except that the funds authorized to be appropriated to carry out this section shall not be subject to any obligation limitation".

23 USC 401 note.

SEC. 208. OLDER DRIVER STUDY.

(a) CONTRACT.—Not later than 30 months after the date of the enactment of this Act, the Secretary shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of (1) problems which may inhibit the safety and mobility of older drivers using the Nation's roads, and (2) means of addressing these problems.

(b) REPORT.—In entering into any arrangement with the National Academy of Sciences for conducting such study and investigation, the Secretary shall request the National Academy of Sciences to report to the Secretary and Congress not later than 24 months after the date of the enactment of this Act on the results of such study and investigation, together with its recommendations.

(c) AVAILABILITY OF INFORMATION.—The Secretary shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by this section.

(d) PILOT PROGRAM.—

(1) DEVELOPMENT OF PROGRAM.—The Secretary shall develop, in conjunction with the study carried out under this section, a pilot program of highway safety improvements to enhance the safety and mobility of older drivers. The program shall be designed to apply known technology at sites in rural and urban areas and on different types of highways and to determine the daytime and nighttime effectiveness of such technology.

(2) STATES ENCOURAGED TO CARRY OUT PROGRAM.—The Secretary shall encourage the States to carry out the pilot program developed under paragraph (1) with funds available for highway safety improvement projects. In particular, the Secretary shall encourage States with a high percentage of older drivers to give high priority to carrying out the pilot program.

(3) EVALUATION AND REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall evaluate the pilot program under this subsection and shall report to Congress on the effectiveness of such program in improving the safety and mobility of older drivers.

49 USC app. 2204 note.

SEC. 209. RESCISSION OF CONTRACT AUTHORITY.

49 USC app. 2204.

$148,000,000 of unobligated contract authority available for airport development and planning pursuant to section 505(a) of the Airport and Airway Improvement Act of 1982 is rescinded. This rescission does not reduce the balance in the Airport and Airway Trust Fund.

TITLE III—FEDERAL MASS TRANSPORTATION ACT OF 1987

Federal Mass Transportation Act of 1987.

SEC. 301. SHORT TITLE.

49 USC 1601 note.

This title may be cited as the "Federal Mass Transportation Act of 1987".

SEC. 302. LETTERS OF INTENT.

Section 3(a)(4) of the Urban Mass Transportation Act of 1964 is amended by striking out "provided in an appropriation Act" and by striking out "specified in an appropriations Act." and inserting in lieu thereof "specified in law.".

49 USC app. 1602.

SEC. 303. CRITERIA FOR NEW STARTS.

(a) General Rule.—Section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

49 USC app. 1602.

"(i) Criteria For New Starts.—No grant or loan for construction of a new fixed guideway system or extension of any fixed guideway system may be made under this section unless the Secretary determines that the proposed project—

Grants. Loans.

"(1) is based on the results of an alternatives analysis and preliminary engineering;

"(2) is cost-effective; and

"(3) is supported by an acceptable degree of local financial commitment, including evidence of stable and dependable funding sources to construct, maintain, and operate the system or extension.

In making grants and loans under this section, the Secretary may also consider such other factors as the Secretary deems appropriate. The Secretary shall issue guidelines that set forth the means by which the Secretary will evaluate cost-effectiveness, results of alternatives analysis, and degree of local financial commitment.".

(b) Limitation on Applicability.—The amendment made by subsection (a) of this section shall not apply to any project—

49 USC app. 1602 note.

(1) for which a letter of intent or full funding contract has been issued under section 3(a)(4) of the Urban Mass Transportation Act of 1964 before the date of enactment of this Act; or

Contracts.

(2) which was in the preliminary engineering, final design, or construction stage as of January 1, 1987.

SEC. 304. REPORT ON FUNDING LEVELS AND ALLOCATIONS OF FUNDS.

Section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

49 USC app. 1602.

"(j) Report on Funding Levels and Allocations of Funds.—Not later than 30 days after the date of enactment of this subsection and each January 20 thereafter, the Secretary shall prepare and transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate—

"(1) a proposal of the total amount of funds which should be made available in accordance with subsection (k)(1)(D) of this section to finance for the fiscal year beginning on October 1 of such year grants and loans for each of the following:

Grants. Loans.

"(A) the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities,

"(B) rail modernization, and

"(C) construction of new fixed guideway systems and extensions to fixed guideway systems; and

Grants. Loans.

"(2) a proposal of the allocation of the funds to be made available to finance grants and loans for the construction of new fixed guideway systems and extensions to fixed guideway systems among applicants for such assistance.".

SEC. 305. ALLOCATION OF SECTION 3 FUNDS.

Ante, p. 223.

Section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following:

"(k) ALLOCATIONS.—

Grants. Loans.

"(1) IN GENERAL.—Of the amounts available for grants and loans under this section for fiscal years 1987, 1988, 1989, 1990, and 1991—

"(A) 40 percent shall be available for rail modernization;

"(B) 40 percent shall be available for construction of new fixed guideway systems and extensions to fixed guideway systems;

"(C) 10 percent shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities; and

"(D) 10 percent shall be available for the purposes described in subparagraphs (A) through (C), as determined by the Secretary.

"(2) ELIGIBILITY.—(A) The receipt of, or application for, assistance for a project described in subparagraph (A), (B), or (C) of paragraph (1) shall not preclude eligibility for assistance for a project described in any other such subparagraph.

"(B) Prior to the expiration of the 2-year period beginning on the date of enactment of this subsection, the Secretary may not change program administration regarding eligibility for assistance for rail modernization.".

SEC. 306. ADVANCE CONSTRUCTION.

Supra.

(a) DISCRETIONARY GRANT PROGRAM.—Section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(l) ADVANCE CONSTRUCTION.—

"(1) APPROVED PROJECT.—Upon application of a State or local public body which carries out a project described in this section or a substitute transit project described in section 103(e)(4) of title 23, United States Code, or portion of such a project without the aid of Federal funds in accordance with all procedures and requirements applicable to such a project and upon the Secretary's approval of such application, the Secretary may pay to such applicant the Federal share of the net project costs if, prior to carrying out such project or portion, the Secretary approves the plans and specifications therefor in the same manner as other projects under this section or such section 103(e)(4), as the case may be.

"(2) BOND INTEREST.—

"(A) ELIGIBLE COST.—Subject to the provisions of this paragraph, the cost of carrying out a project or portion thereof, the Federal share of which the Secretary is authorized to pay under this subsection, shall include the amount of any interest earned and payable on bonds issued by the State or local public body to the extent that the proceeds of such bonds have actually been expended in carrying out such project or portion.

"(B) LIMITATION ON AMOUNT.—In no event shall the amount of interest considered as a cost of carrying out a project or portion thereof under subparagraph (A) be greater than the excess of—

"(i) the amount which would be the estimated cost of carrying out the project or portion if the project or portion were to be carried out at the time the project or portion is converted to a regularly funded project, over

"(ii) the actual cost of carrying out such project or portion (not including such interest).

"(C) CHANGES IN CONSTRUCTION COST INDICES.—The Secretary shall consider changes in construction cost indices in determining the amount under subparagraph (B)(i).".

(b) BLOCK GRANT PROGRAM.—Section 9 of such Act is amended by adding at the end thereof the following new subsection: 49 USC app. 1607a.

"(p) ADVANCE CONSTRUCTION.—

"(1) APPROVED PROJECT.—When a recipient has obligated all funds apportioned to it under this section and proceeds to carry out any project described in this section (other than a project for operating expenses) or portion of such a project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit a State to carrying out projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such recipient and his approval of such application, is authorized to pay to such recipient the Federal share of the costs of carrying out such project or portion when additional funds are apportioned to such recipient under this section if, prior to carrying out such project or portion, the Secretary approves the plans and specifications therefor in the same manner as other projects under this section.

"(2) LIMITATION ON PROJECTS.—The Secretary may not approve an application under this subsection unless an authorization for this section is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such recipient. No application may be approved under this subsection which will exceed—

"(A) the recipient's expected apportionment under this section if the total amount of funds authorized to be appropriated to carry out this section for such fiscal year were so appropriated, less

"(B) the maximum amount of such apportionment which could be made available for projects for operating expenses under this section.

"(3) BOND INTEREST.—

"(A) ELIGIBLE COST.—Subject to the provisions of this paragraph, the cost of carrying out a project or portion thereof, the Federal share of which the Secretary is authorized to pay under this subsection, shall include the amount of any interest earned and payable on bonds issued by the recipient to the extent that the proceeds of such bonds have actually been expended in carrying out such project or portion.

"(B) LIMITATION ON AMOUNT.—In no event shall the amount of interest considered as a cost of carrying out a project or portion under subparagraph (A) be greater than the excess of—

"(i) the amount which would be the estimated cost of carrying out the project or portion if the project or portion were to be carried out at the time the project or portion is converted to a regularly funded project, over

"(ii) the actual cost of carrying out such project or portion (not including such interest).

"(C) CHANGES IN CONSTRUCTION COST INDICES.—The Secretary shall consider changes in construction cost indices in determining the amount under subparagraph (B)(i).".

SEC. 307. SECTION 4(h)(1) REPORTS.

49 USC app. 1603.

Section 4(h)(1) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(h) QUARTERLY REPORTS.—(1) Not later than 30 days after the last day of each calendar quarter, the Secretary shall transmit to the Committee on Public Works and Transportation and the Committee on Appropriations of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate a report on—

"(A) obligations, commitments, and reservations by State, designated recipient, and applicant, made under authority of this Act during that quarter;

"(B) the balance as of the last day of that quarter of the unobligated, uncommitted, and unreserved apportionments made under this Act;

"(C) the balance of unobligated, uncommitted, and unreserved sums available for expenditure at the discretion of the Secretary under this Act as of the close of that quarter;

"(D) a listing of letters of intent issued during that quarter;

"(E) a status report on all letters of intent outstanding as of the close of that quarter; and

"(F) a status report on the execution of grant contracts and the establishment of a letter of credit or other reimbursement authority for sums already obligated for each State, designated recipient, and applicant.".

SEC. 308. LEASED PROPERTY.

Grants.
49 USC app. 1607a.

Section 9(j) of the Urban Mass Transportation Act of 1964 is amended by inserting after the first sentence the following: "Grants for construction projects under this section shall also be available to finance the leasing of facilities and equipment for use in mass transportation service, subject to regulations limiting such grants to leasing arrangements which are more cost effective than acquisition or construction. The Secretary shall publish regulations under the preceding sentence in proposed form in the Federal Register for public comment not later than 60 days after the date of enactment of this sentence, and shall promulgate such regulations in final form not later than 240 days after such date of enactment.".

Regulations.
Federal Register, publication.

SEC. 309. BUS REMANUFACTURING AND OVERHAULING OF ROLLING STOCK.

(a) Inclusion in Definition of Construction.—Section 12(c)(1) of the Urban Mass Transportation Act of 1964 is amended by inserting "(A)" after "such term also means" and by inserting before the semicolon at the end thereof the following: ", (B) any bus remanufacturing project which extends the economic life of the bus 8 years or more, and (C) any project for the overhaul of rail rolling stock (whether or not such overhaul increases the useful life of the rolling stock)".

49 USC app. 1608.

(b) Expansion of Associated Capital Maintenance Items.—Section 9(j) of the Urban Mass Transportation Act of 1964 is amended—

Ante, p. 226.

(1) in the last sentence, by striking out "and materials" and inserting in lieu thereof ", tires, tubes, and materials";

(2) in the last sentence, by striking out "1 per centum" and inserting in lieu thereof "½ of 1 percent";

(3) by inserting "(1)" before "Grants"; and

(4) by adding at the end thereof the following:

"(2) A project for the reconstruction (whether by employees of the grant recipient or by contract) of any equipment and materials each of which, after reconstruction, will have a fair market value no less than ½ of 1 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and materials are to be used shall be considered a project for construction of an associated capital maintenance item under this section.".

Grants.
Contracts.

(c) Federal Share.—The first sentence of section 9(k)(1) of such Act is amended by striking out "shall not exceed" the first place it appears and inserting in lieu thereof "shall be".

(d) Local Match.—The first sentence of section 9(k)(1) of such Act is further amended by striking out "such project" and inserting in lieu thereof "such project; however, a recipient is permitted to provide additional local match at its option".

(e) Maintenance Requirement.—Section 3(a)(2)(A) of such Act is amended to read as follows:

"(2)(A) No grant or loan shall be provided under this section unless the Secretary determines that the applicant—

"(i) has or will have the legal, financial, and technical capacity to carry out the proposed project;

"(ii) has or will have satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and the equipment; and

"(iii) has or will have sufficient capability to maintain the facilities and equipment, and will maintain, such facilities and equipment.".

49 USC app. 1602.
Grants.
Loans.

(f) Conforming Amendment.—The first sentence of section 9(k)(1) of such Act is further amended by striking out "(including capital maintenance items)" and inserting in lieu thereof "(including any project for the acquisition or construction of an associated capital maintenance item)".

SEC. 310. LONG-TERM FINANCIAL PLANNING.

Section 8(a) of the Urban Mass Transportation Act of 1964 is amended by inserting before the period at the end of the third sentence the following: "and development of long-term financial plans for regional urban mass transit improvements and the reve-

49 USC app. 1607.

nue available from current and potential sources to implement such improvements".

SEC. 311. USE OF LAPSED SECTION 9A AND SECTION 9 FUNDS.

49 USC 1607a. Section 9(o) of the Urban Mass Transportation Act of 1964 is amended by striking out the period at the end of the second sentence and inserting "not later than 30 days after the end of such period.".

SEC. 312. BLOCK GRANT PROGRAM AMENDMENTS.

(a) FUNDING OF PARTIAL PROGRAMS OF PROJECTS.—Section 9(e)(2) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new sentence: "A grant may be made under this section to carry out, in whole or in part, a program of projects.".

(b) TRANSIT ADVERTISING REVENUES.—

(1) EXCLUSION FROM OPERATING REVENUES.—Section 9(k)(1) of such Act is amended by inserting after the third sentence the following new sentence: "For purposes of the preceding sentence, 'revenues from the operation of a public mass transportation system' shall not include the amount of any revenues derived by such system from the sale of advertising and concessions which is in excess of the amount of such revenues derived by such system from the sale of advertising and concessions in fiscal year 1985.".

(2) ANNUAL REPORT.—Section 9(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) Each recipient (including any person receiving funds from a Governor under this section) shall submit to the Secretary annually a report on the revenues such recipient derives from the sale of advertising and concessions.".

(c) OPERATING ASSISTANCE LIMITATION FOR SMALL URBANIZED AREAS.—Section 9(k)(2) of such Act is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking out the last sentence and inserting in lieu thereof the following: "Notwithstanding the preceding sentence, an urbanized area that first became an urbanized area under the 1980 census or thereafter may use each fiscal year for operating assistance not to exceed an amount equal to ⅔ of its apportionment during the first full year it received funds under this section."; and

(3) by adding at the end thereof the following:

"(B) Beginning on October 1, 1988, the amount of funds apportioned under this section that may be used for operating assistance by urbanized areas of less than 200,000 population shall be increased on October 1 of each year by an amount determined by multiplying the amount applicable to each such urbanized area as determined under subparagraph (A) (excluding any increases under this subparagraph) by the percentage of the increase (if any) in the Consumer Price Index during the most recent calendar year. The amount of funds apportioned under this section that each urbanized area of less than 200,000 population that was a recipient of funds under this section during fiscal year 1987 may use for operating assistance shall be increased by 32.2 percent on October 1, 1987. The increases provided for by this subparagraph shall be cumulative.

"(C) As used in subparagraph (B), the term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.".

(d) Transfers of Apportionments.—Section 9(n)(1) of such Act is amended—

49 USC app. 1607a.

(1) by striking out "with populations of three hundred thousand or less" in the first sentence; and

(2) by inserting after the third sentence the following: "Any amounts of a State's apportionment that remain available for obligation at the beginning of the 90-day period before the expiration of the period of availability of such amounts shall be available to the Governor for use throughout the State.".

(e) Date of Apportionment.—Section 9 of such Act is further amended by adding at the end thereof the following new subsection:

Ante, p. 225.

"(q) Date of Apportionment.—The Secretary shall apportion funds appropriated to carry out this section for any fiscal year in accordance with the provisions of this section not later than the 10th day following the date on which such funds are appropriated or October 1 of such fiscal year, whichever is later. The Secretary shall publish apportionments of such appropriated funds, including amounts attributable to each urbanized area above 50,000 population as well as the amount attributable to each State of the multistate urbanized area, on the apportionment date established by the preceding sentence.".

(f) Technical Amendments.—(1) Section 9(e) of such Act is amended by adding at the end thereof the following new paragraph:

Ante, p. 228.
Grants.

"(5) No grant shall be made under this section to any recipient in any fiscal year unless the Secretary has accepted a certification for such fiscal year submitted by such person pursuant to this subsection.".

(2) Section 9(g) of such Act is amended by striking out paragraph (4).

(3) Section 9(l) of such Act is repealed.

SEC. 313. SECTION 9B PROGRAM.

The Urban Mass Transportation Act of 1964 is amended by inserting after section 9A the following:

49 USC app. 1607a-1.

"MASS TRANSIT ACCOUNT BLOCK GRANTS

"Sec. 9B. (a) Apportionment and Administration.—The amount made available by subsections (b) and (c) of section 21 of this Act to carry out this section shall be made available in accordance with the provisions of subsections (a) through (j), (m), and (n) of section 9 of this Act.

49 USC app. 1607a-2.
49 USC app. 1617.
Ante, p. 226.

"(b) Availability for Construction Projects.—Grants under this section shall be available only for the purpose of construction projects (including capital maintenance items) and shall be subject to the limitations contained in section 9(k) of this Act applicable to such projects.

"(c) Use of Unobligated Amounts.—Sums apportioned under this section shall be available for obligation by the recipient for a period of 3 years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this section for the succeeding fiscal year not later than 30 days after the end of such period.".

SEC. 314. UNIVERSITY TRANSPORTATION CENTERS.

49 USC app. 1607c.

(a) GRANT PROGRAM; NATIONAL ADVISORY COUNCIL.—Section 11(b) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(b) UNIVERSITY TRANSPORTATION CENTERS.—

"(1) GRANTS FOR ESTABLISHMENT AND OPERATION.—In addition to grants authorized by subsection (a) of this section, the Secretary shall make grants to one or more nonprofit institutions of higher learning to establish and operate one regional transportation center in each of the ten Federal regions which comprise the Standard Federal Regional Boundary System.

"(2) RESPONSIBILITIES.—The responsibilities of each transportation center established under this subsection shall include, but not be limited to, the conduct of infrastructure research concerning transportation and research and training concerning transportation of passengers and property and the interpretation, publication, and dissemination of the results of such research. The responsibilities of one of such centers may include research on the testing of new model buses. The program of research at all research centers should cover more than one mode of transportation, and should take into consideration the proportion of funding for this subsection from funding available to carry out urban mass transportation projects under this Act and from the Highway Trust Fund.

"(3) APPLICATION.—Any nonprofit institution of higher learning interested in receiving a grant under this subsection shall submit to the Secretary an application in such form and containing such information as the Secretary may require by regulation.

"(4) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this subsection on the basis of the following criteria:

"(A) The regional transportation center shall be located in a State which is representative of the needs of the Federal region for improved transportation services and facilities.

"(B) The demonstrated research and extension resources available to the grant recipient for carrying out this subsection.

"(C) The capability of the grant recipient to provide leadership in making national and regional contributions to the solution of both long-range and immediate transportation problems.

"(D) The grant recipient shall have an established transportation program or programs encompassing several modes of transportation.

"(E) The grant recipient shall have a demonstrated commitment to supporting ongoing transportation research programs with regularly budgeted institutional funds of at least $200,000 per year.

"(F) The grant recipient shall have a demonstrated ability to disseminate results of transportation research and educational programs through a statewide or regionwide continuing education program.

"(G) The projects which the grant recipient proposes to carry out under the grant.

"(5) Maintenance of effort.—No grant may be made under this section in any fiscal year unless the recipient of such grant enters into such agreements with the Secretary as the Secretary may require to ensure that such recipient will maintain its aggregate expenditures from all other sources for establishing and operating a regional transportation center and related research activities at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this subsection.

"(6) Federal share.—The Federal share of a grant under this subsection shall be 50 percent of the costs of establishing and operating the regional transportation center and related research activities carried out by the grant recipient.

"(7) National advisory council.—

"(A) Establishment; functions.—The Secretary shall establish in the Department of Transportation a national advisory council to coordinate the research and training to be carried out by the grant recipients, to disseminate the results of such research, to act as a clearinghouse between such centers and the transportation industry, and to review and evaluate programs carried out by such centers.

"(B) Members.—The council shall be composed of the directors of the regional transportation centers and 19 other members appointed by the Secretary as follows:

"(i) Six officers of the Department of Transportation one of whom represents the Office of the Secretary, one of whom represents the Federal Highway Administration, one of whom represents the Urban Mass Transportation Administration, one of whom represents the National Highway Traffic Safety Administration, one of whom represents the Research and Special Programs Administration, and one of whom represents the Federal Railroad Administration.

"(ii) Five representatives of State and local governments.

"(iii) Eight representatives of the transportation industry, including private providers of public transportation services, and organizations of employees in such industry.

A vacancy in the membership of the council shall be filled in the manner in which the original appointment was made.

"(C) Term of office; pay; chairman.—Each of the members appointed by the Secretary shall serve without pay. The chairman of the council shall be designated by the Secretary.

"(D) Meetings.—The council shall meet at least annually and at such other times as the chairman may designate.

"(E) Agency information.—Subject to subchapter II of chapter 5 of title 5, United States Code, the council may secure directly from any department or agency of the United States information necessary to enable it to carry out this subsection. Upon request of the chairman of the council, the head of such department or agency shall furnish such information to the council.

5 USC 551 *et seq.*

5 USC app.

"(F) TERMINATION DATE INAPPLICABLE.—Section 14 of the Federal Advisory Committee Act shall not apply to the council.

"(8) ADMINISTRATION THROUGH OFFICE OF SECRETARY.—Administrative responsibility for carrying out this subsection shall be in the Office of the Secretary.

"(9) ALLOCATION OF FUNDS.—The Secretary shall allocate funds made available to carry out this subsection equitably among the Federal regions.

"(10) TECHNOLOGY TRANSFER SET-ASIDE.—Not less than 5 percent of the funds made available to carry out this subsection for any fiscal year shall be available to carry out technology transfer activities.".

49 USC app. 1607c.

(b) CONFORMING AMENDMENT.—Section 11(a) of such Act is amended by inserting "GRANT PROGRAM.—" before "The Secretary".

SEC. 315. SOLE SOURCE PROCUREMENTS.

49 USC app. 1608.

(a) GENERAL RULE.—Section 12(b) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new paragraph:

49 USC app. 1607a. *Ante*, p. 227.

"(3) SOLE SOURCE PROCUREMENT CONTRACTS.—Any recipient of a grant under section 9 of this Act who is procuring an associated capital maintenance item under section 9(j) of this Act may, without receiving prior approval of the Secretary, contract directly with the original manufacturer or supplier of the item to be replaced if such recipient first certifies in writing to the Secretary—

"(A) that such manufacturer or supplier is the only source for such item; and

"(B) that the price of such item is no higher than the price paid for such item by like customers.".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by inserting "CONTRACT REQUIREMENTS.—" before "(1) All contracts";

(2) by inserting "NONCOMPETITIVE BID CONTRACTS.—" before "All contracts";

(3) by inserting "ROLLING STOCK ACQUISITION CONTRACTS.—" before "In lieu of"; and

(4) by indenting paragraph (1) and aligning paragraphs (1) and (2) with paragraph (3), as added by subsection (a) of this section.

SEC. 316. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Supra. Grants. Loans.

Section 12(b) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new paragraph:

"(4) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—Each contract for program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping or related services with respect to a project for which a loan or grant is made under this Act shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under title IX of the Federal Property and Administrative Services Act of 1949 or equivalent State qualifications-based requirement. This paragraph shall apply except to the extent any State adopts or has adopted by statute a formal procedure for the procurement of such services.".

40 USC 471 note.

SEC. 317. BUS TESTING.

(a) REQUIREMENT.—Section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

49 USC app. 1608.

"(h) BUS TESTING.—

"(1) REQUIREMENT.—No funds appropriated or made available pursuant to this Act after September 30, 1989, may be obligated or expended for the acquisition of a new bus model unless a bus of such model has been tested at a facility established under section 317(b) of the Federal Mass Transportation Act of 1987.

"(2) NEW BUS MODEL DEFINED.—As used in this subsection, the term 'new bus model' means a bus model which has not been used in mass transportation service in the United States before the date of production of such model or a bus model which has been used in such service but which is being produced with a major change in configuration or components.".

(b) BUS TESTING FACILITY.—

49 USC app. 1608 note.

(1) ESTABLISHMENT.—The Secretary shall establish a facility for testing new bus models for maintainability, reliability, safety, performance, structural integrity, fuel economy, and noise. Such facility shall be established by renovation of a facility constructed with Federal assistance for the purpose of training rail personnel.

Contracts.

(2) OPERATION.—The Secretary shall enter into a contract with a qualified person to operate and maintain the facility established under paragraph (1) for testing new bus models for maintainability, reliability, safety, performance, structural integrity, fuel economy, and noise. Such contract may provide for the testing of rail cars and other vehicles at such facility.

(3) COLLECTION OF FEES.—Under the contract entered into under paragraph (2), the person operating and maintaining the facility shall establish and collect fees for the testing of vehicles at the facility. Such fees shall be subject to the approval of the Secretary.

(4) NEW BUS MODEL DEFINED.—For purposes of this subsection, the term "new bus model" has the meaning such term has under section 12(h)(2) of the Urban Mass Transportation Act of 1964.

Supra.

(5) FUNDING.—There shall be available to the Secretary out of the Mass Transit Account of the Highway Trust Fund for establishment of the facility under paragraph (1) $200,000 for fiscal year 1987 and $3,000,000 for fiscal year 1988. Funds made available by this paragraph shall remain available until expended and shall not be subject to any obligation limitation.

SEC. 318. RULEMAKING.

(a) IN GENERAL.—Section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following:

Supra.

"(i) RULEMAKING PROCEDURES.—

"(1) PROCEDURES.—The Secretary shall prepare an agenda listing all areas in which the Secretary intends to propose rules governing activities under this Act within the following 12-month period. The Secretary shall publish the proposed agenda in the Federal Register as part of the Secretary's semi-annual rulemaking agenda which lists rulemaking activities of the Urban Mass Transportation Administration. The Secretary shall also transmit the agenda required by the first sentence of

Federal Register, publication.

this paragraph to the Committee on Public Works and Transportation and the Committee on Appropriations of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate on the day that the Secretary's semi-annual rulemaking agenda is published in the Federal Register.

"(2) VIEWS.—Except for emergency rules, the Secretary shall give interested parties not less than 60 days to participate in any rulemaking under this Act through submission of written data views, or arguments with or without the opportunity for oral presentation, except when the Secretary for good cause finds that public notice and comment are unnecessary due to the routine nature or matter of insignificant impact of the rule, or that an emergency rule should be promulgated. The Secretary may extend the 60-day period if the Secretary determines that such period is insufficient to permit diligent persons to prepare comments or that other circumstances justify an extension of such period. An emergency rule shall terminate 120 days after the date on which it is promulgated.".

49 USC app. 1608.

(b) DEFINITIONS.—Section 12(c) of such Act is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(12) the term 'rule' means the whole or part of the Secretary's statement of general or particular applicability designed to implement, interpret, or prescribe law or policy in carrying out provisions of this Act; and

"(13) the term 'emergency rule' means a rule which is temporarily effective prior to the expiration of the otherwise specified periods of time for public notice and comment under this section and which was promulgated by the Secretary pursuant to a finding that a delay in the effective date thereof would (A) seriously injure an important public interest, (B) substantially frustrate legislative policy and intent, or (C) seriously damage a person or class of persons without serving any important public interest.".

SEC. 319. PREAWARD AND POSTDELIVERY AUDIT OF BUS PURCHASES.

Ante, p. 233.

Section 12 of the Urban Mass Transportation Act of 1964 is further amended by adding at the end thereof the following new subsection:

Regulations.
Grants.

23 USC 101 note.

"(j) PREAWARD AND POSTDELIVERY AUDIT OF BUS PURCHASES.—For the purpose of assuring compliance with Federal motor vehicle safety requirements, the requirements of section 165 of the Surface Transportation Assistance Act of 1982 (relating to purchases of American products), and bid specifications requirements of recipients of grants under this Act, the Secretary shall issue regulations requiring a preaward and postdelivery audit with respect to any grant under this Act for the purchase of buses and other rolling stock. For the purposes of such audit, manufacturer certification shall not be sufficient, and independent inspections and auditing shall be required.".

SEC. 320. REMOVAL OF LIMITATION ON THE SOURCE OF FUNDING FOR INNOVATIVE MANAGEMENT GRANTS.

Section 4(i) of the Urban Mass Transportation Act of 1964 is amended by striking out ", using sums available pursuant to section 4(c)(3)(A) of this section,". 49 USC app. 1603.

SEC. 321. FEDERAL SHARE FOR ELDERLY AND HANDICAPPED PROJECTS.

Section 16 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection: 49 USC app. 1612.

"(e) INCREASED FEDERAL SHARE OF CERTAIN NONREQUIRED PROJECTS.—Notwithstanding any other provision of this Act, the Federal share under sections 3, 9, and 18 of this Act for each capital improvement project which enhances the accessibility for elderly and handicapped persons to public transportation service and which is not required by Federal law (including any other provision of this Act) shall be 95 percent of the net project cost of such project.". 49 USC app. 1602, 1607a, 1614.

SEC. 322. RURAL TRANSPORTATION EQUITY.

Section 18(c) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "A State administering a program of operating assistance under this section may not limit the level or extent of use of the Federal share for the payment of operating expenses except as provided in this section.". 49 USC app. 1614.

SEC. 323. RURAL TRANSIT ASSISTANCE PROGRAM.

Section 18 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following:

"(h) RURAL TRANSIT ASSISTANCE PROGRAM.—The Secretary shall establish and carry out a rural transit assistance program in nonurbanized areas. In carrying out this subsection, the Secretary is authorized to make grants and to enter into direct contracts for transit research, technical assistance, training, and related support services in nonurbanized areas.". Grants. Contracts.

SEC. 324. PROJECT MANAGEMENT OVERSIGHT.

(a) IN GENERAL.—The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: 49 USC app. 1601 note.

"PROJECT MANAGEMENT OVERSIGHT

"SEC. 23. (a) AUTHORITY TO USE FUNDS.—Beginning October 1, 1987, the Secretary may use not to exceed ½ of 1 percent of— Contracts. 49 USC app. 1619.

"(1) the funds made available for any fiscal year by section 21(a)(2)(C) to carry out section 3 to contract with any person to oversee the construction of any major project under section 3; 49 USC app. 1617.

"(2) the funds appropriated for any fiscal year pursuant to section 21(a)(1) to carry out section 9 to contract with any person to oversee the construction of any major project under section 9;

"(3) the funds appropriated for any fiscal year pursuant to section 21(a)(1) to carry out section 18 to contract with any person to oversee the construction of any major project under section 18;

"(4) the funds appropriated for any fiscal year pursuant to section 4(g) to contract with any person to oversee the construction of any major public transportation project substituted for an Interstate segment withdrawn under section 103(e)(4) of title 23, United States Code; and 49 USC app. 1603.

93 Stat. 1320.

"(5) the funds appropriated for any fiscal year pursuant to section 14(b) of the National Capital Transportation Act of 1969 to contract with any person to oversee the construction of any major project under such Act.

"(b) Federal Share.—Any contract entered into under this subsection shall provide for the payment by the Secretary of 100 percent of the cost of carrying out the contract.

"(c) Access to Sites and Records.—Each recipient of assistance under this Act or section 14(b) of the National Capital Transportation Act of 1969 shall provide the Secretary and a contractor chosen by the Secretary in accordance with subsection (a) such access to its construction sites and records as may be reasonably required.

83 Stat. 320.

"(d) Requirement for Plan.—As a condition of Federal financial assistance for a major capital project under this Act or the National Capital Transportation Act of 1969, the Secretary shall require the recipient to prepare, and, after approval by the Secretary, implement a project management plan which meets the requirements of subsection (e).

"(e) Contents of Plan.—A project management plan shall, as required in each case by the Secretary, provide for—

"(1) adequate recipient staff organization complete with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

"(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and such miscellaneous payments as the recipient may be prepared to justify;

"(3) a construction schedule;

"(4) a document control procedure and recordkeeping system;

"(5) a change order procedure which includes a documented, systematic approach to the handling of construction change orders;

"(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

"(7) quality control and quality assurance functions, procedures, and responsibilities for construction and for system installation and integration of system components;

"(8) materials testing policies and procedures;

"(9) internal plan implementation and reporting requirements;

"(10) criteria and procedures to be used for testing the operational system or its major components;

"(11) periodic updates of the plan, especially with respect to such items as project budget and project schedule, financing, ridership estimates, and where applicable, the status of local efforts to enhance ridership in cases where ridership estimates are contingent, in part, upon the success of such efforts; and

"(12) the recipient's commitment to make monthly submissions of project budget and project schedule to the Secretary.

Federal Register, publication.

"(f) Regulations.—The Secretary shall promulgate such regulations as may be necessary to implement the provisions of this section. Such regulations shall be published in proposed form for comment in the Federal Register and shall be submitted for review to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than 60 days after the date of enactment of this section, and shall be promulgated in final form not later than 180 days after the date of enactment of this section. Such regulations shall, at a minimum, include the following:

"(1) A definition of the term 'major capital project' for the purpose of subsection (a). Such definition shall exclude projects for the acquisition of vehicles or other rolling stock, or for the performance of vehicle maintenance or rehabilitation.

"(2) A requirement that, in order to maximize the transportation benefits and cost savings associated with project management oversight, such oversight shall begin during the preliminary engineering stage of a project. The requirement of this paragraph shall not apply if the Secretary finds that it is more appropriate to initiate such oversight during another stage of the project.

"(g) APPROVAL.—The Secretary shall approve a plan submitted pursuant to subsection (d) within 60 days following its submittal. In the event that approval cannot be completed within 60 days, the Secretary shall notify the recipient that approval cannot be completed within 60 days, explain the reasons for the delay, and estimate how much additional time will be required for completion. If a plan is disapproved, the Secretary shall inform the recipient of the reasons.".

SEC. 325. CRIME PREVENTION AND SECURITY.

The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

Ante, p. 235.

"CRIME PREVENTION AND SECURITY

"SEC. 24. From funds made available pursuant to section 21 of this Act, the Secretary is authorized to make capital grants to public mass transit systems for crime prevention and security. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.".

Grants.
49 USC app. 1620.
Post, p. 238.

SEC. 326. BICYCLE FACILITIES.

The Urban Mass Transportation Act of 1964 is further amended by adding at the end thereof the following new section:

"BICYCLE FACILITIES

"SEC. 25. (a) ELIGIBILITY.—For purposes of this Act, a project to provide access for bicycles to mass transportation facilities, to provide shelters and parking facilities for bicycles in or around mass transportation facilities, or to install racks or other equipment for transporting bicycles on mass transportation vehicles shall be deemed to be a construction project eligible for assistance under sections 3, 9, and 18 of this Act.

49 USC app. 1621.

49 USC app. 1602, 1607a, 1614.

"(b) FEDERAL SHARE.—Notwithstanding sections 4(a), 9(k), and 18(e), the Federal share under this Act for any project to provide access for bicycles to mass transportation facilities, to provide shelters and parking facilities for bicycles in or around mass transportation facilities, or to install racks or other equipment for transporting bicycles on mass transportation vehicles shall be 90 percent of the cost of such project.".

49 USC app. 1603.

SEC. 327. TRANSIT TECHNICAL AMENDMENTS.

49 USC app. 1604.

(a) URBAN MASS TRANSPORTATION ACT.—(1) Section 5(h)(1) of the Urban Mass Transportation Act of 1964 is amended by striking out "approach" and inserting in lieu thereof "approval".

(2) Section 5(j)(1) of such Act is amended by striking out "action" and inserting in lieu thereof "section".

(3) Section 5(n)(2) of such Act is amended by inserting "and section 9" after "this section".

49 USC app. 1612.

(4) Section 16 of such Act is amended by redesignating the second subsection (c) as subsection (d).

49 USC app. 1613.

(5) Section 17(d)(4) of such Act is amended by striking out "; and".

49 USC app. 1607a, 1607a-1.

(b) SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.—Section 303 of the Surface Transportation Assistance Act of 1982 is amended by striking out "(a)" the first place it appears.

SEC. 328. AUTHORIZATIONS.

49 USC app. 1617.

Section 21 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"AUTHORIZATIONS

49 USC app. 1607a, 1614.

"SEC. 21. (a) SECTIONS 9 AND 18.—(1) There are hereby authorized to be appropriated to carry out the provisions of sections 9 and 18 of this Act not to exceed $2,000,000,000 for fiscal year 1987, and not to exceed $2,100,000,000 for each of fiscal years 1988 through 1991. Any funds so appropriated shall remain available until expended.

49 USC app. 1602; *ante*, p. 235; 49 USC app. 1607, 1612.

"(2) There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 3, 4(i), 8, and 16(b) of this Act $1,097,000,000 for the fiscal year 1987, and $1,000,000,000 for each of fiscal years 1988 through 1991, to remain available until expended.

Ante, p. 229.

"(b) SECTIONS 3 AND 9B.—In addition to the amounts set forth in subsection (a)(2), to carry out sections 3 and 9B of this Act, there shall be available from the Mass Transit Account of the Highway Trust Fund for each of fiscal years 1988 through 1991—

"(1) $200,000,000 for fiscal year 1988;
"(2) $250,000,000 for fiscal year 1989;
"(3) $300,000,000 for fiscal year 1990; and
"(4) $400,000,000 for fiscal year 1991;

to remain available until expended.

Grants.

"(c) TREATMENT OF CERTAIN SECTION 3 AND SECTION 9B FUNDS.—(1) Of the amounts made available by subsection (b), 50 percent shall be available for capital grants under section 3, and 50 percent shall be available for grants under section 9B. If an obligation ceiling in effect for any fiscal year is less than the sum of the new budget authority authorized by subsections (a)(2) and (b), the ceiling shall first be applied to the budget authority provided by subsection (b).

"(2) Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under subsections (a)(2) and (b) of this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

"(d) INTERSTATE TRANSFER.—For substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, there are authorized to be appropriated $200,000,000 for each of fiscal years 1987 through 1991.

"(e) RURAL PROGRAM.—For each of fiscal years 1987 through 1991, 2.93 percent of the aggregate funds made available for sections 9 and 18 and section 9B under subsections (a)(1) and (b) of this section shall be available to carry out section 18. All amounts made available for section 18 shall be from funds appropriated under subsection (a).

49 USC app. 1607a.

"(f) PLANNING.—From the funds made available under subsection (a)(2) of this section, not to exceed $45,000,000 shall be available for the purposes of section 8 in each of fiscal years 1987 through 1991. Nothing herein shall prevent the use of additional funds available under this subsection for planning purposes.

49 USC app. 1607.

"(g) SECTIONS 4(i) AND 16(b).—(1) From the funds made available under subsection (a)(2) of this section, not to exceed $35,000,000 shall be available for the purposes of sections 4(i) and 16(b) in each of fiscal years 1988 through 1991.

Ante, p. 235; 49 USC app. 1612.

"(2) From the funds provided for section 4(i) for fiscal year 1987, $5,000,000 shall be available to carry out section 18(h).

"(h) SECTIONS 6, 10, 11(a), 12(a), 18(h), AND 20.—There are hereby authorized to be appropriated to carry out sections 6, 10, 11(a), 12(a), 18(h), and 20 of this Act—

49 USC app. 1605, 1607b, 1607c, 1608, 1616.

"(1) not to exceed such sums as may be appropriated for fiscal year 1987; and

"(2) not to exceed $50,000,000 for each of fiscal years 1988 through 1991, of which 10 percent shall be available only for section 18(h).

Any funds appropriated pursuant to this subsection for financing projects funded under section 6 of this Act shall remain available until expended.

"(i) SECTION 11(b).—(1) From the funds made available under subsection (a)(2), $5,000,000 shall be available for the purposes of section 11(b) for each of fiscal years 1988 through 1991.

"(2) From the Highway Trust Fund (other than the Mass Transit Account), $5,000,000 shall be available for the purposes of section 11(b) for each of the fiscal years 1988 through 1991.".

SEC. 329. INCREASED OPERATING ASSISTANCE DURING CONSTRUCTION OF INTERSTATE PROJECT.

Florida. Urban areas. Railroads. 49 USC app. 1607a.

Upon request of the State of Florida and the designated recipients under section 9 of the Urban Mass Transportation Act of 1964 for the urbanized areas of Fort Lauderdale and Miami, Florida, the amount of funds apportioned after September 30, 1987, under such section with respect to such urbanized areas which may otherwise be used for operating assistance under such section shall be increased by $4,400,000 for each fiscal year in which major onsite construction is being carried out on a 40-mile segment of Interstate Route I-95 in Dade, Broward, and Palm Beach Counties, Florida. The increased operating assistance may only be used for commuter rail service provided as a maintenance-of-traffic measure during the period in which the construction is being carried out.

SEC. 330. BUS SERVICE DETERIORATION.

Rural areas.

The Congress finds and declares that there has been a serious problem involving the deterioration of bus service for people residing in the small communities and rural areas of the several States, and recognizes the need to consider the best ways and means to remedy such problem.

SEC. 331. BART STUDY.

(a) STUDY.—The Secretary, in cooperation with the San Francisco Bay Area Rapid Transit District and the Metropolitan Transportation Commission, shall undertake a comprehensive study of the future of the Bay Area Rapid Transit System. The study shall focus on the development of financing alternatives for the first phase rail extensions identified in the Regional Transportation Plan.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study described in subsection (a).

SEC. 332. TACTILE MOBILITY AIDS.

49 USC app. 1601 note.

(a) STUDY.—The Secretary shall conduct a study of the feasibility of developing and implementing standards for the use, in transportation facilities and equipment constructed or acquired with assistance under the Urban Mass Transportation Act of 1964, title 23, United States Code, or other laws administered by the Department of Transportation, of tactile mobility aids in order to facilitate the safe access to and use of such facilities and equipment by visually impaired and legally blind persons.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit a report to the Congress on the results of such study, including such recommendations for legislation as may be necessary to implement such standards.

SEC. 333. FEASIBILITY STUDY OF ELECTRIC BUS LINE.

96 Stat. 2153.
Grants.
California.

Section 314(a) of the Surface Transportation Assistance Act of 1982 is amended to read as follows:

"SEC. 314. (a) Upon request of a local public body eligible to receive a grant under the Urban Mass Transportation Act of 1964, the Secretary of Transportation shall make a grant to such public body to conduct a feasibility study to examine the possibility of constructing and operating an electric bus line with the advanced and environmentally sound electric bus technology that is being developed in the State of California for the Santa Barbara transit system.".

SEC. 334. FEASIBILITY STUDY OF ABANDONED TROLLEY SERVICE.

Pennsylvania.

(a) STUDY.—The Secretary, in cooperation with the city of Philadelphia, Pennsylvania, shall conduct a study of the feasibility of restoring trolley service to corridors on which trolley service has been abandoned in such city.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).

SEC. 335. COMPREHENSIVE TRANSIT PLAN FOR THE VIRGIN ISLANDS.

(a) STUDY.—The Secretary, in cooperation with the Virgin Islands Department of Public Works, shall study and analyze the mass transportation needs of the Virgin Islands for the purpose of developing a comprehensive mass transportation plan for the Virgin Islands.

(b) REPORT AND PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study and analysis conducted under subsection (a) together with a copy of the mass transportation plan which the Secretary recommends for the Virgin Islands.

SEC. 336. TRANSFER OF SECTION 9 FUNDS.

Nevada. Urban areas. California.

49 USC app. 1607a-1, 1607a.

The Governor of Nevada, after consultation with all urbanized areas within Nevada, may transfer not to exceed $10,000,000 of unused apportionments under sections 9A and 9 of the Urban Mass Transportation Act of 1964 for use for urban mass transportation purposes in Santa Clara County, California.

SEC. 337. BUY AMERICA.

23 USC 101 note.

(a) PERCENTAGE COST LIMITATION.—(1)(A) Effective October 1, 1989, section 165(b)(3) of the Surface Transportation Assistance Act of 1982 is amended by striking out "50" and inserting in lieu thereof "55".

(B) Effective October 1, 1991, section 165(b)(3) of the Surface Transportation Assistance Act of 1982 is amended by striking out "55" and inserting in lieu thereof "60".

Contracts. 23 USC 101 note.

(2)(A) Except as provided in subparagraph (B), the amendments made by subparagraphs (A) and (B) of paragraph (1) shall apply only to contracts entered into on or after their respective effective dates.

(B) The amendments made by paragraph (1) shall not apply with respect to any supplier or contractor or any successor in interest or assignee which qualified under the provisions of section 165(b)(3) of the Surface Transportation Assistance Act of 1982 prior to the date of enactment of this Act under a contract entered into prior to April 1, 1992.

(b) SUBCOMPONENTS.—Section 165(b)(3) of the Surface Transportation Assistance Act of 1982 is amended by inserting "and subcomponents" after "components".

(c) INCREASE IN PROJECT COST EXCEPTION.—Paragraph (4) of section 165(b) of the Surface Transportation Assistance Act of 1982 is amended by striking out "10 per centum" and all that follows through the period at the end of such section and inserting in lieu thereof "25 percent.".

Contracts. 23 USC 101 note.

(d) EXEMPTION TO SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) of this section shall not apply to any contract awarded pursuant to bids which were outstanding on the date of enactment of this Act.

SEC. 338. MULTI-YEAR CONTRACT FOR METRO RAIL PROJECT.

California. Environmental protection. 42 USC 4321 note.

Federal Register, publication. Report.

Federal Register, publication.

(a) SUPPLEMENTAL EIS.—Not later than 10 days after the date of the enactment of this Act and in accordance with the National Environmental Policy Act of 1969, the Secretary shall begin the preparation of a supplemental environmental impact statement necessary as a result of alignment changes within the Minimum Operable Segment-2 portion of the Downtown Los Angeles to San Fernando Valley Metro Rail Project. The Secretary shall publish a notice of the completion of the final supplemental environmental impact statement in the Federal Register. If the Secretary has not published such notice within 5 months after the date of the enactment of this Act, the Secretary shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the status of the completion of such final supplemental environmental impact statement. The Secretary shall continue to report to those committees every 30 days on the status of the completion of the final supplemental environmental impact statement, including any proposed revisions to the statement, until a notice of the completion of such statement is published in the Federal Register.

(b) AMENDMENT TO EXISTING CONTRACT.—Notwithstanding any other provision of law, not later than 30 days after the publication of a notice of completion of a final supplemental environmental impact statement under subsection (a), the Secretary shall—

(1) issue a record of decision which approves the construction of the locally preferred Minimum Operable Segment-2 alternative, and

49 USC app. 1602.

(2) execute an amendment to the existing full-funding contract under section 3 of the Urban Mass Transportation Act of 1964 with the Southern California Rapid Transit District (or its successor) for the construction of Minimum Operable Segment-1 of such project, in order to include the construction of such Minimum Operable Segment-2 alternative in such contract.

(c) PAYMENT OF FEDERAL SHARE.—

(1) FEDERAL SHARE.—The amended contract under subsection (b) shall provide that the Federal share of the cost of construction of the Minimum Operable Segment-1 portion of the Downtown Los Angeles to San Fernando Valley Metro Rail Project shall be $605,300,000 and that the Federal share of the cost of construction of the Minimum Operable Segment-2 portion of such project shall be $667,000,000.

(2) PAYMENT.—The amended contract under subsection (b) shall provide that the Federal share of the cost of such project shall be paid by the Secretary from amounts provided under section 3 of the Urban Mass Transportation Act of 1964 for construction of new fixed guideway systems and extensions to fixed guideway systems, as follows:

(A) not to exceed $107,900,000 for fiscal year 1987;

(B) not to exceed $300,000,000 for fiscal years 1987 and 1988;

(C) not to exceed $490,000,000 for fiscal years 1987, 1988, and 1989;

(D) not to exceed $680,000,000 for fiscal years 1987, 1988, 1989 and 1990; and

(E) not to exceed $870,000,000 for fiscal years 1987, 1988, 1989, 1990, and 1991.

(d) ADVANCE CONSTRUCTION.—

Ante, p. 224.

(1) UNDER THE CONTRACT.—The amended contract under subsection (b) shall provide that the Southern California Rapid Transit District (or successor) may construct any portion of the Downtown Los Angeles to San Fernando Valley Metro Rail Project in accordance with section 3(l) of the Urban Mass Transportation Act of 1964, except that such district (or successor) shall not be required to apply to and receive approval of the Secretary before carrying out any such construction.

(2) ON MOS-1 BEFORE EXECUTION OF CONTRACT.—At any time after the date of the enactment of this section, the Southern California Rapid Transit District (or successor) may construct any portion of the Minimum Operable Segment-1 portion of such project in accordance with section 3(l) of the Urban Mass Transportation Act of 1964, except that such district (or successor) shall not be required to apply to and receive approval of the Secretary before carrying out any such construction.

Securities.

(3) REIMBURSEMENT SCHEDULE.—The amended contract under subsection (b) shall provide that the Secretary shall reimburse

the Southern California Rapid Transit District (or successor), from any amounts provided under section 3 of the Urban Mass Transportation Act of 1964 for fiscal years 1992 through 1994, for the Federal share of the net project costs incurred by such district (or successor) under paragraphs (1) and (2) (including the amount of any interest earned and payable on bonds as provided in section 3(l)(2) of the Urban Mass Transportation Act of 1964), as follows:

49 USC app. 1602.

(A) not later than September 30, 1992, the Secretary shall reimburse such district (or successor) a total of $467,100,000 (plus such interest), less amounts provided under subsection (c)(2) for fiscal years 1988 through 1990;

(B) not later than September 30, 1993, the Secretary shall reimburse such district (or successor) a total of $622,100,000 (plus such interest), less amounts provided under subsection (c)(2) for fiscal years 1988 through 1991; and

(C) not later than September 30, 1994, the Secretary shall reimburse such district (or successor) a total of $762,100,000 (plus such interest), less amounts provided under subsection (c)(2) for fiscal years 1988 through 1991.

(4) DELAYS IN PUBLICATION OF NOTICE OF SUPPLEMENTAL EIS.—If the Secretary does not publish a notice of the completion of the final supplemental environmental impact statement in the Federal Register under subsection (a) on or before September 30, 1988, each date or year listed in paragraph (3) of this subsection shall be delayed one year. For each full year after such date in which such notice is not published, each such date or year shall be delayed one more year.

Federal Register, publication.

SEC. 339. BUS CARRIER CERTIFICATES FOR RECIPIENTS OF GOVERNMENTAL ASSISTANCE.

(a) GENERAL RULE FOR NEW ENTRANTS.—Section 10922(c)(1) of title 49, United States Code, is amended to read as follows:

"(c) MOTOR COMMON CARRIERS OF PASSENGERS.—

"(1) INTERSTATE TRANSPORTATION.—

"(A) REGULAR-ROUTE TRANSPORTATION.—The Commission shall issue a certificate to a person (including any private recipient of governmental assistance) authorizing that person to provide regular-route transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized by the certificate is not consistent with the public interest.

49 USC 10521 *et seq.*

"(B) SPECIAL AND CHARTER TRANSPORTATION.—

"(i) PRIVATE RECIPIENTS OF ASSISTANCE.—The Commission shall issue a certificate to a private recipient of governmental assistance authorizing that recipient to provide special or charter transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers if the Commission finds that the recipient is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized by the certificate is not consistent with the public interest.

"(ii) OTHER PERSONS.—The Commission shall issue a certificate to a person (other than a private recipient of governmental assistance) authorizing that person to provide special or charter transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission.

49 USC 10521 *et seq.*

"(C) PUBLIC RECIPIENTS FOR CHARTER TRANSPORTATION.—The Commission shall issue a certificate to a public recipient of governmental assistance authorizing that recipient to provide special or charter transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers if the Commission finds that—

"(i) the recipient is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission; and

"(ii)(I) no motor common carrier of passengers (other than a motor common carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing and able to provide, the transportation to be authorized by the certificate; or

"(II) the transportation to be authorized by the certificate is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

"(D) PUBLIC RECIPIENTS FOR REGULAR-ROUTE TRANSPORTATION.—The Commission shall issue a certificate to a public recipient of governmental assistance authorizing that recipient to provide regular-route transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers if the Commission finds that the recipient is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized by the certificate is not consistent with the public interest.

49 USC app. 1608.

"(E) TREATMENT OF CERTAIN PUBLIC RECIPIENTS.—Subject to provisions of section 12(f) of the Urban Mass Transportation Act of 1964, any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall, for purposes of this subtitle, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

"(F) DEFINITIONS.—In this subsection—

"(i) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term 'public recipient of governmental assistance' means—

"(I) any State,

"(II) any municipality or other political subdivision of a State,

"(III) any public agency or instrumentality of one or more States and municipalities and political subdivisions of a State,

"(IV) any Indian tribe,

"(V) any corporation, board, or other person owned or controlled by any entity described in subclause (I), (II), (III), or (IV), and

"(VI) any corporation, board, or other person owned by, controlled by, or under common control with, any entity described in subclause (I), (II), (III), (IV), or (V),

which before, on, or after the date of the enactment of this paragraph received governmental financial assistance for the purchase or operation of any bus.

"(ii) PRIVATE RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term 'private recipient of governmental assistance' means any person (other than a person described in clause (i)) who before, on, or after the date of the enactment of this paragraph received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.".

(b) PUBLIC INTEREST FINDING.—Section 10922(c)(3) of title 49, United States Code, is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and", and by adding at the end thereof the following:

"(E) the amount and extent of governmental financial assistance which the applicant for the certificate received before, on, or after the date of the enactment of this subparagraph for the purchase or operation of buses.

In addition, in making any finding relating to public interest under paragraph (1)(D) of this subsection, the Commission shall consider whether or not the person objecting to issuance of the certificate is a motor common carrier of passengers which is providing, or is willing and able to provide, the transportation to be authorized by the certificate.".

(c) CONFORMING AMENDMENT.—Section 10922(c)(3) of title 49, United States Code, is amended by striking out "(1)(A)" and inserting in lieu thereof "(1)".

SEC. 340. UTILIZATION REQUIREMENT FOR CERTIFICATES AUTHORIZING INTRASTATE BUS OPERATIONS.

(a) GENERAL RULE.—Section 10922(c)(2) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(J) LIMITATION ON INTRASTATE CERTIFICATES.—Each certificate issued under this paragraph to provide intrastate transportation of passengers on any route shall be subject to a condition which limits the authority of the carrier to provide intrastate transportation service under the certificate only if the carrier provides regularly scheduled interstate transportation service on the route.".

49 USC 10922 note.

(b) RETROACTIVE APPLICABILITY.—The amendment made by subsection (a) shall apply to any certificate issued under section 10922(c)(2) of title 49, United States Code, before, on, or after the date of the enactment of this Act.

Uniform Relocation Act Amendments of 1987.

TITLE IV—UNIFORM RELOCATION ACT AMENDMENTS OF 1987

42 USC 4601 note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Uniform Relocation Act Amendments of 1987".

SEC. 402. DEFINITIONS.

(a) FEDERAL AGENCY DEFINED.—Section 101(1) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (hereinafter in this title referred to as the "Uniform Act") (42 U.S.C. 4601(1)) is amended to read as follows:

"(1) The term 'Federal agency' means any department, agency, or instrumentality in the executive branch of the Government, any wholly owned Government corporation, the Architect of the Capitol, the Federal Reserve banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.".

(b) STATE AGENCY DEFINED.—Section 101(3) of the Uniform Act (42 U.S.C. 4601(3)) is amended to read as follows:

"(3) The term 'State agency' means any department, agency, or instrumentality of a State or of a political subdivision of a State, any department, agency, or instrumentality of 2 or more States or of 2 or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law.".

(c) INTEREST REDUCTION PAYMENTS AS FEDERAL FINANCIAL ASSISTANCE.—Section 101(4) of the Uniform Act (42 U.S.C. 4601(4)) is amended by inserting ", any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual," after "insurance".

(d) DISPLACED PERSON DEFINED.—Section 101(6) of the Uniform Act (42 U.S.C. 4601(6)) is amended to read as follows:

"(6)(A) The term 'displaced person' means, except as provided in subparagraph (B)—

"(i) any person who moves from real property, or moves his personal property from real property—

"(I) as a direct result of a written notice of intent to acquire or the acquisition of such real property in whole or in part for a program or project undertaken by a Federal agency or with Federal financial assistance; or

"(II) on which such person is a residential tenant or conducts a small business, a farm operation, or a business defined in section 101(7)(D), as a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, under a program or project undertaken by a Federal agency or with Federal financial assistance in any case in which the head of the displacing agency determines that such displacement is permanent; and

"(ii) solely for the purposes of sections 202 (a) and (b) and 205 of this title, any person who moves from real property, or moves his personal property from real property—

Post, pp. 249, 252.

"(I) as a direct result of a written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which such person conducts a business or farm operation, for a program or project undertaken by a Federal agency or with Federal financial assistance; or

"(II) as a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, of other real property on which such person conducts a business or a farm operation, under a program or project undertaken by a Federal agency or with Federal financial assistance where the head of the displacing agency determines that such displacement is permanent.

"(B) The term 'displaced person' does not include—

"(i) a person who has been determined, according to criteria established by the head of the lead agency, to be either in unlawful occupancy of the displacement dwelling or to have occupied such dwelling for the purpose of obtaining assistance under this Act;

"(ii) in any case in which the displacing agency acquires property for a program or project, any person (other than a person who was an occupant of such property at the time it was acquired) who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.".

(e) COMPARABLE REPLACEMENT DWELLING, DISPLACING AGENCY, LEAD AGENCY, AND APPRAISAL DEFINED.—Section 101 of the Uniform Act (42 U.S.C. 4601) is amended by adding at the end thereof the following new paragraphs:

"(10) The term 'comparable replacement dwelling' means any dwelling that is (A) decent, safe, and sanitary; (B) adequate in size to accommodate the occupants; (C) within the financial means of the displaced person; (D) functionally equivalent; (E) in an area not subject to unreasonable adverse environmental conditions; and (F) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

"(11) The term 'displacing agency' means any Federal agency carrying out a program or project, and any State, State agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person.

"(12) The term 'lead agency' means the Department of Transportation.

"(13) The term 'appraisal' means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.".

(f) Conforming Amendment.—Section 101(7)(D) of the Uniform Act (42 U.S.C. 4601(7)(D)) is amended by striking out "(a)" after "202".

SEC. 403. CERTIFICATION.

Title I of the Uniform Act is amended by adding at the end thereof the following new section:

"CERTIFICATION

42 USC 4604. *Post*, pp. 254, 256.

"Sec. 103. (a) Notwithstanding sections 210 and 305 of this Act, the head of a Federal agency may discharge any of his responsibilities under this Act by accepting a certification by a State agency that it will carry out such responsibility, if the head of the lead agency determines that such responsibility will be carried out in accordance with State laws which will accomplish the purpose and effect of this Act.

Regulations.

"(b)(1) The head of the lead agency shall issue regulations to carry out this section.

Report.

"(2) The head of the lead agency shall, in coordination with other Federal agencies, monitor from time to time, and report biennially to the Congress on, State agency implementation of this section. A State agency shall make available any information required for such purpose.

"(3) Before making a determination regarding any State law under subsection (a) of this section, the head of the lead agency shall provide interested parties with an opportunity for public review and comment. In particular, the head of the lead agency shall consult with interested local general purpose governments within the State on the effects of such State law on the ability of local governments to carry out their responsibilities under this Act.

Contracts.

"(c)(1) The head of a Federal agency may withhold his approval of any Federal financial assistance to or contract or cooperative agreement with any displacing agency found by the Federal agency to have failed to comply with the laws described in subsection (a) of this section.

"(2) After consultation with the head of the lead agency, the head of a Federal agency may rescind his acceptance of any certification under this section, in whole or in part, if the State agency fails to comply with such certification or with State law.".

SEC. 404. DECLARATION OF FINDINGS AND POLICY.

Section 201 of the Uniform Act (42 U.S.C 4621) is amended to read as follows:

"DECLARATION OF FINDINGS AND POLICY

"Sec. 201. (a) The Congress finds and declares that—

"(1) displacement as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance is caused by a number of activities, including rehabilitation, demolition, code enforcement, and acquisition;

"(2) relocation assistance policies must provide for fair, uniform, and equitable treatment of all affected persons;

"(3) the displacement of businesses often results in their closure;

"(4) minimizing the adverse impact of displacement is essential to maintaining the economic and social well-being of communities; and

"(5) implementation of this Act has resulted in burdensome, inefficient, and inconsistent compliance requirements and procedures which will be improved by establishing a lead agency and allowing for State certification and implementation.

"(b) This title establishes a uniform policy for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance. The primary purpose of this title is to ensure that such persons shall not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on such persons.

"(c) It is the intent of Congress that—

"(1) Federal agencies shall carry out this title in a manner which minimizes waste, fraud, and mismanagement and reduces unnecessary administrative costs borne by States and State agencies in providing relocation assistance;

"(2) uniform procedures for the administration of relocation assistance shall, to the maximum extent feasible, assure that the unique circumstances of any displaced person are taken into account and that persons in essentially similar circumstances are accorded equal treatment under this Act;

"(3) the improvement of housing conditions of economically disadvantaged persons under this title shall be undertaken, to the maximum extent feasible, in coordination with existing Federal, State, and local governmental programs for accomplishing such goals; and

"(4) the policies and procedures of this Act will be administered in a manner which is consistent with fair housing requirements and which assures all persons their rights under title VIII of the Act of April 11, 1968 (Public Law 90-284), commonly known as the Civil Rights Act of 1968, and title VI of the Civil Rights Act of 1964.".

42 USC 3601.
42 USC 2000d.

SEC. 405. MOVING AND RELATED EXPENSES.

(a) BUSINESS REESTABLISHMENT EXPENSES.—Section 202(a) of the Uniform Act (42 U.S.C. 4622(a)) is amended—

(1) by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"(a) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the head of the displacing agency shall provide for the payment to the displaced person of—";

(2) by striking out "and" at the end of paragraph (2);

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(4) actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed $10,000.".

Agriculture and agricultural commodities.

(b) ALTERNATIVE RESIDENTIAL ALLOWANCE.—Section 202(b) of the Uniform Act (42 U.S.C. 4622(b)) is amended by striking out all that follows "may receive" and inserting in lieu thereof "an expense and dislocation allowance, which shall be determined according to a schedule established by the head of the lead agency.".

(c) ALTERNATIVE BUSINESS ALLOWANCE.—Section 202(c) of the Uniform Act (42 U.S.C. 4622(c)) is amended to read as follows:

Agriculture and agricultural commodities.

"(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the head of the lead agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section. Such payment shall consist of a fixed payment in an amount to be determined according to criteria established by the head of the lead agency, except that such payment shall not be less than $1,000 nor more than $20,000. A person whose sole business at the displacement dwelling is the rental of such property to others shall not qualify for a payment under this subsection.".

(d) CERTAIN UTILITY RELOCATION EXPENSES.—Section 202 of the Uniform Act (42 U.S.C. 4622) is amended by adding at the end thereof the following new subsection:

Utilities.

"(d)(1) Except as otherwise provided by Federal law—

"(A) if a program or project (i) which is undertaken by a displacing agency, and (ii) the purpose of which is not to relocate or reconstruct any utility facility, results in the relocation of a utility facility;

"(B) if the owner of the utility facility which is being relocated under such program or project has entered into, with the State or local government on whose property, easement, or right-of-way such facility is located, a franchise or similar agreement with respect to the use of such property, easement, or right-of-way; and

"(C) if the relocation of such facility results in such owner incurring an extraordinary cost in connection with such relocation;

the displacing agency may, in accordance with such regulations as the head of the lead agency may issue, provide to such owner a relocation payment which may not exceed the amount of such extraordinary cost (less any increase in the value of the new utility facility above the value of the old utility facility and less any salvage value derived from the old utility facility).

"(2) For purposes of this subsection, the term—

"(A) 'extraordinary cost in connection with a relocation' means any cost incurred by the owner of a utility facility in connection with relocation of such facility which is determined by the head of the displacing agency, under such regulations as the head of the lead agency shall issue—

"(i) to be a non-routine relocation expense;

"(ii) to be a cost such owner ordinarily does not include in its annual budget as an expense of operation; and

"(iii) to meet such other requirements as the lead agency may prescribe in such regulations; and

"(B) 'utility facility' means—

"(i) any electric, gas, water, steam power, or materials transmission or distribution system;

"(ii) any transportation system;

"(iii) any communications system (including cable television); and "(iv) any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system;

located on property which is owned by a State or local government or over which a State or local government has an easement or right-of-way. A utility facility may be publicly, privately, or cooperatively owned.".

SEC. 406. REPLACEMENT HOUSING FOR HOMEOWNER.

Section 203(a) of the Uniform Act (42 U.S.C. 4623(a)) is amended—

(1) by striking out "Federal" in the portion of paragraph (1) preceding subparagraph (A) and inserting in lieu thereof "displacing";

(2) by striking out "$15,000" and inserting in lieu thereof "$22,500";

(3) by striking out "acquired by" and all that follows through "the additional payment." in paragraph (1)(A) and inserting in lieu thereof "acquired by the displacing agency, equals the reasonable cost of a comparable replacement dwelling.";

(4) by striking out paragraph (1)(B) and inserting in lieu thereof the following:

"(B) The amount, if any, which will compensate such displaced person for any increased interest costs and other debt service costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling."; and

(5) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within 1 year after the date on which such person receives final payment from the displacing agency for the acquired dwelling or the date on which the displacing agency's obligation under section 205(c)(3) of this Act is met, whichever is later, except that the displacing agency may extend such period for good cause. If such period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within 1 year of such date.".

42 USC 4625.

SEC. 407. REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS.

Section 204 of the Uniform Act (42 U.S.C. 4624) is amended to read as follows:

"REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS

Disadvantaged persons.

"SEC. 204. (a) In addition to amounts otherwise authorized by this title, the head of a displacing agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 203 which dwelling was actually and lawfully occupied by such displaced person for not less than 90 days immediately prior to (1) the initiation of negotiations for acquisition of such dwelling, or (2) in any case in which displacement is not a direct result of acquisition, such other event as the

Supra.

head of the lead agency shall prescribe. Such payment shall consist of the amount necessary to enable such person to lease or rent for a period not to exceed 42 months, a comparable replacement dwelling, but not to exceed $5,250. At the discretion of the head of the displacing agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling shall take into account such person's income.

"(b) Any person eligible for a payment under subsection (a) of this section may elect to apply such payment to a down payment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. Any such person may, at the discretion of the head of the displacing agency, be eligible under this subsection for the maximum payment allowed under subsection (a), except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least 90 days but not more than 180 days immediately prior to the initiation of negotiations for the acquisition of such dwelling, such payment shall not exceed the payment such person would otherwise have received under section 203(a) of this Act had the person owned and occupied the displacement dwelling 180 days immediately prior to the initiation of such negotiations.".

Ante, p. 251.

SEC. 408. RELOCATION PLANNING, ASSISTANCE COORDINATION, AND ADVISORY SERVICES.

Section 205 of the Uniform Act (42 U.S.C. 4625) is amended to read as follows:

"RELOCATION PLANNING, ASSISTANCE COORDINATION, AND ADVISORY SERVICES

Business and industry.
Agriculture and agricultural commodities.

"SEC. 205. (a) Programs or projects undertaken by a Federal agency or with Federal financial assistance shall be planned in a manner that (1) recognizes, at an early stage in the planning of such programs or projects and before the commencement of any actions which will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and (2) provides for the resolution of such problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion.

"(b) The head of any displacing agency shall ensure that the relocation assistance advisory services described in subsection (c) of this section are made available to all persons displaced by such agency. If such agency head determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency head may make available to such person such advisory services.

"(c) Each relocation assistance advisory program required by subsection (b) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to—

"(1) determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons for relocation assistance;

"(2) provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations;

"(3) assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of—

"(A) a major disaster as defined in section 102(2) of the Disaster Relief Act of 1974; 42 USC 5122.

"(B) a national emergency declared by the President; or

"(C) any other emergency which requires the person to move immediately from the dwelling because continued occupancy of such dwelling by such person constitutes a substantial danger to the health or safety of such person;

"(4) assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location;

"(5) supply (A) information concerning other Federal and State programs which may be of assistance to displaced persons, and (B) technical assistance to such persons in applying for assistance under such programs; and

"(6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

"(d) The head of a displacing agency shall coordinate the relocation activities performed by such agency with other Federal, State, or local governmental actions in the community which could affect the efficient and effective delivery of relocation assistance and related services.

"(e) Whenever two or more Federal agencies provide financial assistance to a displacing agency other than a Federal agency, to implement functionally or geographically related activities which will result in the displacement of a person, the heads of such Federal agencies may agree that the procedures of one of such agencies shall be utilized to implement this title with respect to such activities. If such agreement cannot be reached, then the head of the lead agency shall designate one of such agencies as the agency whose procedures shall be utilized to implement this title with respect to such activities. Such related activities shall constitute a single program or project for purposes of this Act.

"(f) Notwithstanding section 101(6) of this Act, in any case in which a displacing agency acquires property for a program or project, any person who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project shall be eligible for advisory services to the extent determined by the displacing agency.". 42 USC 4601.

SEC. 409. HOUSING REPLACEMENT BY FEDERAL AGENCY AS LAST RESORT.

Section 206 of the Uniform Act (42 U.S.C. 4626) is amended to read as follows:

"HOUSING REPLACEMENT BY FEDERAL AGENCY AS LAST RESORT

"SEC. 206. (a) If a program or project undertaken by a Federal agency or with Federal financial assistance cannot proceed on a timely basis because comparable replacement dwellings are not available, and the head of the displacing agency determines that such dwellings cannot otherwise be made available, the head of the displacing agency may take such action as is necessary or appropriate to provide such dwellings by use of funds authorized for such project. The head of the displacing agency may use this section to exceed the maximum amounts which may be paid under sections 203 and 204 on a case-by-case basis for good cause as determined in accordance with such regulations as the head of the lead agency shall issue.

Ante, p. 251.

"(b) No person shall be required to move from his dwelling on account of any program or project undertaken by a Federal agency or with Federal financial assistance, unless the head of the displacing agency is satisfied that comparable replacement housing is available to such person.".

SEC. 410. ASSURANCES.

Section 210 of the Uniform Act (42 U.S.C. 4630) is amended by striking out "State agency" the first place it appears and inserting in lieu thereof "displacing agency (other than a Federal agency)"; by striking out "State agency" the second place it appears and inserting in lieu thereof "displacing agency"; and by striking out "decent, safe, and sanitary" in paragraph (3) and inserting in lieu thereof "comparable".

SEC. 411. FEDERAL SHARE OF COSTS.

(a) GENERAL RULE.—Section 211(a) of the Uniform Act (42 U.S.C. 4631(a)) is amended to read as follows:

"(a) The cost to a displacing agency of providing payments and assistance under this title and title III of this Act shall be included as part of the cost of a program or project undertaken by a Federal agency or with Federal financial assistance. A displacing agency, other than a Federal agency, shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs.".

42 USC 4651.

(b) LIMITATION.—Section 211(b) of the Uniform Act (42 U.S.C. 4631(b)) is amended to read as follows:

"(b) No payment or assistance under this title or title III of this Act shall be required to be made to any person or included as a program or project cost under this section, if such person receives a payment required by Federal, State, or local law which is determined by the head of the Federal agency to have substantially the same purpose and effect as such payment under this section.".

SEC. 412. DUTIES OF LEAD AGENCY.

Section 213 of the Uniform Act (42 U.S.C. 4633) is amended to read as follows:

"DUTIES OF LEAD AGENCY

Regulations.

"SEC. 213. (a) The head of the lead agency shall—

"(1) develop, publish, and issue, with the active participation of the Secretary of Housing and Urban Development and the heads of other Federal agencies responsible for funding relocation and acquisition actions, and in coordination with State and local governments, such regulations as may be necessary to carry out this Act;

Housing.
Disadvantaged persons.

"(2) ensure that relocation assistance activities under this Act are coordinated with low-income housing assistance programs or projects by a Federal agency or a State or State agency with Federal financial assistance;

"(3) monitor, in coordination with other Federal agencies, the implementation and enforcement of this Act and report to the Congress, as appropriate, on any major issues or problems with respect to any policy or other provision of this Act; and

Report.

"(4) perform such other duties as may be necessary to carry out this Act.

"(b) The head of the lead agency is authorized to issue such regulations and establish such procedures as he may determine to be necessary to assure—

Regulations.

"(1) that the payments and assistance authorized by this Act shall be administered in a manner which is fair and reasonable and as uniform as practicable;

"(2) that a displaced person who makes proper application for a payment authorized for such person by this title shall be paid promptly after a move or, in hardship cases, be paid in advance; and

"(3) that any aggrieved person may have his application reviewed by the head of the Federal agency having authority over the applicable program or project or, in the case of a program or project receiving Federal financial assistance, by the State agency having authority over such program or project or the Federal agency having authority over such program or project if there is no such State agency.

"(c) The regulations and procedures issued pursuant to this section shall apply to the Tennessee Valley Authority only with respect to relocation assistance under this title and title I.".

42 USC 4621, 4601.

SEC. 413. PAYMENTS UNDER OTHER LAWS.

Section 216 of the Uniform Act (42 U.S.C. 4636) is amended by inserting after "Federal law" the following: "(except for any Federal law providing low-income housing assistance)".

Housing.
Disadvantaged persons.

SEC. 414. TRANSFER OF SURPLUS PROPERTY.

Section 218 of the Uniform Act (42 U.S.C. 4638) is amended by inserting "net" after "all".

SEC. 415. REPEALS.

Sections 214, 217, and 219 of the Uniform Act (42 U.S.C. 4634 and 4637) are hereby repealed.

84 Stat. 1902.

SEC. 416. UNIFORM POLICY ON REAL PROPERTY ACQUISITION PRACTICES.

(a) WAIVER OF APPRAISAL.—Section 301(2) of the Uniform Act (42 U.S.C. 4651(2)) is amended by inserting before the period at the end thereof the following: ", except that the head of the lead agency may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value".

Gifts and property.

(b) ACQUISITION OF UNECONOMIC REMNANT.—Section 301(9) of the Uniform Act (42 U.S.C. 4651(9)) is amended to read as follows:

"(9) If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the head of the Federal agency concerned shall offer to acquire that remnant. For the purposes of this Act, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the head of the

Federal agency concerned has determined has little or no value or utility to the owner.".

(c) DONATIONS.—Section 301 of the Uniform Act (42 U.S.C. 4651) is amended by adding at the end thereof the following new paragraph:

"(10) A person whose real property is being acquired in accordance with this title may, after the person has been fully informed of his right to receive just compensation for such property, donate such property, and part thereof, any interest therein, or any compensation paid therefor to a Federal agency, as such person shall determine.".

SEC. 417. ASSURANCES.

Section 305 of the Uniform Act (42 U.S.C. 4655) is amended by inserting "(a)" after "SEC. 305.", by striking out "a State agency" the first place it appears and inserting in lieu thereof "an acquiring agency", by striking out "State agency" the second place it appears and inserting in lieu thereof "acquiring agency", and by adding at the end thereof the following new subsection:

"(b) For purposes of this section, the term 'acquiring agency' means—

42 USC 4601.

"(1) a State agency (as defined in section 101(3)) which has the authority to acquire property by eminent domain under State law, and

"(2) a State agency or person which does not have such authority, to the extent provided by the head of the lead agency by regulation.".

42 USC 4601 note.

SEC. 418. EFFECTIVE DATE.

The amendment made by section 412 of this title (to the extent such amendment prescribes authority to develop, publish, and issue regulations) shall take effect on the date of the enactment of this title. This title and the amendments made by this title (other than the amendment made by section 412 to such extent) shall take effect on the effective date provided in such regulations but not later than 2 years after such date of enactment.

Highway Revenue Act of 1987.

TITLE V—HIGHWAY REVENUE ACT OF 1987

26 USC 1 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "Highway Revenue Act of 1987".

SEC. 502. 5-YEAR EXTENSION OF HIGHWAY TRUST FUND TAXES AND RELATED EXEMPTIONS.

Petroleum and petroleum products.
26 USC 1 *et seq.*
26 USC 4041.

(a) EXTENSION OF TAXES.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking out "1988" each place it appears and inserting in lieu thereof "1993":

(1) Section 4041(a)(3) (relating to special fuels tax).

(2) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(3) Section 4071(d) (relating to tax on tires and tread rubber).

26 USC 1 *et seq.*
100 Stat. 1774.

(4) Section 4081(e)(1) (as amended by the Tax Reform Act of 1986 and section 521(a)(1)(B) of the Superfund Revenue Act of 1986).

(5) Sections 4481(e), 4482(c)(4), and 4482(d) (relating to highway use tax).

(b) Extension of Exemptions, Etc.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking out "1988" each place it appears and inserting in lieu thereof "1993": 26 USC 1 *et seq.*

(1) Section 4041(b)(2)(C) (relating to qualified methanol and ethanol fuel). 26 USC 4041.

(2) Section 4041(f)(3) (relating to exemption for farm use).

(3) Section 4041(g) (relating to other exemptions).

(4) Section 4221(a) (relating to certain tax-free sales).

(5) Section 4483(f) (relating to termination of exemptions for highway use tax).

(6) Section 6420(h) (relating to gasoline used on farms).

(7) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems) (as in effect before its redesignation by section 1703(c) of the Tax Reform Act of 1986). 100 Stat. 2774.

(8) Section 6427(g)(5) (relating to advance repayment of increased diesel fuel tax).

(9) Section 6427(m) (relating to fuels not used for taxable purposes) (as in effect before its redesignation by section 1703(e)(1) of the Tax Reform Act of 1986).

(c) Extension of Reduced Rates of Tax on Fuels Containing Alcohol.—

(1) Paragraph (3) of section 4041(k) of such Code (relating to fuels containing alcohol) is amended by striking out "December 31, 1992" and inserting in lieu thereof "September 30, 1993".

(2) Paragraph (4) of section 4081(c) of such Code (relating to gasoline mixed with alcohol), as amended by the Tax Reform Act of 1986, is amended by striking out "December 31, 1992" and inserting in lieu thereof "September 30, 1993".

(d) Other Provisions.—

(1) Floor stocks refunds.—Paragraph (1) of section 6412(a) of such Code (relating to floor stocks refunds) is amended—

(A) by striking out "1988" each place it appears and inserting in lieu thereof "1993", and

(B) by striking out "1989" each place it appears and inserting in lieu thereof "1994".

(2) Installment payments of highway use tax.—Paragraph (2) of section 6156(e) of such Code (relating to installment payments of tax on use of highway motor vehicles) is amended by striking out "1988" and inserting in lieu thereof "1993".

SEC. 503. 5-YEAR EXTENSION OF HIGHWAY TRUST FUND.

(a) In General.—Subsections (b), (c), and (e) of section 9503 of the Internal Revenue Code of 1986 (relating to Highway Trust Fund) are each amended— 26 USC 9503.

(1) by striking out "1988" each place it appears and inserting in lieu thereof "1993", and

(2) by striking out "1989" each place it appears and inserting in lieu thereof "1994".

(b) Expenditures From Highway Trust Fund.—Paragraph (1) of section 9503(c) of such Code (relating to expenditures from Highway Trust Fund) is amended by striking out "or" at the end of subparagraph (B) and by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) authorized to be paid out of the Highway Trust Fund under the Surface Transportation and Uniform Relocation Assistance Act of 1987, or

"(D) hereafter authorized by a law which does not authorize the expenditure out of the Highway Trust Fund of any amount for a general purpose not covered by subparagraph (A), (B), or (C) as in effect on the date of the enactment of the Surface Transportation and Uniform Relocation Assistance Act of 1987."

(c) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended—

(1) by striking out "1988" and inserting in lieu thereof "1993", and

(2) by striking out "1989" each place it appears and inserting in lieu thereof "1994".

SEC. 504. CERTAIN TRANSFERS FROM HIGHWAY TRUST FUND TO BE MADE PROPORTIONATELY FROM MASS TRANSIT ACCOUNT.

26 USC 9503.

Subsection (e) of section 9503 of the Internal Revenue Code of 1986 (relating to establishment of Mass Transit Account) is amended by adding at the end thereof the following new paragraph:

"(5) PORTION OF CERTAIN TRANSFERS TO BE MADE FROM ACCOUNT.—

"(A) IN GENERAL.—Transfers under paragraphs (2), (3), and (4) of subsection (c) shall be borne by the Highway Account and the Mass Transit Account in proportion to the respective revenues transferred under this section to the Highway Account (after the application of paragraph (2)) and the Mass Transit Account; except that any such transfers to the extent attributable to section 6427(g) shall be borne only by the Highway Account.

26 USC 6427.

"(B) HIGHWAY ACCOUNT.—For purposes of subparagraph (A), the term 'Highway Account' means the portion of the Highway Trust Fund which is not the Mass Transit Account."

SEC. 505. TREATMENT OF LONG-TERM LESSORS OF HEAVY TRUCKS AND TRAILERS.

26 USC 4052.

(a) INITIAL TAX NOT IMPOSED ON SALE TO LONG-TERM LESSORS.—Paragraph (1) of section 4052(a) of the Internal Revenue Code of 1986 (defining first retail sale) is amended by striking out "other than for resale" and inserting in lieu thereof "other than for resale or leasing in a long-term lease".

(b) CONSTRUCTIVE SALES PRICE IN THE CASE OF LONG-TERM LEASE.—Subsection (b) of section 4052 of such Code (defining price) is amended by adding at the end thereof the following new paragraph:

"(3) LONG-TERM LEASE.—

"(A) IN GENERAL.—In the case of any long-term lease of an article which is treated as the first retail sale of such article, the tax under this subchapter shall be computed on a price equal to—

"(i) the sum of—

"(I) the price (determined under this subchapter but without regard to paragraph (4)) at which such article was sold to the lessor, and

"(II) the cost of any parts and accessories installed by the lessor on such article before the first use by the lessee or leased in connection with such long-term lease, plus "(ii) an amount equal to the presumed markup percentage of the sum described in clause (i).

"(B) PRESUMED MARKUP PERCENTAGE.—For purposes of subparagraph (A), the term 'presumed markup percentage' means the average markup percentage of retailers of articles of the type involved, as determined by the Secretary.

"(C) EXCEPTIONS UNDER REGULATIONS.—To the extent provided in regulations prescribed by the Secretary, subparagraph (A) shall not apply to specified types of leases where its application is not necessary to carry out the purposes of this subsection."

(c) LONG-TERM LEASE DEFINED.—Section 4052 of such Code is amended by adding at the end thereof the following new subsection: 26 USC 4052.

"(f) LONG-TERM LEASE.—For purposes of this section, the term 'long-term lease' means any lease with a term of 1 year or more. In determining a lease term for purposes of the preceding sentence, the rules of section 168(i)(3)(A) shall apply." 26 USC 168.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles sold by the manufacturer, producer, or importer on or after the first day of the first calendar quarter which begins more than 90 days after the date of the enactment of this Act. 26 USC 4052 note.

SEC. 506. DETERMINATION OF PRICE WHERE TAX PAID BY MANUFACTURER.

(a) IN GENERAL.—Subsection (b) of section 4052 of the Internal Revenue Code of 1986 (defining price) is amended by adding at the end thereof the following new paragraph: 26 USC 4052.

"(4) SPECIAL RULE WHERE TAX PAID BY MANUFACTURER, PRODUCER, OR IMPORTER.—

"(A) IN GENERAL.—In any case where the manufacturer, producer, or importer of any article (or a related person) is liable for tax imposed by this subchapter with respect to such article, the tax under this subchapter shall be computed on a price equal to the sum of—

"(i) the price which would (but for this paragraph) be determined under this subchapter, plus

"(ii) the product of the price referred to in clause (i) and the presumed markup percentage determined under paragraph (3)(B).

"(B) RELATED PERSON.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'related person' means any person who is a member of the same controlled group (within the meaning of section 5061(e)(3)) as the manufacturer, producer, or importer. 26 USC 5061.

"(ii) EXCEPTION FOR RETAIL ESTABLISHMENT.—To the extent provided in regulations prescribed by the Secretary, a person shall not be treated as a related person with respect to the sale of any article if such article is sold through a permanent retail establishment in the normal course of the trade or business of being a retailer."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to articles sold by the manufacturer, producer, or importer on or after the 1st day of the 1st calendar quarter which begins more than 90 days after the date of the enactment of this Act. 26 USC 4052 note.

SEC. 507. IMPOSITION OF HIGHWAY USE TAX ON ALL MOTOR VEHICLES OPERATING IN UNITED STATES.

26 USC 4481. (a) IN GENERAL.—Subsection (b) of section 4481 of the Internal Revenue Code of 1986 (relating to tax paid by whom) is amended by inserting "or contiguous foreign country" after "State".

(b) REDUCTION IN TAX FOR TRUCKS BASE-PLATED IN A CONTIGUOUS FOREIGN COUNTRY.—Section 4483 of such Code (relating to exemptions) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) REDUCTION IN TAX FOR TRUCKS BASE-PLATED IN A CONTIGUOUS FOREIGN COUNTRY.—If the base for registration purposes of any highway motor vehicle is in a contiguous foreign country for any taxable period, the tax imposed by section 4481 for such period shall be 75 percent of the tax which would (but for this subsection) be imposed by section 4481 for such period."

26 USC 4481 note. (c) REGULATIONS REQUIRED WITHIN 120 DAYS.—The Secretary of the Treasury or the delegate of the Secretary shall within 120 days after the date of the enactment of this section prescribe regulations governing payment of the tax imposed by section 4481 of the Internal Revenue Code of 1986 on any highway motor vehicle operated by a motor carrier domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country. Such regulations shall include a procedure by which the operator of such motor vehicle shall evidence that such operator has paid such tax at the time such motor vehicle enters the United States. In the event of the failure to provide evidence of payment, such regulations may provide for denial of entry of such motor vehicle into the United States.

26 USC 4481 note. (d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1987.

SEC. 508. APPLICATION OF CERTAIN REVENUE RULINGS.

Motor vehicles. Revenue Rulings 85-196 and 86-43 shall not apply to any vehicle acquired by a retail dealer before January 1, 1986, continuously held in such dealer's inventory through September 30, 1986, and sold by such dealer after September 30, 1986.

JIM WRIGHT
Speaker of the House of Representatives.

JOHN C. STENNIS
President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.,

March 31, 1987.

The House of Representatives having proceeded to reconsider the bill (H.R. 2) entitled "An Act to authorize funds for construction of highways, for highway safety

BEST AVAILABLE COPY

programs, and for mass transportation programs, to expand and improve the relocation assistance program, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

DONNALD K. ANDERSON
Clerk.

I certify that this Act originated in the House of Representatives.

DONNALD K. ANDERSON
Clerk.

IN THE SENATE OF THE UNITED STATES,

April 2 (legislative day, March 30), 1987.

The Senate having proceeded to reconsider the bill (H.R. 2) entitled "An Act to authorize funds for construction of highways, for highway safety programs, and for mass transportation programs, to expand and improve the relocation assistance program, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

WALTER J. STEWART
Secretary.

LEGISLATIVE HISTORY—H.R. 2 (S. 387):

HOUSE REPORTS: No. 100-27 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Jan. 21, considered and passed House.
  Feb. 4, considered and passed Senate, amended, in lieu of S. 387.
  Feb. 19, House disagreed to Senate amendments.
  Mar. 18, House agreed to conference report.
  Mar. 19, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
  Mar. 27, Presidential veto messages.
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Mar. 31, House overrode veto.
  Apr. 2, Senate overrode veto.

○

Public Law 100-18
100th Congress

An Act

Apr. 3, 1987
[S. 632]

To amend the Legislative Branch Appropriations Act, 1979, as reenacted, to extend the duration of the Office of Classified National Security Information within the Office of the Secretary of the Senate, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. (a) Section 105(a) of the Legislative Branch Appropriations Act, 1979 (2 U.S.C. 72a note), as reenacted by section 115 of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1982, and for other purposes", approved October 1, 1981 (95 stat. 963), is amended by striking out "February 28, 1987," and inserting in lieu thereof "June 5, 1987,". 100 Stat. 1240.

2 USC 72a note. **(b) The amendment made by subsection (a) shall take effect on March 1, 1987.**

Approved April 3, 1987.

LEGISLATIVE HISTORY—S. 632:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 3, considered and passed Senate.
Mar. 25, considered and passed House.

○

Public Law 100-19
100th Congress

Joint Resolution

Designating April 3, 1987, as "Interstate Commerce Commission Day"

Apr. 3, 1987
[S.J. Res. 96]

Whereas the Interstate Commerce Commission was created by Congress in 1887 to implement the congressional mandate to regulate interstate transportation, and 1987 marks the one hundredth year of its continuous public service;

Whereas the Commission was the first independent, quasi-judicial, administrative agency created by Congress as a pioneering concept in a growing Nation's legal system with a leading role in the development of an increasingly important body of administrative law;

Whereas the one-hundred-year period of the Commission's regulatory responsibility has embraced the challenge of two world wars and other major international conflicts, as well as continuous fluctuations in the Nation's economy and business cycles which span the Great Depression, postwar booms, and the beginnings of the nuclear and space ages;

Whereas the Commission's record of national service has encompassed tremendous changes in technology and competition accompanying the development and growth of waterways, railroads, pipelines, motor carriers, and air carriers;

Whereas the Commission has steadfastly endeavored to guard and protect the public interest in the development and regulation of the Nation's transportation system; and

Whereas, under its one hundred years of regulatory oversight dedicated to the development, promotion, and preservation of a national system of transportation under a free enterprise economy, a transportation system unsurpassed throughout the world has been established: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 3, 1987, is designated as "Interstate Commerce Commission Day". The Presi-

dent is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities to recognize the one hundredth anniversary of the establishment of the Interstate Commerce Commission.

Approved April 3, 1987.

LEGISLATIVE HISTORY—S.J. Res. 96:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 20, considered and passed Senate.
Mar. 31, considered and passed House.

○

Public Law 100-20
100th Congress

An Act

Making technical corrections relating to the Federal Employees' Retirement System.

Apr. 7, 1987
[H.R. 1505]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 302(a)(1)(D)(II) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 602) is amended by striking out "8442(b)(1)(B)," and inserting in lieu thereof "8442(b)(1), 8443(a)(1),".

(b) The first sentence of section 8432(b)(4)(A) of title 5, United States Code, is amended to read as follows: "Notwithstanding paragraph (2)(A), an employee or Member who is an employee or Member on January 1, 1987, and continues as an employee or Member without a break in service through April 1, 1987, may make the first election for the purpose of subsection (a) during the election period prescribed for such purpose by the Executive Director.".

100 Stat. 541.

Approved April 7, 1987.

LEGISLATIVE HISTORY—H.R. 1505:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 12, considered and passed House.
Mar. 25, considered and passed Senate.

○

91-139 O - 87 (20)

Public Law 100-21
100th Congress

Joint Resolution

Apr. 8, 1987
[S.J. Res. 47]

To designate "National Former POW Recognition Day".

Whereas the United States had fought in many wars;

Whereas thousands of Americans who served in such wars were captured by the enemy;

Whereas many American prisoners of war were subjected to brutal and inhumane treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died or were disabled as a result of such treatment; and

Whereas the great sacrifices of American prisoners of war and their families are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 9, 1987, shall be designated as "National Former POW Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such day with appropriate activities.

Approved April 8, 1987.

LEGISLATIVE HISTORY—S.J. Res. 47:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 24, considered and passed Senate.
Mar. 31, considered and passed House.

○

Public Law 100-22
100th Congress

Joint Resolution

To authorize and request the President to issue a proclamation designating June 1 through June 7, 1987 as "National Fishing Week".

Apr. 10, 1987
[S.J. Res. 18]

Whereas the United States Bureau of the Census reported that fifty-four million residents of our country participated in sport fishing in 1980;

Whereas sport fishing is a family oriented, outdoor, recreational activity that provides therapeutic rewards and enjoyment to people of all ages;

Whereas the demands for goods and services by sport fishing participants is estimated to generate $25,000,000,000 in economic activity and employment for an estimated six hundred thousand individuals in 1985;

Whereas the commercial fishing industry annually employs an estimated three hundred thousand individuals and lands over six billion pounds of seafood worth over $2,400,000,000 in direct sales;

Whereas sport and commercial fishing provide an excellent source of healthful protein-rich food;

Whereas fishing promotes respect for our Nation's marine, estuarine, and fresh waters, and their associated plant and animal communities; and

Whereas our country's league of fishing enthusiasts represent a constituency that seeks to prevent the degradation of our Nation's diverse aquatic habitats: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is requested and authorized to issue a proclamation designating June 1 through June 7, 1987, as "National Fishing Week" and calling upon Federal, State, and local government agencies, and the people of the United States to observe the week with appropriate programs and activities.

Approved April 10, 1987.

LEGISLATIVE HISTORY—S.J. Res. 18:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 20, considered and passed Senate.
Mar. 31, considered and passed House.

○

Public Law 100-23
100th Congress

Joint Resolution

Apr. 10, 1987
[S.J. Res. 64]

To designate May 1987, as "Older Americans Month".

Whereas older Americans have contributed many years of service to their families, their communities, and the Nation;

Whereas the population of the United States is comprised of a large percentage of older Americans representing a wealth of knowledge and experience;

Whereas older Americans should be acknowledged for the contributions they continue to make to their communities and the Nation; and

Whereas many States and communities acknowledge older Americans during the month of May: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the traditional designation of the month of May as "Older Americans Month" and the repeated expression by the Congress of its appreciation and respect for the achievements of older Americans and its desire that these Americans continue to play an active role in the life of the Nation, the President is directed to issue a proclamation designating the month of May 1987, as "Older Americans Month", and calling on the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved April 10, 1987.

LEGISLATIVE HISTORY—S.J. Res. 64:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 20, considered and passed Senate.
Mar. 31, considered and passed House.

○

Public Law 100-24
100th Congress

Joint Resolution

To designate the month of May, 1987 as "National Cancer Institute Month".

Apr. 10, 1987
[S.J. Res. 74]

Whereas in 1937 the "National Cancer Institute" was created by law,

Whereas the intent of Congress in enacting legislation in 1937 was to initiate a new, high priority, highly visible, national program for the conquest of cancer,

Whereas Congress continues to stress the importance of the National Cancer Institute through the creation of the 1971 National Cancer Act and its 1974, 1978, 1982, and 1986 reauthorizations,

42 USC 201 note.

Whereas the National Cancer Institute represents a unique structure for a coherent and systematic attack on the vastly complex problems of cancer through the National Cancer Institute,

Whereas the National Cancer Institute created a network of cancer centers that has increased from three before 1971 to fifty-nine in 1986, thus providing the Nation with an invaluable national resource for cancer research, treatment, control, prevention, and training,

Whereas recombinant DNA techniques and monoclonal antibody technologies have contributed so much to discovering the blueprint of cancer and now hold enormous promise for rapidly diagnosing and characterizing tumors and for treating patients,

Whereas cancer research scientists supported by the National Cancer Program funded by the National Cancer Institute determined the function of a normal human oncogene, and are elucidating the role of oncogene products in cancer, discovered the structure of the T-cell receptor, demonstrated the role of viruses in the causation of cancer, discovered that the virus HTLV-III is the cause of AIDS, showing that fundamental research in cancer biology forms the underpinnings for all other cancer research programs,

Whereas it has been shown that systemic therapies, largely developed through clinical trials, can cure cancer with more than 50 per centum of patients potentially curable and numerous cancers now have five-year survival rates over 75 per centum such as thyroid, endometrium, melanoma, breast, bladder, Hodgkin's disease, and prostate and with children's five-year cancer survival rates reaching an all-time high of 60 per centum,

Whereas progress continues in understanding and planning strategies to interfere with cancer metastasis and overcome drug resistance,

Whereas collaboration between surgery, radiation therapy, chemotherapy, and therapy with biological response modifiers has greatly improved the outcome for cancer patients, allowing for less radical surgery by utilizing adjuvant radiation and new success in hard-to-treat tumors through improved chemotherapy,

Whereas the National Cancer Institute has mounted a major program of research on cancer prevention which serves as the basis for a prevention awareness program stressing what individuals can do to lower personal cancer risk by modifying lifestyle factors such as diet, and

42 USC 201 note.

Whereas the National Cancer Act has fostered the transfer of information from basic research to the patient's bedside, while strengthening a network that links basic science laboratories, cancer centers, cooperative groups of clinical researchers, community oncologists, practicing physicians, and nurse oncologists, and facilitate the application of the results of research: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May, 1987 is designated as "National Cancer Institute Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and all appropriate Government agencies to observe the month with appropriate programs and activities.

Approved April 10, 1987.

LEGISLATIVE HISTORY—S.J. Res. 74:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 20, considered and passed Senate.
Mar. 31, considered and passed House.

○

Public Law 100-25
100th Congress

Joint Resolution

To designate April 10, 1987, as "Education Day U.S.A.".

Apr. 17, 1987
[H.J. Res. 200]

Whereas Congress recognizes the historical tradition of ethical values and principles which are the basis of civilized society and upon which our great Nation was founded;

Whereas these ethical values and principles have been the bedrock of society from the dawn of civilization, when they were known as the Seven Noahide laws;

Whereas without these ethical values and principles the edifice of civilization stands in serious peril of returning to chaos;

Whereas society is profoundly concerned with the recent weakening of these principles that has resulted in crises that beleaguer and threaten the fabric of civilized society;

Whereas the justified preoccupation with these crises must not let the citizens of this Nation lose sight of their responsibility to transmit these historical ethical values from our distinguished past to the generations of the future;

Whereas the Lubavitch movement has fostered and promoted these ethical values and principles throughout the world;

Whereas Rabbi Menachem Mendel Schneerson, leader of the Lubavitch movement, is universally respected and revered and his eighty-fifth birthday falls on April 10, 1987;

Whereas in tribute to this great spiritual leader, "the rebbe" this, his eighty-fifth year will be seen as the year of "turn and return", the year in which we turn to an education which will return the world to the moral and ethnical values contained in the Seven Noahide Laws; and

Whereas this will be reflected in an international scroll of honor signed by the President of the United States and other heads of state: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 10, 1987, the birthday of Rabbi Menachem Mendel Schneerson, leader and head of the worldwide Lubavitch movement, is designated as "Education Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities. We also call on heads of state of the world to join our President in this tribute by signing the international scroll of honor which will be presented in their respective countries this year of "celebration 85".

Approved April 17, 1987.

LEGISLATIVE HISTORY—H.J. Res. 200:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Apr. 2, considered and passed House.
Apr. 6, considered and passed Senate.

○

Public Law 100-26
100th Congress

An Act

To make technical corrections in certain defense-related laws.

Apr. 21, 1987
[H.R. 1783]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Defense Technical Corrections Act of 1987".

Defense Technical Corrections Act of 1987.
10 USC 101 note.

SEC. 2. REFERENCES TO 99TH CONGRESS LAWS

For purposes of this Act:

(1) The term "Defense Authorization Act" means the Department of Defense Authorization Act, 1987 (division A of Public Law 99-661; 100 Stat. 3816 et seq.).

(2) The term "Defense Appropriations Act" means the Department of Defense Appropriations Act, 1987 (as contained in identical form in section 101(c) of Public Law 99-500 (100 Stat. 1783-82 et seq.) and section 101(c) of Public Law 99-591 (100 Stat. 3341-82 et seq.)).

(3) The term "Defense Acquisition Improvement Act" means title X of the Defense Appropriations Act and title IX of the Defense Authorization Act (as designated by the amendment made by section 3(5)). Any reference in this Act to the Defense Acquisition Improvement Act shall be considered to be a reference to each such title.

100 Stat. 1783-130, 3341-130.
100 Stat. 3910.

SEC. 3. TECHNICAL CORRECTIONS TO DEFENSE AUTHORIZATION ACT

The Defense Authorization Act is amended as follows:

(1) Section 234(c) is amended—

10 USC 2364.

(A) in paragraph (1), by striking out "adding at the end" and inserting in lieu thereof "inserting after section 2363"; and

10 USC 2363.

(B) in paragraph (2), by striking out "adding at the end" and inserting in lieu thereof "inserting after the item relating to section 2363".

(2) Section 602(b) is amended by inserting "of section 1006" after "Subsection (j)".

37 USC 1006 note.

(3) Sections 643(a) and 644(a) are amended by striking out "such title" and inserting in lieu thereof "title 10, United States Code,".

10 USC 1408, 1450.

(4) Section 651(a)(2) is amended by striking out "of" before "the following".

10 USC 2007.

(5) The title heading preceding section 900 is amended by striking out "TITLE IV" and inserting in lieu thereof "TITLE IX".

(6) Section 1343(a)(1) is amended by striking out "section 775 (as redesignated by section [502])" and inserting in lieu thereof "section 774".

10 USC 774.

10 USC 5150.

(7) Section 1343(a)(23) is amended by striking out "Section 5155(c)" and inserting in lieu thereof "Section 5150(c) (as redesignated by section 514(a)(2) of Public Law 99-433)".

10 USC 1051.

(8) Section 1343(a)(25) is amended by inserting "(as added by section 806(b) of Public Law 99-399) after "Section 1051(d)".

10 USC 1588.

(9) Section 1355 is amended by striking out "subsections" and inserting in lieu thereof "subsection".

10 USC 4703.

(10) Section 1404(c)(2) is amended by striking out "clause (2) or (3)" and inserting in lieu thereof "clause (1) or (2)".

SEC. 4. TECHNICAL CORRECTIONS TO DEFENSE APPROPRIATIONS ACT

100 Stat. 1783-118, 3341-118.

(a) Payment Date for Pay and Allowances.—(1) Paragraph (3) of section 9103 of the Defense Appropriations Act is amended to read as follows:

"(3) Section 1466(a) of title 10, United States Code (as amended by section 661(b) of the Department of Defense Authorization Act, 1987 (Public Law 99-661)), is amended by striking out 'paid that month to' in paragraphs (1)(B) and (2)(B) and inserting in lieu thereof 'accrued for that month by'.".

(2) Paragraph (4) of such section is amended—

37 USC 1014 note.

(A) by striking out "Section 1013" and inserting in lieu thereof "Section 1014"; and

(B) by striking out "subsection (a), and the amendment made by subsection (b)" and inserting in lieu thereof "paragraph (1) and redesignated by section 8(b)(2) of the Defense Technical Corrections Act of 1987, and the amendments made by paragraph (3),".

10 USC 2365.

(b) Clerical Amendment.—Section 909(a) of such Act is amended by inserting "(1)" before "Chapter 139".

SEC. 5. TECHNICAL AMENDMENTS TO DEFENSE ACQUISITION IMPROVEMENT ACT

The Defense Acquisition Improvement Act is amended as follows:

10 USC 2437 note.

(1) Section 906(b) is amended by striking out "subsection (b)" in the first sentence and inserting in lieu thereof the following: "section 2437(c) of title 10, United States Code (as added by subsection (a)(1))".

10 USC 2326 note.

(2) Section 908(c) is amended by striking out "this section" and inserting in lieu thereof "subsections (a) and (b)".

10 USC 2365.

(3) Section 909 is amended—

(A) by striking out "by adding after section 2364 (as added by section 234)" in subsection (a) and inserting in lieu thereof "by adding at the end"; and

(B) by striking out "by adding after the item relating to section 2364 (as added by section 234)" in subsection (a)(2) and inserting in lieu thereof "by adding at the end".

100 Stat. 1783-153, 3341-153, 3933.

(4) Section 926(a)(2) is amended by inserting "of such title" after "chapter 137".

10 USC 1621 note.

(5) Section 932(d) is repealed.

100 Stat. 1783-172, 3341-172, 3952.

(6) Section 954(a)(2) is amended by striking out "section 971" and inserting in lieu thereof "section 951".

10 USC 2301 note.

SEC. 6. CONSTRUCTION OF DUPLICATE AUTHORIZATION AND APPROPRIATION PROVISIONS

100 Stat. 1783, 3341, 3816.

(a) Rule for Construction of Duplicate Provisions.—(1) In applying the provisions of Public Laws 99-500, 99-591, and 99-661 described in paragraph (2)—

(A) the identical provisions of those public laws referred to in such paragraph shall be treated as having been enacted only once, and

(B) in executing to the United States Code and other statutes of the United States the amendments made by such identical provisions, such amendments shall be executed so as to appear only once in the law as amended.

(2) Paragraph (1) applies with respect to the provisions of the Defense Appropriations Act and the Defense Authorization Act (as amended by sections 3, 4, 5, and 10(a)) referred to across from each other in the following table:

100 Stat. 1783, 3341, 3816.

Section 101(c) of Public Law 99-500	Section 101(c) of Public Law 99-591	Division A of Public Law 99-661
Title X	Title X	Title IX
Sec. 9122	Sec. 9122	Sec. 522
Sec. 9036(b)	Sec. 9036(b)	Sec. 1203
Sec. 9115	Sec. 9115	Sec. 1311

(b) RULE FOR DATE OF ENACTMENT.—(1) The date of the enactment of the provisions of law listed in the middle column, and in the right-hand column, of the table in subsection (a)(2) shall be deemed to be October 18, 1986 (the date of the enactment of Public Law 99-500).

100 Stat. 1783.

(2) Any reference in a provision of law referred to in paragraph (1) to "the date of the enactment of this Act" shall be treated as a reference to October 18, 1986.

SEC. 7. TECHNICAL AND CLERICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE

(a) TECHNICAL AND CLARIFYING AMENDMENTS.—Title 10, United States Code, is amended as follows:

(1) Section 138(c) (as amended by section 903(c)(4) of the Defense Acquisition Improvement Act) is amended by striking out "to the Secretary" and all that follows and inserting in lieu thereof "to the Secretary of Defense and the Under Secretary of Defense for Acquisition and shall be accompanied by such comments as the Secretary may wish to make on the report.".

(2) Section 867(g)(1) is amended by striking out "the Director, Judge Advocate Division, Headquarters, United States Marine Corps" and inserting in lieu thereof "the Staff Judge Advocate to the Commandant of the Marine Corps".

(3) The second sentence of subsection (a) of section 1466 as in effect before the enactment of the Defense Appropriations Act is hereby reenacted as a flush sentence at the end of such subsection.

100 Stat. 1783-83, 3341-83.

(4) Section 2320(a) (as amended by section 953(a) of the Defense Acquisition Improvement Act) is amended—

Contracts.

(A) by inserting after "Federal funds" in paragraph (2)(A) the following: "(other than an item or process developed under a contract or subcontract to which regulations under section 9(j)(2) of the Small Business Act (15 U.S.C. 638(j)(2)) apply)"; and

(B) by striking out "of the United States in technical data pertaining to an item or process developed entirely or in part with Federal funds" in paragraph (2)(G)(ii) and inserting in lieu thereof "in technical data otherwise accorded to the United States under such regulations".

(5)(A) Section 2321 (as amended by section 953(b) of the Defense Acquisition Improvement Act) is amended—

(i) by redesignating subsections (c) through (f) as subsections (e) through (h), respectively; and

(ii) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) CONTRACTS COVERED BY SECTION.—This section applies to any contract for supplies or services entered into by the Department of Defense that includes provisions for the delivery of technical data.

"(b) CONTRACTOR JUSTIFICATION FOR RESTRICTIONS.—A contract subject to this section shall provide that a contractor under the contract and any subcontractor under the contract at any tier shall be prepared to furnish to the contracting officer a written justification for any use or release restriction (as defined in subsection (i)) asserted by the contractor or subcontractor.

Contracts.

"(c) REVIEW OF RESTRICTIONS.—(1) The Secretary of Defense shall ensure that there is a thorough review of the appropriateness of any use or release restriction asserted with respect to technical data by a contractor or subcontractor at any tier under a contract subject to this section.

"(2) The review of an asserted use or release restriction under paragraph (1) shall be conducted before the end of the three-year period beginning on the later of—

"(A) the date on which final payment is made on the contract under which the technical data is required to be delivered; or

"(B) the date on which the technical data is delivered under the contract.

Contracts.

"(d) CHALLENGES TO RESTRICTIONS.—(1) The Secretary of Defense may challenge a use or release restriction asserted with respect to technical data by a contractor or subcontractor at any tier under a contract subject to this section if the Secretary finds that—

"(A) reasonable grounds exist to question the current validity of the asserted restriction; and

"(B) the continued adherance by the United States to the asserted restriction would make it impracticable to procure the item to which the technical data pertain competitively at a later time.

"(2)(A) A challenge to an asserted use or release restriction may not be made under paragraph (1) after the end of the three-year period described in subparagraph (B) unless the technical data involved—

"(i) are publicly available;

"(ii) have been furnished to the United States without restriction; or

"(iii) have been otherwise made available without restriction.

"(B) The three-year period referred to in subparagraph (A) is the three-year period beginning on the later of—

"(i) the date on which final payment is made on the contract under which the technical data are required to be delivered; or

"(ii) the date on which the technical data are delivered under the contract.

"(3) If the Secretary challenges an asserted use or release restriction under paragraph (1), the Secretary shall provide written notice of the challenge to the contractor or subcontractor asserting the restriction. Any such notice shall—

"(A) state the specific grounds for challenging the asserted restriction;

"(B) require a response within 60 days justifying the current validity of the asserted restriction; and

"(C) state that evidence of a justification described in paragraph (4) may be submitted.

"(4) It is a justification of an asserted use or release restriction challenged under paragraph (1) that, within the three-year period preceding the challenge to the restriction, the Department of Defense validated a restriction identical to the asserted restriction if—

"(A) such validation occurred after a challenge to the validated restriction under this paragraph; and

"(B) the validated restriction was asserted by the same contractor or subcontractor (or a licensee of such contractor or subcontractor).".

(B) Subsection (e) of such section (as redesignated by subparagraph (A)(i)) is amended by striking out "If a contractor or subcontractor asserting a restriction subject to this section" and inserting in lieu thereof "TIME FOR CONTRACTORS TO SUBMIT JUSTIFICATIONS.—If a contractor or subcontractor asserting a use or release restriction".

(C) Subsection (f) of such section (as redesignated by subparagraph (A)(i)) is amended—

(i) by striking out "(1) Upon" and inserting in lieu thereof "DECISION BY CONTRACTING OFFICER.—(1) Upon"; and

(ii) by striking out "subsection (b)" in paragraphs (1) and (2) and inserting in lieu thereof "subsection (d)(3)".

(D) Subsection (g) of such section (as redesignated by subparagraph (A)(i)) is amended by inserting "CLAIMS.—" after "(g)".

(E) Subsection (h) of such section (as redesignated by subparagraph (A)(i)) is amended—

(i) by inserting "RIGHTS AND LIABILITY UPON FINAL DISPOSITION.—" after "(h)";

(ii) by striking out "the restriction on the right of the United States to use such technical data" in the matter in paragraph (1) preceding subparagraph (A) and inserting in lieu thereof "the use or release restriction";

(iii) by striking out "on the right of the United States to use the technical data" in paragraph (1)(A);

(iv) by striking out ", as appropriate," in paragraph (1)(B) and inserting in lieu thereof "asserting the restriction"; and

(v) by striking out "the restriction on the right of the United States to use such technical data" in the matter in paragraph (2) preceding subparagraph (A) and inserting in lieu thereof "the use or release restriction".

(F) Such section is further amended by adding at the end the following new subsection:

Contracts.

"(i) USE OR RELEASE RESTRICTION DEFINED.—In this section, the term 'use or release restriction', with respect to technical data delivered to the United States under a contract subject to this section, means a restriction by the contractor on the right of the United States—

"(1) to use such technical data; or

"(2) to release or disclose such technical data to persons outside the Government or permit the use of such technical data by persons outside the Government.".

10 USC 2322.

(6) Section 2322(b) is amended by striking out "two years" and all that follows and inserting in lieu thereof "on January 17, 1987".

(7)(A) Section 2328 (as added by section 954(a) of the Defense Acquisition Improvement Act) is amended—

(i) in subsection (a)(1)—

(I) by striking out "technical data to a person requesting such a" and inserting in lieu thereof "such technical data to the person requesting the"; and

(II) by striking out "search and duplication" and inserting in lieu thereof "search, duplication, and review";

(ii) by striking out "DISPOSITION OF COSTS" in subsection (b) and inserting in lieu thereof "CREDITING OF RECEIPTS"; and

(iii) by striking out "section 552(a)(4)(A)" in subsection (c)(3) and inserting in lieu thereof "section 552(a)(4)(A)(iii)".

(B)(i) The heading of such section is amended to read as follows:

"§ 2328. Release of technical data under Freedom of Information Act: recovery of costs".

(ii) The item relating to such section in the table of sections at the beginning of chapter 137 is amended to read as follows:

"2328. Release of technical data under Freedom of Information Act: recovery of costs.".

(8) The heading of chapter 138 is amended to read as follows:

"CHAPTER 138—ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES".

10 USC 2364.

(9) Section 2364(c) (as added by section 234(c) of the Defense Authorization Act) is amended—

(A) by striking out "a decision" in paragraph (2) and inserting in lieu thereof "the decision";

(B) by striking out "[a]/[the] selection by an appropriate official of the Department of Defense of" in paragraph (3) and inserting in lieu thereof "the decision by an appropriate official of the Department of Defense selecting"; and

(C) by striking out "approval by an appropriate official of the Department of Defense for" in paragraph (4) and inserting in lieu thereof "the decision by an appropriate official of the Department of Defense approving".

(10) Subsection (d) of section 3036 (as amended by section 922 of Public Law 99-662) is amended—

(A) by designating the first sentence as paragraph (1);

(B) by designating the second sentence as paragraph (2); and

State and local governments.

(C) by striking out "United States" and all that follows in such subsection and inserting in lieu thereof the following: "United States or to a State or political subdivision of a State. The Chief of Engineers may provide any part of those services by contract. Services may be provided to a State, or to a political subdivision of a State, only if—

"(A) the work to be undertaken on behalf of non-Federal interests involves Federal assistance and the head of the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers; and

"(B) the services are provided on a reimbursable basis.".

(b) MAJOR DEFENSE ACQUISITION PROGRAMS.—Chapter 144 of title 10, United States Code (as added by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended as follows:

Infra.

(1) The heading of such chapter is amended to read as follows:

"CHAPTER 144—MAJOR DEFENSE ACQUISITION PROGRAMS".

(2)(A) Such chapter is amended by inserting after the table of sections the following new section:

"§ 2430. Major defense acquisition program defined

10 USC 2430.

"In this chapter, the term 'major defense acquisition program' means a Department of Defense acquisition program that is not a highly sensitive classified program (as determined by the Secretary of Defense) and—

"(1) that is designated by the Secretary of Defense as a major defense acquisition program; or

"(2) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $1,000,000,000 (based on fiscal year 1980 constant dollars).".

(B) The table of sections at the beginning of the chapter is amended by inserting before the item relating to section 2431 the following new item:

"2430. Major defense acquisition program defined.".

(3) Section 2432 (as redesignated by section 101(a)(5) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(A) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively; and

(B) by striking out "programed" each place such term appears in subsection (a)(2), as redesignated by subparagraph (A), and inserting in lieu thereof "programmed".

(4) Section 2433(a)(1) (as redesignated by section 101(a)(5) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by striking out "(1) 'Major defense acquisition program', 'program'" and inserting in lieu thereof "(1) The terms 'program'".

(5) Section 2434(b) (as redesignated by section 101(a)(5) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433) and amended by section 1208 of the

Department of Defense Authorization Act, 1987 (division A of Public Law 99-661)) is amended—

(A) by striking out paragraph (1); and

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

10 USC 2435.

(6) Section 2435 (as added by section 904(a) of the Defense Acquisition Improvement Act) is amended by striking out subsection (c).

(7) Section 2436(d)(3) (as added by section 905(a)(1) of the Defense Acquisition Improvement Act) is amended by inserting a comma after "In this subsection".

(8) Section 2437(a)(1) (as added by section 906(a)(1) of the Defense Acquisition Improvement Act) is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)".

10 USC 2431 *et seq.*

(9)(A) Section 2305a of title 10, United States Code, is transferred to the end of such chapter 144, redesignated as section 2438, and amended—

(i) by striking out "program," in subsection (d)(1) and all that follows in that subsection and inserting in lieu thereof "program."; and

(ii) by striking out "section 2432(a)(1)(B)" both places it appears in subsection (d)(2) and inserting in lieu thereof "section 2430(2)".

(B) The item relating to such section in the table of sections at the beginning of chapter 137 of such title is transferred to the end of the table of sections at the beginning of chapter 144 of such title and revised to reflect the redesignation of such section made by subparagraph (A).

(c) CLERICAL AND CONFORMING CROSS-REFERENCE AMENDMENTS.—(1) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of title 10, United States Code, are each amended—

(A) by striking out the item in each such table relating to chapter 138 and inserting in lieu thereof the following:

"138. Acquisition and Cross-Servicing Agreements with NATO Allies and Other Countries .... 2341";

(B) by striking out the item in each such table relating to chapter 144 and inserting in lieu thereof the following:

"144. Major Defense Acquisition Programs .... 2430";

and

(C) by striking out "2701" in the item relating to chapter 161 and inserting in lieu thereof "2721".

(2) Sections 138(a)(2)(B) and 1621(3) of title 10, United States Code (as amended by section 110(g) of Public Law 99-433), are amended by striking out "section 2432(a)(1)" and inserting in lieu thereof "section 2430".

Ante, p. 279.

(d) UNITED STATES CODE CITATIONS.—Title 10, United States Code, is further amended as follows:

(1) Section 113(e)(2) (as amended by section 603(b) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 1075)) is amended by inserting "(50 U.S.C. 404a)" after "National Security Act of 1947".

(2) Section 2208(i)(3) is amended by inserting "(22 U.S.C. 2778)" after "section 38 of the Arms Export Control Act".

(3) Section 2304 is amended— 10 USC 2304.

(A) by inserting "(41 U.S.C. 403 note)" in subsections (a)(1)(A) and (g)(1) after "Competition in Contracting Act of 1984"; and

(B) by inserting "(41 U.S.C. 416)" in subsection (f)(1)(C) after "Office of Federal Procurement Policy Act".

(4) Section 2318 is amended—

(A) by inserting "(41 U.S.C. 418(a))" in subsection (a)(1) after "Policy Act";

(B) by inserting "(41 U.S.C. 418 (b), (c))" in subsection (a)(2) after "Policy Act"; and

(C) by inserting "(41 U.S.C. 419)" in the second sentence of subsection (c) after "Policy Act".

(5) Section 2319 is amended—

(A) by inserting "(15 U.S.C. 637(b)(7))" in subsection (c)(4) after "the Small Business Act"; and

(B) by inserting "(15 U.S.C. 632)" in subsection (d)(2) after "the Small Business Act".

(6) Section 2664(a)(3) is amended by inserting "App." after "46 U.S.C.".

(e) Duplicate Section Designations.—Title 10, United States Code, is further amended as follows:

(1)(A) Section 1051, as added by section 806(b)(1) of Public Law 99-399 and amended by section 1343(a)(25) of the Defense Authorization Act, is redesignated as section 1032 and is transferred within chapter 53 to appear immediately after section 1031. 10 USC 1031 *et seq.*

(B) The table of sections at the beginning of chapter 53 is amended—

(i) by inserting after the item relating to section 1031 the following new item:

"1032. Disability and death compensation: dependents of members held as captives.";

and

(ii) by striking out the item relating to the second section 1051.

(2) Section 1095, as added by section 806(c)(1) of Public Law 99-399, is redesignated as section 1095a, and the item relating to that section in the table of sections at the beginning of chapter 55 is amended to reflect such redesignation.

(3) Section 2810, as added by section 315(a) of the Defense Authorization Act, is redesignated as section 2811, and the item relating to that section in the table of sections at the beginning of subchapter I of chapter 169 is revised to reflect that redesignation.

(f) References to Real Estate Minor Construction Amount.—Title 10, United States Code, is further amended as follows:

(1) Sections 2233a(a)(2)(B)(ii)(II), 2806(c)(1), and 2861(b)(6) are amended by striking out "specified by law" and inserting in lieu thereof "specified by section 2805(a)(2) of this title".

(2) Section 2853 is amended—

(A) by striking out "the amount specified by law as the maximum amount for a minor military construction project" the first place such term appears in subsection (a)(1) and inserting in lieu thereof "the minor project ceiling (as defined in subsection (f))";

(B) by striking out "the amount specified by law as the maximum amount for a minor military construction project" each place such term appears (other than as specified in subparagraph (A)) and inserting in lieu thereof "the minor project ceiling";

(C) by striking out "such maximum amount" both places it appears in subsection (b) and inserting in lieu thereof "the amount of such ceiling"; and

(D) by adding at the end the following new subsection:

"(f) In this section, the term 'minor project ceiling' means the amount specified by section 2805(a)(2) of this title as the maximum amount for a minor military construction project.".

(g) INTERNAL CROSS-REFERENCES.—Title 10, United States Code, is further amended as follows:

(1) Section 2313(d)(1) is amended by striking out "section 2306(f)" and inserting in lieu thereof "section 2306a".

(2) Section 2343(b) is amended by striking out "2306(f)," and inserting in lieu thereof "section 2306a,".

(3) Section 8062(e) (as amended by section 110(g)(10) of Public Law 99-433) is amended by striking out "section 114" and inserting in lieu thereof "section 115".

(h) REFERENCES TO INTERNAL REVENUE CODE OF 1954.—(1) The following sections of title 10, United States Code, are amended by striking out "Internal Revenue Code of 1954" and inserting in lieu thereof "Internal Revenue Code of 1986": sections 1403, 1408(a)(4)(D), 1451(e)(4)(B)(ii), and 2401(d)(1)(B). 26 USC 1 *et seq.*

(2)(A) The heading of section 1403 of such title is amended to read as follows:

"§ 1403. Disability retired pay: treatment under Internal Revenue Code of 1986".

(B) The item relating to such section in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"1403. Disability retired pay: treatment under Internal Revenue Code of 1986.".

(i) ENACTMENT DATE REFERENCES.—Title 10, United States Code, is further amended as follows:

(1) Sections 101(44), 101(45), and 191(b) are amended by striking out "the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986" and inserting in lieu thereof "October 1, 1986".

(2) Section 708(d)(1) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "October 19, 1984".

(3) Section 2031(a) is amended by striking out "beginning with the calendar year 1966".

(4) Section 2319(c) is amended by striking out "the date of the enactment of the Defense Procurement Reform Act of 1984" in paragraphs (1) and (3) and inserting in lieu thereof "October 19, 1984,".

(j) CAPITALIZATION, PUNCTUATION, ETC. AMENDMENTS.—Title 10, United States Code, is further amended as follows:

(1) Subsection (f) of section 114 (as added by section 105(d) of the Defense Authorization Act) is redesignated as subsection (e).

(2) Section 115(b)(1)(B)(vii) (as added by section 413(2) of the Defense Authorization Act) is amended by striking out "members" and inserting in lieu thereof "Members". 10 USC 115.

(3) Section 1208(a) is amended—

(A) by striking out "clause (1)" and "clause (2)," and inserting in lieu thereof "paragraph (1)" and "paragraph (2),", respectively; and

(B) by striking out "clause (2)(B) of this subsection" and inserting in lieu thereof "paragraph (2)".

(4) The heading of section 1623 (as amended by section 1343(a)(10) of the Defense Authorization Act) is amended by striking out "**flag and general**" and inserting in lieu thereof "**general and flag**".

(5) Section 2397 is amended—

(A) by striking out "3-year" in subsection (b)(1)(B) and inserting in lieu thereof "three-year";

(B) by striking out "2-year" each place it appears and inserting in lieu thereof "two-year"; and

(C) by striking out ", United States Code" in the second sentence of subsection (f)(2).

(6) Subsection (f) of section 2634 (as added by section 620(b)(2) of the Defense Authorization Act) is redesignated as subsection (d).

(7)(A) The heading of section 2774 is amended by striking out "**allowances, and**" and inserting in lieu thereof "**allowances and of**".

(B) Subsection (a) of such section is amended by striking out "as defined in section 101(3) of title 37,".

(C) The item relating to that section in the table of sections at the beginning of chapter 165 is amended to read as follows:

"2774. Claims for overpayment of pay and allowances and of travel and transportation allowances.".

(8) Section 2828 is amended by striking out "Armed Forces" in subsections (a)(1) and (c) and inserting in lieu thereof "armed forces".

(9) Section 2861(b)(7) is amended by inserting "of this title" after "section 2858".

(10)(A) The tables of chapters at the beginning of subtitle B, and at the beginning of part I of subtitle B, are each amended by striking out "3010" in the item relating to chapter 303 and inserting in lieu thereof "3011".

(B) The tables of chapters at the beginning of subtitle D, and at the beginning of part I of subtitle D, are each amended by striking out "8010" in the item relating to chapter 803 and inserting in lieu thereof "8011".

(11) Sections 4723 and 8723 (as amended by section 604(f)(1)(D) of the Defense Authorization Act) are amended by striking out the comma after "disease".

(k) Definitions.—Title 10, United States Code, is further amended as follows:

(1) Section 101 is amended—

(A) by inserting "The term" in each paragraph (other than paragraph (2)) after the paragraph designation;

(B) by inserting "the term" in paragraph (2) after "United States," the second place it appears; and

(C) by revising the first word after the open quotation marks in each paragraph (other than paragraphs (1), (8) through (13), (44), and (45)) so that the initial letter of such word is lower case.

(2) Sections 976(a), 1045(e), 1587(a), 1621, 2006(b), 2120, 2213(e), 2232, 2302 (other than paragraph (3)), 2305a(d), 2350, 2362(e), 2394(c), 2397(a), 2397a(a), 2403(a), 2432(a), 2547(e), 2801(c), and 5001(a) are amended—

(A) by inserting "The term" in each paragraph after the paragraph designation; and

(B) by revising the first word after the first quotation marks in each paragraph (other than in sections 1045(e), 2006(b)(1), 2213(e)(2), 2232(1), 2350(2), 2801(c)(3), 5001(a)(1), and 5001(a)(2)) so that the initial letter of such word is lower case.

(3) Sections 130(b)(2), 708(e), 975(a)(2), 1490(c), 2319(a), 2324(k), 2391(d), 2401a(d), 2404(e), 2825(a)(2), 2826(f), and 2862(a)(2) are amended by inserting "the term" after "In this section,".

(4) Section 276(b) is amended by inserting ", the term" after "In this section".

(5) Sections 1126(d) and 7420 are amended—

(A) by striking out the dash in the matter preceding paragraph (1) and inserting in lieu thereof a colon;

(B) by inserting "The term" in each paragraph after the paragraph designation;

(C) by striking out the semicolon at the end of each of paragraphs (1) through (4) and inserting in lieu thereof a period; and

(D) by striking out "; and" at the end of paragraph (5) and inserting in lieu thereof a period.

(6) Section 2181 is amended—

(A) by striking out "'Captive" and inserting in lieu thereof "The terms 'captive"; and

(B) by striking out "'Dependent" and inserting in lieu thereof "The term 'dependent".

(7) Section 2433(a) is amended—

(A) by inserting "The term" in paragraphs (2) and (4) after the paragraph designation; and

(B) by striking out "(3) 'Procurement" and inserting in lieu thereof "(3) The term 'procurement".

(8) Section 3001 is amended by inserting "the term" after "In this title,".

(9) Section 7430(i) is amended by striking out "As used in" and inserting in lieu thereof "In".

(10) Section 7721(b) is amended by inserting ", the term" after "In this chapter".

37 USC 404, 404 note.

SEC. 8. AMENDMENTS TO TITLE 37, UNITED STATES CODE

100 Stat. 1783-113, 3341-113.

(a) CONFLICTING PROVISIONS.—The amendments made to section 404(d) of title 37, United States Code, by section 614(a) of the Defense Authorization Act shall be executed as if that portion of section 9073 of the Defense Appropriations Act which is before the proviso had not been enacted, and such amendments shall be effective as provided in section 614(b) of the Defense Authorization Act. Such portion of section 9073 which is before the proviso shall not be in effect after the date of the enactment of this Act, and the reference to "this section" in such proviso shall be deemed to refer to section 614 of the Defense Authorization Act.

100 Stat. 3879.

(b) DUPLICATE SECTION DESIGNATIONS.—Title 37, United States Code, is amended as follows:

(1) Section 431, as added by section 615 of the Defense Authorization Act, is redesignated as section 432, and the item relating to that section in the table of sections at the beginning of chapter 7 of such title is revised to reflect that redesignation.

(2) Section 1013, as added by section 9103 of the Defense Appropriations Act, is redesignated as section 1014, and the item relating to that section in the table of sections at the beginning of chapter 19 of such title is revised to reflect that redesignation.

(c) REFERENCE TO INTERNAL REVENUE CODE OF 1954.—Section 558 of title 37, United States Code, is amended by striking out "Internal Revenue Code of 1954" and inserting in lieu thereof "Internal Revenue Code of 1986".

26 USC 1 *et seq.*

(d) CLERICAL AMENDMENTS.—Title 37, United States Code, is amended as follows:

(1) Section 301(b) is amended by striking out "Monthly rate" each place it appears and inserting in lieu thereof "Monthly Rate".

(2) Section 302a is amended—

(A) by striking out "a" at the beginning of paragraphs (1), (2), and (3) and inserting in lieu thereof "A";

(B) by striking out ", or" at the end of paragraph (1)(A) and inserting in lieu thereof "; or";

(C) by striking out the semicolon at the end of paragraph (1)(B) and inserting in lieu thereof a period; and

(D) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period.

(3) Section 303 is amended—

(A) by striking out "a" at the beginning of paragraphs (1), (2), and (3) and inserting in lieu thereof "A";

(B) by striking out ", or" at the end of paragraph (1)(B) and inserting in lieu thereof "; or";

(C) by striking out the semicolon at the end of paragraph (1)(C) and inserting in lieu thereof a period;

(D) by striking out the comma at the end of paragraphs (1)(A) and (1)(B) and inserting in lieu thereof a semicolon; and

(E) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period.

(4) Section 308i is amended in subsection (b)(1)(B) by inserting a comma after "$2,500".

(5) Section 403(l)(1) is amended by striking out "Armed Forces" and inserting in lieu thereof "armed forces".

(6) Sections 404(d)(1)(A) and 408 are amended by striking out "privately-owned" and inserting in lieu thereof "privately owned".

(7) Section 406 is amended—

(A) by striking out "round trip" each place it appears in subsection (a) and inserting in lieu thereof "round-trip"; and

(B) by striking out "roundtrip" in subsection (b) and inserting in lieu thereof "round-trip".

37 USC 411.

(8) Section 411b(a) is amended by striking out "forty-eight" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "48".

(9) Section 411c(b) is amended—

(A) by striking out "roundtrip" and inserting in lieu thereof "round-trip"; and

(B) by striking out "roundtrips" and inserting in lieu thereof "round-trips".

(e) DEFINITIONS.—Title 37, United States Code, is further amended as follows:

(1) Section 101 is amended—

(A) by striking out "for the purposes of this title—" and inserting in lieu thereof "the following definitions apply in this title:";

(B) by inserting "The term" in each paragraph after the paragraph designation;

(C) by revising the first word after the open quotation marks in each paragraph (other than paragraphs (1) and (6) through (10)) so that the initial letter of such word is lower case;

(D) by striking out the semicolon at the end of paragraphs (1) through (24) and inserting in lieu thereof a period; and

(E) by striking out "and" at the end of paragraph (24).

(2) Section 301 is amended—

(A) by striking out "For the purposes of this subsection," in subsection (a) and inserting in lieu thereof "In this subsection, the term"; and

(B) by striking out "paragraph" in subsection (f)(2)(C) and inserting in lieu thereof "paragraph, the term".

(3) Section 301a(6) is amended—

(A) by striking out "For the purposes of this section, the term—" and inserting in lieu thereof "In this section:";

(B) by inserting "The term" in each subparagraph after the subparagraph designation;

(C) by striking out the semicolon at the end of subparagraphs (A) and (B) and inserting in lieu thereof a period; and

(D) by striking out "and" at the end of subparagraph (B).

(4) Section 301c(a)(5) is amended—

(A) by striking out "For the purposes of this section, the term—" and inserting in lieu thereof "In this section:";

(B) by inserting "The term" in subparagraphs (A) and (B) after each subparagraph designation; and

(C) by revising the first word after the open quotation marks in subparagraphs (A) and (B) so that the initial letter of such word is lower case.

(5) Section 305a(d) is amended by striking out "For the purposes of this section," and inserting in lieu thereof "In this section,".

(6) Sections 315, 409(e), 411d(d), and 501(a) are amended by inserting "the term" after "In this section,".

(7) Section 401 is amended by inserting "the term" after "In this chapter,".

(8) Section 403a(c)(6)(B) is amended by inserting "the term" after "In subparagraph (A),".

(9) Section 501(g) is amended in the last sentence by inserting "the term" before the open quotation marks each place they appear. 37 USC 411.

(10) Section 551 is amended—

(A) by striking out "In this chapter—" and inserting in lieu thereof "In this chapter:";

(B) by inserting "The term" in each paragraph after the paragraph designation;

(C) by striking out the semicolon at the end of paragraphs (1) and (2) and inserting in lieu thereof a period; and

(D) by striking out "and" at the end of paragraph (2).

(11) Section 559(a) is amended—

(A) by striking out "In this section—" and inserting in lieu thereof "In this section:";

(B) by inserting "The term" in paragraphs (1) and (2) after the paragraph designation; and

(C) by striking out "; and" at the end of paragraph (1) and inserting in lieu thereof a period.

SEC. 9. RECODIFICATION OF CERTAIN INTELLIGENCE PROVISIONS

(a) RECODIFICATION.—(1) Part I of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter: 10 USC 101.

"CHAPTER 21—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

"Sec.

"421. Funds transfers for foreign cryptologic support.

"422. Counterintelligence official reception and representation expenses.

"423. Authority to use proceeds from counterintelligence operations of the military department.".

(2) Section 128 of such title (as redesignated by section 101 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is transferred to the end of chapter 21 of such title (as added by paragraph (1)) and is redesignated as section 421.

(3) Sections 140a and 140b of such title (as added by sections 401 and 403, respectively, of the Intelligence Authorization Act for Fiscal Year 1987 (Public Law 99-569)) are transferred to the end of such chapter and redesignated as sections 422 and 423, respectively.

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 3 of such title is amended by striking out the item relating to section 128.

(2) The table of sections at the beginning of chapter 4 of such title is amended by striking out the items relating to sections 140a and 140b (as added by sections 401 and 403, respectively, of the Intelligence Authorization Act for Fiscal Year 1987).

(3) Section 423 of such title (as redesignated by subsection (a)(3)) is amended by striking out "United States Code," in subsection (a).

(4) The tables of chapters at the beginning of subtitle A, and at the beginning of part I of subtitle A, of such title are amended by inserting after the item relating to chapter 20 (as added by section 333(a)(2) of the Defense Authorization Act) the following new item:

"21. Department of Defense Intelligence Matters .... 421".

SEC. 10. CORRECTIONS TO SMALL BUSINESS PROCUREMENT PROVISIONS

100 Stat. 1783-147, 3341-147, 3926. 15 USC 644. 15 USC 632 note.

(a) DEFENSE ACQUISITION IMPROVEMENT ACT.—Section 921 of the Defense Acquisition Improvement Act is amended as follows:

(1) Subsection (a)(1) is amended by striking out "paragraph" and inserting in lieu thereof "clause".

(2) Subsection (h)(3) is amended by striking out "value of contracts to be awarded under such sections" at the end of the first sentence and inserting in lieu thereof "dollar value of the contracts to be awarded in that industry category".

Contracts.

(3) Subsection (j) is amended by striking out "construction" and all that follows in such subsection and inserting in lieu thereof "construction by Great Lakes Naval Training Center, Illinois, and of the total dollar amount of the contracts awarded for fiscal year 1987 for refuse systems and related services by such training center, not more than 30 percent of each such dollar amount may be under contracts awarded through so-called small business set-aside programs.".

15 USC 644.

(b) SMALL BUSINESS ACT.—(1) Section 15(o) of the Small Business Act (as added by section 921(c)(2) of the Defense Acquisition Improvement Act) is amended—

(A) by striking out "the concern" in paragraph (1)(A) and all that follows through "employees" and inserting in lieu thereof "at least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern"; and

(B) in paragraph (3)—

(i) by striking out "subparagraph" and inserting in lieu thereof "paragraph"; and

(ii) by adding at the end the following new sentence: "The percentage applicable to any such requirement shall be determined in accordance with paragraph (2).".

15 USC 632.

(2)(A) Paragraph (3) of section 3(a) of such Act (as added by section 921(f) of the Defense Acquisition Improvement Act) is amended by striking out "value of contracts to be awarded under such sections" and inserting in lieu thereof "dollar value of the contracts to be awarded in that industry category".

(B) Paragraph (4)(A)(i) of such section is amended by striking out "paragraph (3)(A)" and inserting in lieu thereof "paragraph (3)".

(C) Paragraph (5) of such section is amended by striking out "made with the expiration of 180 days after each" and inserting in lieu thereof "shall be made not later than 180 days after the end of each such".

15 USC 637.

(3) Paragraph (14) of section 8(a) of such Act (as added by section 921(c)(1) of the Defense Aquisition Improvement Act) is amended by striking out "section 15(n)" in subparagraphs (B) and (C) and inserting in lieu thereof "section 15(o)".

SEC. 11. OTHER TECHNICAL AMENDMENTS

10 USC 2432 note. 10 USC 139a note. 10 USC 2431 note. 10 USC 139 note.

(a) CROSS-REFERENCE CORRECTIONS.—(1) Section 1243(a) of the Defense Procurement Reform Act of 1984 (title XII of Public Law 98-525; 98 Stat. 2609) is amended by striking out "section 139a(a)" and inserting in lieu thereof "section 2430".

(2) Section 915(d) of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 688) is amended by striking out "section 139a(a)(1)" and inserting in lieu thereof "section 2430".

(b) Public Law 99-433.—Section 523(c)(1) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (100 Stat. 1063) by striking out "section" and inserting in lieu thereof "sections".

10 USC 3033 note.

SEC. 12. EFFECTIVE DATES

(a) Public Law 99-661.—The amendments made by section 3 shall apply as if included in Public Law 99-661 when enacted on November 14, 1986.

10 USC 774 note.
100 Stat. 3816.

(b) Public Laws 99-500 and 99-591.—The amendments made by section 4 shall apply as if included in Public Laws 99-500 and 99-591 when enacted on October 18, 1986, and October 30, 1986, respectively.

10 USC 1466 note.
100 Stat. 1783, 3341.

(c) Defense Acquisition Improvement Act.—The amendments made by sections 5 and 10 shall apply as if included in each instance of the Defense Acquisition Improvement Act (as specified in section 2) when each was enacted.

15 USC 632 note.
100 Stat. 1783-130, 3341-130, 3910.

(d) Technical Data.—(1) The amendments to section 2321 of title 10, United States Code, made by section 7(a)(5) shall apply to contracts for which solicitations are issued after the end of the 210-day period beginning on October 18, 1986.

Contracts.
10 USC 2321 note.

(2) The amendment to section 2328 of such title made by section 7(a)(7)(A)(i)(II) shall take effect on the same date and in the same manner as provided in section 1804(b) of Public Law 99-570 for the amendment made by section 1803 of that Public Law to section 552a of title 5, United States Code.

10 USC 2328 note.
100 Stat. 3207-50.
100 Stat. 3207-49.

Approved April 21, 1987.

LEGISLATIVE HISTORY—H.R. 1783:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 31, considered and passed House.
Apr. 8, considered and passed Senate.

Public Law 100-27
100th Congress

Joint Resolution

Apr. 21, 1987
[H.J. Res. 119]

Designating the week of April 19, 1987, through April 25, 1987, as "National Minority Cancer Awareness Week".

Whereas the month of April each year is designated as National Cancer Month for the purpose of promoting increased awareness of the causes, types, and treatments of cancer;

Whereas the National Cancer Institute has recognized that significant differences exist in the incidence of cancer and survival rates for cancer patients between minority and economically disadvantaged communities in the United States and the population in general;

Whereas increased awareness of the causes of cancer and available treatments will help reduce cancer rates among minorities and the economically disadvantaged through preventive measures and will improve survival rates for cancer patients through early diagnosis;

Whereas a comprehensive national approach is needed to increase awareness about cancer among minorities and economically disadvantaged persons, and to encourage health care professionals, researchers, and policy makers to develop solutions to the cancer-related problems unique to these communities; and

Whereas focusing public attention on cancer in minority and economically disadvantaged communities during one week so designated will have a positive impact on preventive health care and treatment in these communities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 19, 1987, through April 25, 1987, is designated as "National Minority Cancer Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe the week with appropriate programs and activities.

Approved April 21, 1987.

LEGISLATIVE HISTORY—H.J. Res. 119:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Apr. 8, considered and passed House.
Apr. 9, considered and passed Senate.

○

Public Law 100-28
100th Congress

An Act

To amend the Food Security Act of 1985 to extend the date for submitting the report required by the National Commission on Dairy Policy.

Apr. 24, 1987
[H.R. 1123]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Agriculture and agricultural commodities.

SECTION 1. NATIONAL COMMISSION ON DAIRY POLICY.

(a) EXTENSION OF REPORTING DATE.—Section 143(c) of the Food Security Act of 1985 (7 U.S.C. 1446 note) is amended by striking out "1987" and inserting in lieu thereof "1988".

(b) LEASING AND CONTRACTING AUTHORITY.—Section 144 of such Act (7 U.S.C. 1446 note) is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of law, to the extent there are sufficient funds available to the Commission under section 145 and subject to such rules as may be adopted by the Commission, the Commission may—

7 USC 1446 note.

"(1) lease office space in the District of Columbia; and

District of Columbia.

"(2) procure temporary or intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.".

SEC. 2. PHASE IN OF CONSERVATION PLANNING PROCESS FOR PRODUCERS PLANTING ALFALFA.

(a) Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812(b)) is amended by striking the period at the end of subsection (b) and inserting in lieu thereof "; or" and (b) by adding the following new paragraph:

Conservation.

"(5) on highly erodible land planted to alfalfa during each of the 1981 through 1985 crop years as part of a rotation practice approved by the Secretary, if the person has submitted a conservation plan based on the local Soil Conservation Service technical guide and approved by the local soil conservation district, in consultation with the local committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) and the Secretary, such person shall have until June 1, 1988, to comply with the plan without being subject to program ineligibility under section 1211.".

16 USC 3811.

SEC. 3. CONSERVATION PLAN FOR HIGHLY ERODIBLE LAND.

Section 1212(a)(2) of the Food Security Act of 1985 (16 U.S.C. 3812(a)(2)) is amended—

(1) by inserting after "conservation plan" the following: "that documents the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedule and that is"; and

(2) by adding at the end thereof the following new sentence: "In carrying out this subsection, the Secretary, Soil Conservation Service, and local soil conservation districts shall minimize the quantity of documentation a person must submit to comply with this paragraph.".

Approved April 24, 1987.

LEGISLATIVE HISTORY—H.R. 1123 (S. 410):

HOUSE REPORTS: No. 100-9 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 133 (1987):
    Mar. 3, considered and passed House.
    Apr. 7, considered and passed Senate, amended, in lieu of S. 410.
    Apr. 9, House concurred in Senate amendment.

○

Public Law 100-29
100th Congress

Joint Resolution

To designate the month of April 1987, as "National Child Abuse Prevention Month".

Apr. 29, 1987
[S.J. Res. 58]

Whereas the incidence and prevalence of child abuse and neglect have reached alarming proportions in the United States;

Whereas an estimated four million children become victims of child abuse in this Nation each year;

Whereas an estimated five thousand of these children die as a result of such abuse each year;

Whereas the Nation faces a continuing need to support innovative programs to prevent child abuse and assist parents and family members in which child abuse occurs;

Whereas Congress has expressed its commitment to seeking and applying solutions to this problem by enacting the Child Abuse Prevention and Treatment Act of 1974;

42 USC 5101 note.

Whereas many dedicated individuals and private organizations, including Child Help U.S.A., Parents Anonymous, the National Committee for the Prevention of Child Abuse, the American Humane Association, and other members of the National Child Abuse Coalition, are working to counter the ravages of abuse and neglect and to help child abusers break this destructive pattern of behavior;

Whereas the average cost for a public welfare agency to serve a family through a child abuse program is twenty times greater than self-help programs administered by private organizations;

Whereas organizations such as Parents Anonymous, and other members of the National Child Abuse Coalition, are expediting efforts to prevent child abuse in the next generation through special programs for abused children; and

Whereas it is appropriate to focus the attention of the Nation upon the problem of child abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of

April 1987, is designated as "National Child Abuse Prevention Month", and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved April 29, 1987.

LEGISLATIVE HISTORY—S.J. Res. 58:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 20, considered and passed Senate.
Apr. 22, considered and passed House.

○

Public Law 100-30
100th Congress

Joint Resolution

To authorize and request the President to issue a proclamation designating April 26, through May 2, 1987, as "National Organ and Tissue Donor Awareness Week".

Apr. 29, 1987
[S.J. Res. 89]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April 26, through May 2, 1987 as "National Organ and Tissue Donor Awareness Week".

Approved April 29, 1987.

LEGISLATIVE HISTORY—S.J. Res. 89:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 24, considered and passed Senate.
Apr. 22, considered and passed House.

○

Public Law 100-31
100th Congress

Joint Resolution

May 5, 1987
[S.J. Res. 57]

To designate the period commencing on May 3, 1987, and ending on May 10, 1987, as "National Older Americans Abuse Prevention Week".

Whereas each year an estimated 550,000 to 2.5 million elders are the victims of physical and emotional abuse, neglect, and denial of fundamental civil rights;

Whereas these elders represent every racial, religious and socioeconomic class;

Whereas the suffering of these elders poses a threat to our families and to our society as a whole;

Whereas in most instances this neglect and abuse stems from the lack of information on intervention and prevention;

Whereas the health and well-being of our elders is, and must be, one of our Nation's highest priorities;

Whereas May, 1987, has been designated as "Older Americans Month", and provides the ideal opportunity for the people of the United States to become educated and aware of the welfare of the elderly; and

Whereas it is appropriate to focus the attention of the Nation upon the problem of elderly abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on May 3, 1987, and ending on May 10, 1987, is designated as "National Older Americans Abuse Prevention Week", and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe such period with appropriate programs, ceremonies, and activities.

Approved May 5, 1987.

LEGISLATIVE HISTORY—S.J. Res. 57:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 20, considered and passed Senate.
Apr. 27, considered and passed House.

○

91-139 O - 87 (31)

Public Law 100-32
100th Congress

Joint Resolution

To designate the month of May 1987 as "National Digestive Diseases Awareness Month".

May 5, 1987
[S.J. Res. 67]

Whereas digestive diseases rank third among illnesses in total economic cost in the United States;

Whereas digestive diseases represent one of the Nation's most serious health problems in terms of discomfort and pain, mortality, personal expenditures for treatment, and working hours lost;

Whereas twenty million Americans suffer from chronic digestive disease;

Whereas more than fourteen million cases of acute digestive diseases are treated in this country each year, including one-third of all malignancies and some of the most common acute infections;

Whereas more Americans are hospitalized by digestive diseases than by any other diseases, necessitating 25 per centum of all surgical operations;

Whereas digestive diseases are one of the most-prevalent causes of disability in the work force;

Whereas digestive diseases cause yearly expenditure of over $17,000,000,000 in direct health care costs, and a total annual economic burden of nearly $50,000,000,000;

Whereas at least one hundred different digestive diseases, in addition to other disorders of the gastrointestinal tract, cause more than two hundred thousand deaths every year;

Whereas research into the causes, cures, prevention, and clinical treatment of digestive disease and related nutrition problems has become a national concern, and the people of the United States should recognize digestive diseases as a major health priority;

Whereas national organizations such as the Digestive Disease National Coalition are committed to increasing awareness and understanding of digestive diseases among members of the general public and the health care community;

Whereas the National Institutes of Health, through its National Digestive Diseases Education and Information Clearinghouse, and the National Digestive Diseases Advisory Board are committed to encouraging and coordinating such educational efforts; and

Whereas the month of May 1987 marks the fourth anniversary of the National Digestive Disease Education Program, a coordinated effort to educate the public and the health care community regarding the seriousness of digestive diseases, and to provide information relative to their treatment, prevention, and control: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1987 is designated as "National Digestive Diseases Awareness Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs and activities.

Approved May 5, 1987.

LEGISLATIVE HISTORY—S.J. Res. 67:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 20, considered and passed Senate.
Apr. 27, considered and passed House.

○

Public Law 100-33
100th Congress

An Act

To designate certain river segments in New Jersey as study rivers for potential inclusion in the national wild and scenic river system.

May 7, 1987
[H.R. 14]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION AS STUDY RIVERS.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end thereof the following:

"(96) **MAURICE, NEW JERSEY**.—The segment from Shell Pile to the point three miles north of Laurel Lake.

"(97) **MANUMUSKIN, NEW JERSEY**.—The segment from its confluence with the Maurice River to the crossing of State Route 49.

"(98) **MENANTICO CREEK, NEW JERSEY**.—The segment from its confluence with the Maurice River to its source.".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of conducting the studies of the rivers named in section 1 there are authorized to be appropriated such sums as necessary.

Approved May 7, 1987.

LEGISLATIVE HISTORY—H.R. 14:

HOUSE REPORTS: No. 100-18 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-38 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 10, considered and passed House.
Apr. 23, considered and passed Senate.

O

Public Law 100-34
100th Congress

An Act

May 7, 1987
[H.R. 1963]

To amend the Surface Mining Control and Reclamation Act of 1977 to permit States to set aside in a special trust fund up to 10 per centum of the annual State funds from the Abandoned Mine Land Reclamation Fund for expenditure in the future for purposes of abandoned mine reclamation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SPECIAL STATE SET-ASIDE

SEC. 101. AMENDMENT OF SURFACE MINING CONTROL AND RECLAMATION ACT.

30 USC 1232.

Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 is amended by redesignating paragraph (3) as paragraph (4) and by adding the following new paragraph after paragraph (2):

"(3) Special State Set-Aside for Future Expenditure.—Notwithstanding the proviso contained in paragraph (2), any State may receive and retain, without regard to the three-year limitation referred to in such proviso, up to ten per centum of the appropriated funds granted annually by the Secretary to that State under paragraph (2) if such moneys are deposited in a special trust fund established under State law and such moneys (together with all interest earned on such moneys) may be expended by the State solely to accomplish the purposes of this title after August 3, 1992. All moneys so deposited in special State trust accounts, as well as all interest earned, shall be considered State moneys. This paragraph shall cease to apply to any State for fiscal years after any fiscal year in which approval of the State regulatory program under section 503 is terminated or withdrawn by the Secretary until the first subsequent fiscal year after the fiscal year in which the Secretary reapproves the State program.".

30 USC 1253.

TITLE II—TWO-ACRE EXEMPTION

SEC. 201. REPEAL OF EXEMPTION.

(a) Repeal.—Section 528 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1278) is amended as follows:

(1) In paragraph (1), insert "and" immediately after "him;".
(2) Strike out paragraph (2).
(3) Redesignate paragraph (3) as (2).

30 USC 1278 note.
Coal.

(b) Effective Date for New Operations.—The amendments made by this section shall take effect on the date 30 days after the enactment of this Act with respect to each operator commencing surface coal mining operations on or after such date.

30 USC 1278 note.
Coal.

(c) Effective Date for Existing Operations.—The amendments made by this section shall take effect on the date 6 months after the enactment of this Act with respect to each operator commencing surface coal mining operations pursuant to an authorization under

State law before the date 30 days after the enactment of this Act. Nothing in this Act shall preclude reclamation activities pursuant to State law or regulations at the site of any surface coal mine which was exempt from the Surface Mining Control and Reclamation Act of 1977 under section 528(2) of that Act, as in effect before the enactment of this Act. 30 USC 1278.

(d) Effect on State Law.—To the extent that any provision of a State law, or of a State regulation, adopted pursuant to the exception under section 528(2) of the Surface Mining Control and Reclamation Act of 1977 as in effect before the enactment of this Act, is inconsistent with the amendments made by this section, such provision shall be of no further force and effect after the effective date of such amendments. 30 USC 1278 note.

(e) Definition.—For purposes of this section, the term "surface coal mining operations" has the meaning provided by section 701(28) of the Surface Mining Control and Reclamation Act of 1977. 30 USC 1278 note. 30 USC 1291.

Approved May 7, 1987.

LEGISLATIVE HISTORY—H.R. 1963 (S. 643):

HOUSE REPORTS: No. 100-59 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-37 accompanying S. 643 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Apr. 21, considered and passed House.
Apr. 23, considered and passed Senate.

○

Public Law 100-35
100th Congress

An Act

May 8, 1987
[H.R. 240]

To amend the National Trails System Act to designate the Santa Fe Trail as a National Historic Trail.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

Missouri.
Kansas.
Oklahoma.
Colorado.
New Mexico.
Public information.
Gifts and property.

(a) Designation.—Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding the following new paragraph at the end thereof:

"(15) The Santa Fe National Historic Trail, a trail of approximately 950 miles from a point near Old Franklin, Missouri, through Kansas, Oklahoma, and Colorado to Santa Fe, New Mexico, as generally depicted on a map entitled 'The Santa Fe Trail' contained in the Final Report of the Secretary of the Interior pursuant to subsection (b) of this section, dated July 1976. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Santa Fe Trail except with the consent of the owner thereof. Before acquiring any easement or entering into any cooperative agreement with a private landowner with respect to the trail, the Secretary shall notify the landowner of the potential liability, if any, for injury to the public resulting from physical conditions which may be on the landowner's land. The United States shall not be held liable by reason of such notice or failure to provide such notice to the landowner. So that significant route segments and sites recognized as associated with the Santa Fe Trail may be distinguished by suitable markers, the Secretary of the Interior is authorized to accept the donation of suitable markers for placement at appropriate locations.".

(b) Authorization of Appropriations.—Section 10(c)(2) of such Act (16 U.S.C. 1249(c)(2)) is amended by inserting "and (15)" after "(13)".

Approved May 8, 1987.

LEGISLATIVE HISTORY—H.R. 240:

HOUSE REPORTS: No. 100-16 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-39 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 10, considered and passed House.
Apr. 12, considered and passed Senate.

O

Public Law 100-36
100th Congress

Joint Resolution

Designating the week of May 10, 1987, through May 16, 1987, as "National Osteoporosis Prevention Week of 1987".

May 12, 1987
[S.J. Res. 55]

Whereas osteoporosis, a degenerative bone condition, afflicts sixteen million to twenty million people in the United States;

Whereas osteoporosis afflicts 90 per centum of women over age seventy-five;

Whereas 50 per centum of all women in the United States over age forty-five will develop some form of osteoporosis;

Whereas hip fractures are the most disabling outcome of osteoporosis, and 32 per centum of women and 17 per centum of men who live to age ninety will likely suffer a hip fracture due primarily to osteoporosis;

Whereas the mortality rates for people who suffer a hip fracture increase by 20 per centum, with such fractures resulting in the death of over fifty thousand older women and many older men each year;

Whereas 15 to 25 per centum of people who suffer a hip fracture stay in a long-term care facility for at least one year after the fracture occurs, and 25 to 35 per centum of people who return home from a long-term care facility after recovering from a hip fracture require assistance with daily living after returning home;

Whereas the total cost to society of dealing with osteoporosis was $6,100,000,000 in 1983 and such cost is expected to rise as the population ages;

Whereas osteoporosis is associated with the loss of bone mass due to a lack of estrogen as a result of menopause, alcohol or cigarette use, and low calcium intake;

Whereas exercise and proper nutrition before an individual is age thirty-five will build bone mass to help prevent osteoporosis; and

Whereas people who suffer from osteoporosis should be aware of the increased risk of bone fractures, and should take precautions to reduce the chance of accidents that may result in bone fractures due primarily to osteoporosis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 10, 1987, through May 16, 1987, is designated as "National Osteoporosis Prevention Week of 1987", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs and activities.

Approved May 12, 1987.

LEGISLATIVE HISTORY—S.J. Res. 55:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 20, considered and passed Senate.
May 4, considered and passed House.

○

Public Law 100-37
100th Congress

Joint Resolution

May 12, 1987
[S.J. Res. 124]

Designating May 10, 1987, through May 16, 1987, as "Just Say No to Drugs Week".

Whereas America's youth are our Nation's most precious resource;

Whereas young people are contributing to drug abuse prevention by starting "Just Say No" clubs and saying "no" to drugs;

Whereas America's youth should be recognized and encouraged for their efforts in the fight against drug abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of this Nation's young people to publicly fight drug abuse by just saying "no" to drugs and thereby contributing to the end of drug abuse in America, the President is directed to issue a proclamation designating the week of May 10, 1987, through May 16, 1987, as "Just Say No to Drugs Week", and calling on the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

Approved May 12, 1987.

LEGISLATIVE HISTORY—S.J. Res. 124:

CONGRESSIONAL RECORD, Vol. 133 (1987):
May 7, considered and passed Senate.
May 8, considered and passed House.

○

Public Law 100-38
100th Congress

An Act

May 13, 1987
[S. 1167]

To change the name of the "Connecticut Coastal National Wildlife Refuge" to the "Stewart B. McKinney National Wildlife Refuge".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Stewart B. McKinney National Wildlife Refuge Designation Act of 1987. 16 USC 668dd note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stewart B. McKinney National Wildlife Refuge Designation Act of 1987".

SEC. 2. NAME CHANGE OF THE REFUGE.

The Connecticut Coastal National Wildlife Refuge, as established by Public Law 98-548, is hereby redesignated as the "Stewart B. McKinney National Wildlife Refuge".

SEC. 3. AUTHORIZATION TO THE SECRETARY.

In order to carry out the provisions of this Act, the Secretary of the Interior is authorized and directed to provide such modifications to maps, signs, and other references and structures to properly reflect such redesignation.

SEC. 4. AUTHORIZATION TO ACCEPT FUTURE MEMORIALS.

The Secretary is authorized to accept future memorials to be placed in the Stewart B. McKinney National Wildlife Refuge describing the contributions of Stewart B. McKinney to the Nation.

SEC. 5. AUTHORIZATION OF FUNDS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved May 13, 1987.

LEGISLATIVE HISTORY—S. 1167 (H.R. 2334):

CONGRESSIONAL RECORD, Vol. 133 (1987):
May 8, considered and passed Senate; H.R. 2334 considered and passed House; proceedings vacated and S. 1167 passed in lieu.

O

Public Law 100-39
100th Congress

Joint Resolution

To authorize and request the President to issue a proclamation designating May 3 through May 10, 1987, as "Jewish Heritage Week".

May 14, 1987
[H.J. Res. 67]

Whereas the Congress recognizes that an understanding of the heritage of all American ethnic groups contributes to the unity of our country;

Whereas intergroup understanding can be further fostered through an appreciation of the culture, history, and traditions of the Jewish community and the contributions of Jews to our country and society; and

Whereas the months of April and May contain events of major significance in the Jewish calendar—Passover, the anniversary of the Warsaw Ghetto Uprising, Israeli Independence Day, Solidarity Sunday for Soviet Jewry, and Jerusalem Day: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating May 3 through May 10, 1987, as "Jewish Heritage Week" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe that week with appropriate ceremonies, activities, and programs.

Approved May 14, 1987.

LEGISLATIVE HISTORY—H.J. Res. 67:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Apr. 22, considered and passed House.
May 7, considered and passed Senate.

○

Public Law 100-40
100th Congress

An Act

May 15, 1987
[H.R. 2360]

To provide for a temporary increase in the public debt limit.

31 USC 3101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) during the period beginning on the date of the enactment of this Act and ending on July 17, 1987, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be equal to $2,320,000,000,000.

31 USC 3101 note.

(b) Effective on and after the date of the enactment of this Act, section 8201 of the Omnibus Budget Reconciliation Act of 1986 is hereby repealed.

Approved May 15, 1987.

LEGISLATIVE HISTORY—H.R. 2360:

HOUSE REPORTS: No. 100-88 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 133 (1987):
May 13, considered and passed House.
May 14, considered and passed Senate.

○

91-139 O - 87 (40)

Public Law 100-41
100th Congress

An Act

To extend certain protections under title 11 of the United States Code, the Bankruptcy Code.

May 15, 1987
[S. 903]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 608(a) of Public Law 99-591 (100 Stat. 3341-74), and section 2(a) of Public Law 99-656 (100 Stat. 3668) are amended by striking out "May 15, 1987" each place it appears and inserting in lieu thereof "September 15, 1987".

11 USC 1106 note.

Approved May 15, 1987.

LEGISLATIVE HISTORY—S. 903:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Apr. 10, considered and passed Senate.
Apr. 30, considered and passed House.

○

PUBLIC LAW 100-42—MAY 21, 1987

POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978, AMENDMENTS

91-139 O - 87 (42)

Public Law 100-42
100th Congress

An Act

May 21, 1987
[H.R. 1941]

To repeal and amend certain sections of the Powerplant and Industrial Fuel Use Act of 1978.

Energy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF CERTAIN SECTIONS OF THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978.

(a) IN GENERAL.—The following provisions of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) are repealed:

(1) Section 202 (42 U.S.C. 8312).
(2) Section 302 (42 U.S.C. 8342).
(3) Section 401 (42 U.S.C. 8371).
(4) Section 402 (42 U.S.C. 8372).
(5) Section 405 (42 U.S.C. 8375).
(6) Title V (42 U.S.C. 8391).
(7) Section 801 (42 U.S.C. 8481).

(b) CLERICAL AMENDMENT.—The table of contents in section 101(b) of the Powerplant and Industrial Fuel Use Act of 1978 is amended by striking the items relating to the provisions repealed by subsection (a) of this section.

(c) CONFORMING AMENDMENTS.—(1) Section 102 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301) is amended—

(A) by striking "and major fuel-burning installations" wherever it appears; and

(B) in subsection (b), by striking paragraphs (2) and (6) and redesignating paragraphs (3), (4), (5), (7), (8), (9), (10), (11), and (12) as paragraphs (2), (3), (4), (5), (6), (7), (8), (9), and (10), respectively.

(2) Section 103 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8302) is amended—

(A) in subsection (a)(13)(B)—

(i) by striking clause (ii)(III);

(ii) by striking "; or" at the end of clause (ii)(II) and inserting a period; and

(iii) by inserting "and" at the end of clause (ii)(I);

(B) in subsection (a)(15), by striking "or major fuel-burning installation";

(C) in subsection (a)(16), by striking "or installation" each place it appears;

(D) in subsection (a)(19), by striking "or a major fuel-burning installation";

(E) in subsection (a)(20), by striking "or major fuel-burning installation";

(F) in subsection (b), by striking "or major fuel-burning installation" wherever it appears;

(G) in subsection (b)(1)(D), by striking all after "synthetic gas involved" and inserting a period; and

(H) by striking subsection (b)(3).

(3) Section 104 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8303) is amended to read as follows:

"SEC. 104. TERRITORIAL APPLICATION.

"The provisions of this Act shall only apply within the contiguous 48 States and the District of Columbia.".

(4)(A) Section 201 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8311) is amended to read as follows:

"SEC. 201. COAL CAPABILITY OF NEW ELECTRIC POWERPLANTS; CERTIFICATION OF COMPLIANCE.

"(a) GENERAL PROHIBITION.—Except to such extent as may be authorized under subtitle B, no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source.

"(b) CAPABILITY TO USE COAL OR ALTERNATE FUEL.—An electric powerplant has the capability to use coal or another alternate fuel for purposes of this section if such electric powerplant—

"(1) has sufficient inherent design characteristics to permit the addition of equipment (including all necessary pollution devices) necessary to render such electric powerplant capable of using coal or another alternate fuel as its primary energy source; and

"(2) is not physically, structurally, or technologically precluded from using coal or another alternate fuel as its primary energy source.

Capability to use coal or another alternate fuel shall not be interpreted to require any such powerplant to be immediately able to use coal or another alternate fuel as its primary energy source on its initial day of operation.

"(c) APPLICABILITY TO BASE LOAD POWERPLANTS.—(1) This section shall apply only to base load powerplants, and shall not apply to peakload powerplants or intermediate load powerplants.

"(2) For the purposes of this section, hours of electrical generation pursuant to emergency situations, as defined by the Secretary and reported to the Secretary, shall not be included in a determination of whether a powerplant is being operated as a base load powerplant.

Natural gas. Petroleum and petroleum products.

"(d) SELF-CERTIFICATION.—(1) In order to meet the requirement of subsection (a), the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary prior to construction, or prior to operation as a base load powerplant in the case of a new electric powerplant operated as a peakload powerplant or intermediate load powerplant, that such powerplant has capability to use coal or another alternate fuel, within the meaning of subsection (b). Such certification shall be effective to establish compliance with the requirement of subsection (a) as of the date it is filed with the Secretary. Within 15 days after receipt of a certification submitted pursuant to this paragraph, the Secretary shall publish in the Federal Register a notice reciting that the certification has been filed.

Federal Register, publication.

"(2) The Secretary, within 60 days after the filing of a certification under paragraph (1), may require the owner or operator of such powerplant to provide such supporting documents as may be necessary to verify the certification.".

(B) The item relating to section 201 in the table of contents in section 101(b) of the Powerplant and Industrial Fuel Use Act of 1978 is amended to read as follows:

"Sec. 201. Coal capability of new electric powerplants; certification of compliance.".

(5) Section 211 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8321) is amended—

(A) by striking "or installation from one or more of" and inserting "from" each place it appears;

(B) by striking "or installation" wherever it appears;

(C) in subsection (a)(1), by striking "using imported petroleum" and inserting "the fuel that would be used";

(D) in subsection (a)(3), by striking "or 202"; and

(E) by striking subsections (c) and (d).

(6) Section 212 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8322) is amended—

(A) by striking "or installation from one or more of" each place it appears and inserting "from";

(B) by striking "or installation" each place it appears;

(C) in subsection (a)(1)(A), by striking "using imported petroleum" and inserting "the fuel that would be used";

(D) in subsection (a)(2), by striking all that follows "paragraph (1) shall" through "new electric powerplant,";

(E) by striking subsection (a)(3);

(F) in subsection (b)(2), by striking "in the case of a powerplant,";

(G) in subsection (d)—

(i) by striking "(1)" after the subsection heading;

(ii) by striking paragraph (2); and

(iii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(H) by striking subsections (g), (h), (i), and (j).

(7) Section 213 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8323) is amended—

(A) in subsections (a) and (c)(1), by striking "or (g)";

(B) in subsection (a), by striking "or installation"; and

(C) by amending subsection (b) to read as follows:

"(b) STATE APPROVAL REQUIRED FOR POWERPLANT.—If the appropriate State regulatory authority has not approved a powerplant for which a petition has been filed, such exemption, to the extent it applies to the prohibition under section 201 against construction without the capability of using coal or another alternate fuel, shall not take effect until all approvals required by such State regulatory authority which relate to construction have been obtained.".

(8) Section 214(a) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8324(a)) is amended by striking "or installation".

(9) Section 303 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8343) is amended—

(A) by striking "or installation" and "or installations" wherever they appear;

(B) in subsection (a)(1) by striking "or 302";

(C) by striking subsection (a)(3);

(D) by amending subsection (b)(1) to read as follows:

Natural gas.
Petroleum and petroleum products.

"(1) The Secretary may prohibit, by rule, the use of natural gas or petroleum under section 301(b) in existing electric powerplants."; and

(E) by amending the last sentence of subsection (b)(3) to read as follows: "Any such rules shall not apply in the case of any existing electric powerplant with respect to which a comparable prohibition was issued by order.".

(10) Subtitle B of title III of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8351-8354) is amended by striking "or installation" each place it appears.

(11) Section 311(a)(3) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8351(a)(3)) is amended by striking "or 302".

(12) Section 312 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8352) is amended—

(A) by striking subsection (d)(2);

(B) in subsection (d)(3), by striking "In the case of an existing electric powerplant, the" and inserting "The"; and

(C) by striking subsections (j), (k), and (l).

(13) Section 313(a) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8353(a)) is amended by striking "(i), or (j)" and inserting "or (i)".

(14) Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8373) is amended—

(A) in subsection (a)(1), by striking ", major fuel-burning installation, or other unit" and ", installation, or unit";

(B) in subsection (a)(2), by striking ", installation, or other unit" and ", installation, or unit";

(C) in subsection (a)(2), by striking the last sentence; and

(D) by striking subsection (a)(3).

(15) Section 404 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8374) is amended by striking subsection (g).

(16) Section 701 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8411) is amended—

(A) in subsection (b), by striking "(other than under section 402)" and "or installation";

(B) in subsection (c)—

(i) by striking "or permit" each place it appears;

(ii) by striking "or for any permit under section 405," in paragraph (1);

(iii) by striking "or, where appropriate, major fuel-burning installation" in paragraph (2); and

(iv) by striking paragraph (4);

(C) in the first sentence of subsection (d)(1)—

(i) by striking "(or permit)"; and

(ii) by striking "(other than under section 402)";

(D) in subsection (f), by striking "402 or" both places it appears; and

(E) by striking subsection (g).

(17) Section 711 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8421) is amended by striking in the first sentence of subsection (a), "or major fuel-burning installation".

(18) Section 721 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8431) is amended by striking subsection (c).

(19) Section 722 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8432) is amended by striking "(other than section 402)".

(20) Section 723 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8433) is amended—

(A) in subsection (a), by striking "(other than section 402)";

(B) in subsection (b), by striking "(1)"; and

(C) by striking subsections (b)(2) and (c).

(21) Section 731 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8441) is amended—

(A) in subsections (a)(1) and (g)(3), by striking "title II or"; and

(B) in subsection (e)(1), by striking "or major fuel-burning installation" and "or major fuel burning installation".

(22) Section 745 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8455) is amended by striking in the first sentence of subsection (a) "and major fuel-burning installations".

(23) Section 761(a) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8471(a)) is amended by striking "or major fuel-burning installation".

(24) Section 763 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8473) is amended—

(A) by striking "or major fuel-burning installation" each place it appears; and

(B) by striking paragraph (2)(B).

Natural gas.

SEC. 2. REPEAL OF INCREMENTAL PRICING REQUIREMENTS.

(a) REPEAL.—Subject to subsections (b) and (c) of this section, title II of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341-3348) is repealed, and the items relating to title II are stricken from the table of contents of that Act.

15 USC 3341 note.

(b) LIMITED CONTINUING EFFECT OF RULES.—A rule promulgated by the Federal Energy Regulatory Commission, under title II of the Natural Gas Policy Act of 1978 shall continue in effect only with respect to the flowthrough of costs incurred before the enactment of this section, including any surcharges based on such costs.

15 USC 3341 note.

(c) IMPLEMENTATION.—The Federal Energy Regulatory Commission may take appropriate action to implement this section.

Approved May 21, 1987.

LEGISLATIVE HISTORY—H.R. 1941 (S. 85):

HOUSE REPORTS: No. 100-78 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-30 accompanying S. 85 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
May 4, considered and passed House.
May 7, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
May 21, Presidential remarks.

○

Public Law 100-43
100th Congress

An Act

To amend title 5, United States Code, to provide for procedures for the investment and payment of interest of funds in the Thrift Savings Fund when restrictions on such investments and payments are caused by the statutory public debt limit.

May 22, 1987
[S. 1177]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Thrift Savings Fund Investment Act of 1987".

Thrift Savings Fund Investment Act of 1987.
5 USC 8401 note.

SEC. 2. THRIFT SAVINGS INVESTMENT.

(a) INVESTMENT AND RESTORATION OF THE FUND.—Section 8438 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding subsection (f) of this section, the Secretary of the Treasury may suspend the issuance of additional amounts of obligations of the United States, if such issuances could not be made without causing the public debt of the United States to exceed the public debt limit, as determined by the Secretary of the Treasury.

"(2) Any issuances of obligations to the Government Securities Investment Fund which, solely by reason of the public debt limit are not issued, shall be issued under subsection (f) by the Secretary of the Treasury as soon as such issuances can be issued without exceeding the public debt limit.

"(3) Upon expiration of the debt issuance suspension period, the Secretary of the Treasury shall immediately issue to the Government Securities Investment Fund obligations under chapter 31 of title 31 that (notwithstanding subsection (f)(2) of this section) bear such interest rates and maturity dates as are necessary to ensure that, after such obligations are issued, the holdings of obligations of the United States by the Government Securities Investment Fund will replicate the obligations that would then be held by the Government Securities Investment Fund under the procedure set forth in paragraph (5), if the suspension of issuances under paragraph (1) of this subsection had not occurred.

"(4) On the first business day after the expiration of any debt issuance suspension period, the Secretary of the Treasury shall pay to the Government Securities Investment Fund, from amounts in the general fund of the Treasury of the United States not otherwise appropriated, an amount equal to the excess of the net amount of interest that would have been earned by the Government Securities Investment Fund from obligations of the United States during such debt issuance suspension period if—

"(A) amounts in the Government Securities Investment Fund that were available for investment in obligations of the United States and were not invested during such debt issuance suspension period solely by reason of the public debt limit had been invested under the procedure set forth in paragraph (5), over

"(B) the net amount of interest actually earned by the Government Securities Investment Fund from obligations of the United States during such debt issuance suspension period.

"(5) On each business day during the debt limit suspension period, the Executive Director shall notify the Secretary of the Treasury of the amounts, by maturity, that would have been invested or redeemed each day had the debt issuance suspension period not occurred.

"(6) For purposes of this subsection and subsection (i) of this section—

"(A) the term 'public debt limit' means the limitation imposed by section 3101(b) of title 31; and

"(B) the term 'debt issuance suspension period' means any period for which the Secretary of the Treasury determines for purposes of this subsection that the issuance of obligations of the United States may not be made without exceeding the public debt limit.".

(b) Reports Regarding the Operation and Status of the Fund.—Section 8438 of title 5, United States Code, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(i)(1) The Secretary of the Treasury shall report to Congress on the operation and status of the Thrift Savings Fund during each debt issuance suspension period for which the Secretary is required to take action under paragraph (3) or (4) of subsection (h) of this section. The report shall be submitted as soon as possible after the expiration of such period, but not later than 30 days after the first business day after the expiration of such period. The Secretary shall concurrently transmit a copy of such report to the Executive Director and the Comptroller General of the United States.

"(2) Whenever the Secretary of the Treasury determines that, by reason of the public debt limit, the Secretary will be unable to fully comply with the requirements of subsection (f) of this section, the Secretary shall immediately notify Congress and the Executive Director of the determination. The notification shall be made in writing.".

Approved May 22, 1987.

LEGISLATIVE HISTORY—S. 1177:

CONGRESSIONAL RECORD, Vol. 133 (1987):
May 12, considered and passed Senate.
May 13, considered and passed House.

○

Public Law 100-44
100th Congress

Joint Resolution

Designating May 25, 1987, as "National Day of Mourning for the Victims of the U.S.S. Stark".

May 23, 1987
[H.J. Res. 290]

Whereas the U.S.S. Stark, a frigate in the United States Navy on duty in the Persian Gulf, was struck by Iraqi missiles on May 17, 1987;

Whereas the missile attack killed 37 crewmembers of the U.S.S. Stark and injured another 15 crewmembers;

Whereas the people of the United States share the loss and grief being experienced by the families of the crewmembers killed or injured in the attack; and

Whereas Memorial Day is observed May 25, 1987, and commemorates the courageous men and women who have given their lives in the service of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 25, 1987, is hereby designated as "National Day of Mourning for the Victims of the U.S.S. Stark" in honor of the courageous crewmembers of the U.S.S. Stark who were killed or injured in the attack upon the U.S.S. Stark, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved May 23, 1987.

LEGISLATIVE HISTORY—H.J. Res. 290:

CONGRESSIONAL RECORD, Vol. 133 (1987):
May 21, considered and passed House and Senate.

○

PUBLIC LAW 100-45—MAY 27, 1987

FARM DISASTER ASSISTANCE ACT OF 1987

Public Law 100-45
100th Congress

An Act

May 27, 1987
[H.R. 1157]

To provide for an acreage diversion program applicable to producers of the crop of winter wheat harvested in 1987, and otherwise to extend assistance to farmers adversely affected by natural disasters in 1986.

Farm Disaster Assistance Act of 1987.
Agriculture and agricultural commodities.
7 USC 1421 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Disaster Assistance Act of 1987".

WHEAT ACREAGE DIVERSION

SEC. 2. Effective only for the 1987 crop of wheat, section 107D(c)(1)(C) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C)) is amended by—

(1) in clause (i)—

(A) inserting ", or all of such permitted acreage (as provided in subclauses (II), (III), and (IV) of clause (ii))," after "permitted wheat acreage of the farm for the crop"; and

(B) in subclause (I) thereof, inserting "(or all)" after "such portion";

(2) in clause (ii)—

(A) inserting "(I)" after the clause designation;

(B) inserting "subclauses (II), (III), and (IV) of this clause and" before "clauses (iii) and (vii)"; and

(C) adding at the end thereof the following:

Conservation.

"(II) "Effective for the 1987 crop, producers of winter wheat on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 winter wheat permitted acreage to conservation uses (or other uses as provided in subparagraph (K)) under the program under this subparagraph.

Conservation.
Loans.

"(III) Effective for the 1987 crop, producers of wheat on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted wheat acreage to conservation uses (or other uses as provided in subparagraph (K)) under the program under this subparagraph, if the farm is, during the normal planting season for such crop, subject to flooding on at least 50 percent of the permitted wheat acreage of the farm as the result of damage to a levee from flooding that occurred in 1986 and the farm is located in a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster.

Conservation.

"(IV) Effective for the 1987 crop, producers of wheat on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted wheat acreage to conservation uses (or other uses as provided in subparagraph (K)) under the program under this subparagraph, if the producers on the farm are prevented from planting such acreage, if intended for wheat, to wheat for harvest in 1987 because of a natural disaster in

1986 and the farm is located in a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster."; and

(3) in clause (iv)—

(A) inserting "(or all)" after "such portion"; and

(B) inserting "under this subparagraph" after "subparagraph (K))".

FEED GRAIN ACREAGE DIVERSION

SEC. 3. Effective only for the 1987 crop of feed grains, section 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444e(c)(1)(B)) is amended by—

(1) in clause (i)—

(A) inserting ", or all of such permitted acreage (as provided in the second sentence of clause (ii))," after "permitted feed grain acreage of the farm for the crop"; and

(B) in subclause (I) thereof, inserting "(or all)" after "such portion";

(2) in clause (ii)—

(A) inserting "the following sentence and" before "clause (iii)"; and

Conservation. Loans.

(B) adding at the end thereof the following: "Effective for the 1987 crop, producers of feed grains on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted feed grain acreage to conservation uses (or other uses as provided in subparagraph (I)) under the program under this paragraph, if the farm is, during the normal planting season for such crop, subject to flooding on at least 50 percent of the permitted feed grain acreage of the farm as the result of damage to a levee from flooding that occurred in 1986 and the farm is located in a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster."; and

(3) in clause (iv)—

(A) inserting "(or all)" after "such portion"; and

(B) inserting "under this subparagraph" after "subparagraph (I))".

COTTON ACREAGE DIVERSION

SEC. 4. Effective only for the 1987 crop of upland cotton, section 103A(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444-1(c)(1)(B)) is amended by—

(1) in clause (i)—

(A) inserting ", or all of such permitted acreage (as provided in subclause (II) of clause (ii))," after "permitted upland cotton acreage of the farm for the crop"; and

(B) in subclause (I), inserting "(or all)" after "such portion";

(2) in clause (ii)—

(A) inserting "(I)" after the clause designation;

(B) inserting "subclause (II) and" before "clause (iii)"; and

(C) adding at the end thereof the following new subclause:

Conservation. Loans.

"(II) Effective for the 1987 crop, producers of upland cotton on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted upland cotton acreage to conservation uses (or other uses as provided in subparagraph (G)) under the program under this subparagraph, if the farm is, during the normal planting season for such crop, subject to flooding on at least 50 percent of the permitted upland cotton acreage of the farm as the result of damage to a levee from flooding that occurred in 1986 and the farm is located in a county in which producers are eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster."; and

(3) in clause (iv)—

(A) inserting "(or all)" after "such portion"; and

(B) inserting "under this subparagraph" after "subparagraph (G))".

RICE ACREAGE DIVERSION

7 USC 1441-1.

SEC. 5. Effective only for the 1987 crop of rice, section 101A(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444-1(c)(1)(B)) is amended by—

(1) in clause (i)—

(A) inserting ", or all of such permitted acreage (as provided in subclause (II) of clause (ii))," after "permitted rice acreage of the farm for the crop"; and

(B) in subclause (I), inserting "(or all)" after "such portion";

(2) in clause (ii)—

(A) inserting "(I)" after the clause designation;

(B) inserting "subclause (II) and" before "clause (iii)"; and

(C) adding at the end thereof the following new subclause:

Conservation. Loans.

"(II) Effective for the 1987 crop, producers of rice on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted rice acreage to conservation uses (or other uses as provided in subparagraph (G)) under the program under this subparagraph, if the farm is, during the normal planting season for such crop, subject to flooding on at least 50 percent of the permitted rice acreage of the farm as the result of damage to a levee from flooding that occurred in 1986 and the farm is located in a county in which producers are eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster."; and

(3) in clause (iv)—

(A) inserting "(or all)" after "such portion"; and

(B) inserting "under this subparagraph" after "subparagraph (G))".

FULL PAYMENTS FOR DISASTER LOSSES

Claims. Securities.

SEC. 6. Notwithstanding any other provision of law, the Secretary of Agriculture shall make full payment in the form of generic negotiable commodity certificates to eligible producers, using funds, facilities, and authorities of the Commodity Credit Corporation, on all qualifying claims for assistance under section 633(B) of the

Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in section 101(a) of Public Laws 99-500 and 99-591, and as amended by sections 7 and 11 of this Act, to the extent provided in advance in an appropriation Act. To the extent that partial payment on any such claim has been made prior to the date of enactment of this Act, the Secretary shall provide a supplemental payment to the producer under this section, as soon as practicable after the date of enactment of this Act, to cover the difference between the partial payment and the amount of the full claim.

100 Stat. 1783-30, 3341-30.
100 Stat. 1783.
100 Stat. 3341.

DISASTER PAYMENTS

SEC. 7. Section 633(B) of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in section 101(a) of Public Laws 99-500 and 99-591, is amended by—

100 Stat. 1783-30, 3341-30.

(1) in subsection (a)(5)—

(A) amending clause (ii) of subparagraph (B) to read as follows:

"(ii) with respect to soybeans, peanuts, sugar beets, and sugarcane—

"(I) except as provided in subclause (III), with respect to soybeans and peanuts, the acreage so affected but not to exceed the acreage planted in the immediately preceding year to soybeans or peanuts, respectively, for harvest including any acreage that the producer was prevented from planting to such commodity or to other nonconserving crops in lieu of soybeans or peanuts because of drought, excessive moisture, flood, hail, or other natural disaster, or other condition beyond the control of the producer;

"(II) with respect to sugar beets and sugarcane (including sugar beets or sugarcane produced by those producers who did not plant acreage to sugar beets or sugarcane during 1985 as the result of the bankruptcy of the Great Western Sugar Company), the acreage so affected; and

"(III) with respect to producers of soybeans and peanuts whose plantings of such commodities in 1985 were either prevented or below normal levels because of rotation practices carried out by such producers, the acreage so affected but not to exceed a quantity of acreage based on the historical plantings of such commodities as determined by the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).''; and

(B) adding at the end thereof the following:

"(C) Any payments made available in accordance with subclause (II) or (III) of subparagraph (B)(ii) may be made only to the extent such payments are provided for in advance in an appropriation Act, as authorized under section 6 of the Farm Disaster Assistance Act of 1987.";

(2) in paragraph (1) of subsection (c), inserting "(including hay and straw that was harvested in 1986, stored on a field, and removed from the field by a flood)" after "commercial crops";

(3) striking out "1987." in paragraph (2) of subsection (d) and inserting in lieu thereof the following: "1987, except as provided in the following sentence. Applications for payments—

"(A) with respect to hay and straw referred to in subsection (c)(1) and crops of apples damaged by freezing;

"(B) made by producers under the last sentence of subsection (a)(5)(A)(ii) or under subclause (II) or (III) of subsection (a)(5)(B)(ii); and

Maine.

"(C) with respect to program or nonprogram crops produced in the State of Maine,

must be filed on or before the date that is 30 days after the date of enactment of the Farm Disaster Assistance Act of 1987.";

(4) adding at the end of subsection (e) the following:

"(3) With respect to losses of hay and straw referred to in subsection (c)(1)—

"(A) payments may be made to producers only to the extent payments under this section are provided for in advance in an appropriation Act, as authorized under section 6 of the Farm Disaster Assistance Act of 1987;

"(B) the total amount of payments made to all producers may not exceed $1,000,000; and

"(C) the total amount of payments made to an individual producer may not exceed $20,000.

"(4) With respect to losses of apple crops under subsection (b), payments may be made to producers only to the extent payments under this section are provided for in advance in an appropriation Act, as authorized under section 6 of the Farm Disaster Assistance Act of 1987.

Maine.

"(5) With respect to losses of program or nonprogram crops produced in the State of Maine—

"(A) payments may be made to producers only to the extent payments under this section are provided for in advance in an appropriation Act, as authorized under section 6 of the Farm Disaster Assistance Act of 1987; and

"(B) the total amount of payments made to all producers may not exceed $1,000,000."; and

(5)(A) in paragraph (1) of subsection (b), inserting "and (with respect to apple crops) freeze," after "excessive moisture,";

(B) in paragraph (2)(A) of subsection (b) inserting "or (with respect to apple crops) freeze," after "excessive moisture,"; and

(C) in paragraph (1)(B) of subsection (c), inserting "freeze" after "excessive moisture,".

AUTHORIZATION NOT TO INCREASE THE DEFICIT

2 USC 621 note.

2 USC 901 note.

SEC. 8. Each appropriation made pursuant to authorizations in this Act and any new appropriation for an expenditure of funds by the Department of Agriculture (whether in a general, supplemental, or continuing appropriation Act) shall be made in accordance with the provisions of the Congressional Budget and Impoundment Control Act (which prohibits the consideration by Congress of any bill that would cause the deficit of the United States Government to exceed the levels established by the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings)), such that the appropriation does not increase the deficit of the United States Government for fiscal year 1987, and shall be made only if the expenditure is authorized by law.

GREAT LAKES FLOOD EMERGENCY ASSISTANCE

SEC. 9. Section 5 of the Act of August 18, 1941 (33 U.S.C. 701n) is amended—

(1) by redesignating subsection (a) as subsection (a)(1); and

(2) by adding at the end of subsection (a)(1), as redesignated by this Act, the following new paragraph:

"(2) In preparing a cost and benefit feasibility assessment for any emergency project described in paragraph (1), the Chief of Engineers shall consider the benefits to be gained by such project for the protection of—

"(A) residential establishments;

"(B) commercial establishments, including the protection of inventory; and

"(C) agricultural establishments, including the protection of crops.".

CONSERVATION RESERVE

SEC. 10. Section 1235(a) of the Food Security Act of 1985 should be reviewed by the Secretary of Agriculture to ensure that the provisions thereof relating to exceptions to the three-year ownership requirement with respect to eligibility for the conservation reserve are being implemented in a manner to encourage inclusion of producer-owned land in the conservation reserve. However, any such exception to the three-year requirement should be made only if the Secretary determines that the land involved (1) was not acquired for the purpose of placing the land in the conservation reserve or (2) otherwise meets the criteria for exceptions made under section 1235(a). 16 USC 3835.

UPLAND COTTON DISASTER PAYMENTS

SEC. 11. Section 633(B) of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in section 101(a) of Public Laws 99-500 and 99-591, is amended by— 100 Stat. 1783-30, 3341-30.

(1) adding at the end of subsection (a)(5)(A)(ii) a new sentence as follows: "To ensure equitable treatment of all producers suffering losses, each county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, in accordance with regulations established by the Secretary, shall make adjustments in the actual production on each farm of the 1986 upland cotton crop to reflect any reduction in the quality of such crop caused by drought, excessive heat, floods, hail, or excessive moisture in 1986."; and 100 Stat. 1783, 3341. 16 USC 590h.

(2) adding at the end of subsection (e), as amended by section 7 of this Act, the following:

"(6) With respect to payments based on adjustments made to reflect any reduction in the quality of the 1986 upland cotton crop under subsection (a)—

"(A) payments may be made to producers only to the extent payments under this section are provided for in advance in an appropriation Act, as authorized under section 6 of the Farm Disaster Assistance Act of 1987; and

"(B) the total amount of payments made to all producers may not exceed $15,000,000.".

DESIGNATION OF CERTAIN LANDS AS WETLANDS UNDER WATER BANK ACT

South Dakota.

SEC. 12. The Secretary of Agriculture shall designate as "wetlands", for purposes of section 3 of the Water Bank Act (16 U.S.C. 1302), areas in the Kingsbury, Hamlin, Lake, Miner, Brookings, and Codington Counties of the State of South Dakota that suffered from floods in 1986: *Provided*, That, notwithstanding the designation of such lands as wetlands, total payments to owners and operators under the Water Bank Program for lands in the State of South Dakota shall not exceed $1,243,000 during fiscal year 1987.

ETHANOL COST-EFFECTIVENESS STUDY

Effective date.

SEC. 13. (a) The Secretary of Agriculture shall, within 30 days after the date of enactment of this Act, establish a panel to conduct a study of the cost-effectiveness of ethanol production.

(b) The panel shall consist of 7 members appointed by the Secretary, of which—

(1) 4 members shall be persons who are representatives of—

(A) feed grain producers;

(B) feed grain processors;

(C) members of associations involved in the production and marketing of ethanol; and

(D) other related industries or institutions of higher education, and both; and

(2) no more than 2 of the remaining 3 members shall be employees of the Federal Government.

(c) The panel shall—

(1) review and assess the economics and cost of production factors involved in the manufacture of ethanol in modern ethanol production facilities;

(2) assess ethanol technology, production, and marketing advances that have enabled the ethanol industry to grow rapidly since the inception of the industry in 1980;

(3) assess the economic effect on United States agriculture from fuel ethanol production from United States agricultural commodities;

(4) review and analyze the tradeoffs between Federal production and marketing incentives for fuel ethanol and other agricultural programs designed to enhance farm income and adjust agricultural production;

(5) analyze the effect on the agricultural economy resulting from increasing levels of ethanol production, including increased employment, increased tax receipts, expanded economic activity, export potential of residual products, and net costs or savings;

(6) analyze the effect fuel ethanol production has on agricultural prices and farm income; and

(7) analyze the effect of increased ethanol production on the balance of trade, energy security, and air quality in the United States.

Effective date.
Reports.

(d) Not later than 90 days after the date of enactment of this Act, the panel shall submit a report describing the results of the study to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary of Agriculture.

MARKETING LOAN REPORT

Effective date.

SEC. 14. If marketing loan programs are not established for the 1987 crops of wheat, feed grains, and soybeans under sections 107D(a)(5), 105C(a)(4), and 201(i)(3) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(a)(5), 1444e(a)(4), and 1446(i)(3)) before the date of enactment of this Act, the Secretary of Agriculture, no later than July 1, 1987, shall submit to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains—

(1) a statement of the reasons for not establishing marketing loan programs for the 1987 crops of wheat, feed grains, and soybeans;

(2) a comparison of—

(A) the cost of the price support and production control programs for the 1987 crops of wheat, feed grains, and soybeans; and

(B) the cost of such programs if such marketing loan programs were established;

(3) an analysis of the effectiveness of the existing marketing loan programs for cotton and rice;

(4) a comparison of—

(A) the effectiveness of the current marketing loan programs for cotton and rice; and

(B) the effectiveness of marketing loan programs that could be established by the Secretary for wheat, feed grains, and soybeans;

(5) an analysis of whether the generic certificate program established by the Secretary produces the same effect on the price of exported grain as would be achieved by establishing marketing loan programs; and

(6) an analysis of the effect a soybean marketing loan program would have on the markets for sunflower and other oil seeds, situations in which a sunflower marketing loan program would be appropriate, and how such program would operate in conjunction with marketing loan programs for other commodities.

SUNFLOWER PRICE SUPPORT PROGRAM

SEC. 15. (a) Effective for the 1987 through 1990 crops of sunflowers, section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) is amended by—

(1) in the first sentence, inserting "sunflower seeds," after "soybeans,"; and

(2) adding at the end thereof the following new subsection:

Loans.

"(l)(1) The Secretary may support the price of sunflower seeds through loans and purchases for each of the 1987 through 1990 crops of sunflowers at such level as the Secretary determines will take into account the historical price relationship between sunflower seeds and soybeans, the prevailing loan level for soybeans, and the historical oil content of sunflower seeds and soybeans, except that the level of loans and purchases may not be less than 8½ cents per pound of sunflower seeds.

"(2)(A) The Secretary may permit a producer to repay a loan made under paragraph (1) for a crop at a level that is the lesser of—

"(i) the loan level determined for such crop; or

"(ii) the prevailing world market price for sunflower seeds, as determined by the Secretary.

"(B) If the Secretary permits a producer to repay a loan in accordance with subparagraph (A), the Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for sunflower seeds; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for sunflower seeds.

"(3)(A) The Secretary may, for each of the 1987 through 1990 crops of sunflowers, make payments available to producers who, although eligible to obtain a loan or purchase agreement under paragraph (1), agree to forgo obtaining such loan or agreement in return for such payments.

"(B) A payment under this paragraph shall be computed by multiplying—

"(i) the loan payment rate; by

"(ii) the quantity of sunflower seeds the producer is eligible to place under loan.

"(C) For purposes of this paragraph, the loan payment rate shall not be less than the amount by which the loan level determined for such crop under paragraph (1) exceeds the level at which a loan may be repaid under this subsection.

"(D) At the option of the Secretary, payments to a producer under this paragraph shall be made in the form of cash or negotiable certificates redeemable for any agricultural commodity owned by the Commodity Credit Corporation, or any combination thereof.

Regulations. "(4) For purposes of this subsection, the marketing year for sunflower seeds shall be prescribed by the Secretary by regulation.

"(5)(A) If price support is to be provided under this subsection for a crop of sunflowers, the Secretary shall make a preliminary announcement of the level of price support for sunflower seeds for the marketing year for such crop not earlier than 30 days before the beginning of the marketing year. The announced level shall be based on the latest information and statistics available at the time of the announcement.

"(B) The Secretary shall make a final announcement of such level as soon as complete information and statistics are available on prices for the 5 years preceding the beginning of the marketing year. Such final level of support may not be announced later than 30 days after the beginning of the marketing year with respect to which the announcement is made. The final level of support may not be less than the level of support provided for in the preliminary announcement.

"(6) Notwithstanding any other provision of law, the Secretary shall not require participation in any production adjustment program for sunflowers or any other commodity as a condition of eligibility for price support for sunflower seeds.".

(b) It is the sense of Congress that, if producers are permitted to repay loans for a crop of soybeans under section 201(i) of the Agricultural Act of 1949 at a level that is less than the full amount of the loan, the Secretary should— 7 USC 1446.

(1) make loans and purchases available for such crop of sunflowers in accordance with section 201(l)(1) of the Agricultural Act of 1949; and

Ante, p. 325.

(2) permit producers to repay such loans in accordance with section 201(l)(2) of such Act.

Approved May 27, 1987.

LEGISLATIVE HISTORY—H.R. 1157:

CONGRESSIONAL RECORD, Vol. 133 (1987):
- Mar. 17, considered and passed House.
- Apr. 21-23, considered and passed Senate, amended.
- May 5, House disagreed to Senate amendments.
- May 7, Senate insisted on its amendments.
- May 12, Senate agreed to conference report.
- May 13, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
- May 27, Presidential statement.

○

Public Law 100-46
100th Congress

Joint Resolution

May 29, 1987
[H.J. Res. 270]

To recognize the one hundred and twenty-fifth anniversary of the United States Department of Agriculture.

Whereas President Abraham Lincoln recognized the importance of the Nation's agricultural community by recommending the establishment of a Federal agriculture agency and subsequently signing the bill establishing the United States Department of Agriculture on May 15, 1862;

Whereas the importance of the United States farmer was further recognized by the adoption of the Homestead Act on May 20, 1862, and the Land-Grant College Act on July 2, 1862;

7 USC 301 note.

Whereas the Department of Agriculture has worked with farmers to provide a steady supply of food to the people of the United States and those in less fortunate areas of the world;

Whereas the Department of Agriculture, during the past century and a quarter, has facilitated the work of the world's foremost agricultural scientists to research and solve problems faced by United States farmers, discover and develop new and improved plant varieties, and assist farmers in achieving extraordinary gains in production yields and quality;

Whereas the Department of Agriculture, through its extension activities, has reached homes and classrooms throughout the Nation to develop and foster an understanding, among the people and particularly the youth of the United States, of the virtues and importance of our agricultural heritage and future;

Whereas the Department of Agriculture has invested resources and technology into the development of rural United States;

Whereas the Department of Agriculture has worked with farmers and conservationists to preserve the Nation's fertile topsoils;

Whereas the Department of Agriculture has acted to protect our borders from introduction of pests and diseases that might harm the health and well-being of the people and agricultural industries of the United States;

Whereas the Department of Agriculture has endeavored to ensure that all the people of the United States have a safe and wholesome food supply and have the opportunity to receive nutritionally well-balanced meals;

Whereas the Department of Agriculture has sought to open and maintain foreign markets for United States agricultural goods and has represented United States farmers in foreign affairs; and

Whereas the first Commissioner of Agriculture Isaac Newton stated in the first annual report to the President of the United States: "I hardly deem it necessary to attempt to convince our intelligent countrymen of the vast importance of such a department, inasmuch as whatever improves the condition and character of the farmer feeds the lifesprings of national character, wealth, and power", words that still ring true: Now, therefore, be it

91-139 O - 87 (46)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of Congress that the United States Department of Agriculture, on the event of its one hundred and twenty-fifth anniversary, be commended for its outstanding contributions and wished a happy one hundred and twenty-fifth anniversary, and such anniversary be commemorated by the agencies of the Federal Government and the citizens of the United States.

SEC. 2. The President is authorized and requested to issue a proclamation commemorating the one hundred and twenty-fifth anniversary of the United States Department of Agriculture, and the substantial contributions made by the Department of Agriculture to the well-being of the people of the United States.

Approved May 29, 1987.

LEGISLATIVE HISTORY—H.J. Res. 270 (S.J. Res. 129):

CONGRESSIONAL RECORD, Vol. 133 (1987):
May 8, considered and passed House.
May 15, considered and passed Senate.

○

Public Law 100-47
100th Congress

An Act

May 29, 1987
[S. 942]

To amend title 5, United States Code, to extend the pay retention provisions of such title to certain prevailing rate employees in the Tucson wage area whose basic pay would otherwise be subject to reduction pursuant to a wage survey.

Government organization and employees.
Arizona.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 536.104(a)(3) of title 5, Code of Federal Regulations, Federal wage employees in the Tucson, Arizona wage area whose pay has been reduced as a result of a wage survey conducted during fiscal year 1986 shall be entitled to pay retention under section 5363 of title 5, United States Code, commencing on the date such reduction took effect.

Approved May 29, 1987.

LEGISLATIVE HISTORY—S. 942:

CONGRESSIONAL RECORD, Vol. 133 (1987):
May 7, considered and passed Senate.
May 13, considered and passed House.

○

Public Law 100-48
100th Congress

An Act

To amend title 38, United States Code, to make permanent the new GI bill educational assistance programs established by chapter 30 of such title, and for other purposes.

June 1, 1987
[H.R. 1085]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

New GI Bill Continuation Act.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "New GI Bill Continuation Act".

SEC. 2. SHORT TITLE OF THE NEW GI BILL.

Section 701 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 38 U.S.C. 101 note) is amended to read as follows:

"SHORT TITLE

"SEC. 701. This title may be cited as the 'Montgomery GI Bill Act of 1984'.".

SEC. 3. CONTINUATION OF ALL-VOLUNTEER FORCE VETERANS' EDUCATIONAL ASSISTANCE UNDER THE NEW GI BILL PROGRAM.

(a) ACTIVE DUTY PROGRAM.—Section 1411(a)(1)(A) of title 38, United States Code, is amended by striking out "during the period beginning on July 1, 1985, and ending on June 30, 1988," and inserting in lieu thereof "after June 30, 1985,".

(b) ACTIVE DUTY AND SELECTIVE RESERVE PROGRAM.—Section 1412(a)(1)(A) of title 38, United States Code, is amended by striking out "during the period beginning on July 1, 1985, and ending on June 30, 1988," and inserting in lieu thereof "after June 30, 1985,".

SEC. 4. CONTINUATION OF EDUCATION ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE UNDER THE NEW GI BILL.

Section 2132(a)(1) of title 10, United States Code, is amended by striking out "during the period beginning on July 1, 1985, and ending on June 30, 1988" and inserting in lieu thereof "after June 30, 1985".

SEC. 5. REVISION OF DECLARED PURPOSES.

Section 1401 of title 38, United States Code, is amended—

(1) by striking out "and" at the end of clause (2) and redesignating clauses (2) and (3) as clauses (4) and (5) respectively;

(2) by inserting after clause (1) the following new clauses:

"(2) to extend the benefits of a higher education to qualifying men and women who might not otherwise be able to afford such an education;

"(3) to provide for vocational readjustment and to restore lost educational opportunities to those service men and women who served on active duty after June 30, 1985;";

(3) by striking out the period at the end of clause (5), as redesignated by clause (1) of this section, and inserting in lieu thereof "; and"; and

(4) by inserting at the end the following new clause:

"(6) to enhance our Nation's competitiveness through the development of a more highly educated and productive work force.".

Approved June 1, 1987.

LEGISLATIVE HISTORY—H.R. 1085 (S. 12):

HOUSE REPORTS: No. 100-22, Pt. 1 (Comm. on Veterans' Affairs); Pt. 2 (Comm. on Armed Services).
SENATE REPORTS: No. 100-13 accompanying S. 12 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Mar. 17, considered and passed House.
  May 8, considered and passed Senate, amended, in lieu of S. 12.
  May 13, House concurred in Senate amendment with amendment; Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
  June 1, Presidential statement and remarks.

○

Public Law 100-49
100th Congress

Joint Resolution

June 1, 1987
[S.J. Res. 70]

Commemorating the fortieth anniversary of the Marshall plan.

Whereas 1987 marks the fortieth year since the European Recovery Program or what came to be called the Marshall plan was first conceived and proclaimed by George Catlett Marshall;

Whereas the Marshall plan has been hailed by leaders of friend and foe alike in World War II as the most magnanimous act by Americans in history;

Whereas the Marshall plan uniquely symbolizes the bold and creative promise inherent in the thought of all free peoples;

Whereas the Marshall plan made possible new measures of trans-Atlantic cooperation through the North Atlantic Treaty Organization and other institutions;

Whereas these institutional developments have profoundly enhanced the security, freedom, and prosperity of the United States and the Atlantic Community generally;

Whereas new challenges have arisen which call for recommitment to and reinvigoration of these institutions and for their continued viability;

Whereas creative thought and rededication to the ideals and principles undergirding the Marshall plan are now required to assure the preservation of these institutions; and

Whereas the occasion of the fortieth anniversary of the Marshall plan provides a fitting opportunity for rededication of commitments to these instructions: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) That the Congress acknowledges the magnanimity of the Marshall plan, the dedication to public service and integrity of its author, and the effort by the Marshall Foundation in Lexington, Virginia, to continue in American life the values for which he stood.

(b) That the Congress calls upon all Americans to rededicate themselves to the ideals of public service, hard work, integrity, and compassion which George Catlett Marshall represents to this day in American society.

(c) That the Congress remembers that it approved a special congressional medal for General Marshall to honor his service to the Nation.

(d) That the Congress welcomes with great anticipation the publication on June 5, 1987, of the fourth and final volume of the official biography of George Catlett Marshall.

(e) That Congress believes the principles that inspired the initiation of the Marshall plan should continue to be cherished by our people.

(f) That the month of June 1987, is designated as "George C. Marshall Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved June 1, 1987.

LEGISLATIVE HISTORY—S.J. Res. 70:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 20, considered and passed Senate.
May 27, considered and passed House.

○

Public Law 100-50
100th Congress

An Act

To make certain technical and conforming amendments in the Higher Education Act of 1965, and for other purposes.

June 3, 1987
[H.R. 1846]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

Higher Education Technical Amendments Act of 1987.
20 USC 1001 note.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Technical Amendments Act of 1987".

(b) REFERENCE.—References in this Act to "the Act" are references to the Higher Education Act of 1965.

SEC. 2. INSTITUTIONAL AID.

(a) TECHNICAL PROVISIONS.—Title III of the Act is amended—

(1) in section 311(b)(1), by striking out "section 358(a)(1)" and inserting "section 360(a)(1)"; 20 USC 1057.

(2) in section 312(b)(1)— 20 USC 1058.

(A) by inserting "which" before "is" each place it appears in subparagraphs (C) and (D);

(B) by inserting "which" before "has" in subparagraph (E); and

(C) by inserting "which" before "meets" in subparagraph (F);

(3) in section 312(b)(3), by striking out "subparagraphs (A) and (B)" and inserting in lieu thereof "subparagraphs (A), (B), (C), and (D)";

(4) in section 312(b)(5), by striking out "subparagraphs (A) and (B)" and inserting in lieu thereof "subparagraphs (A), (B), (C), and (D)";

(5) in section 312(c)(1), by inserting "in the second fiscal year preceding the fiscal year for which the determination is being made" immediately after "Act";

(6) in section 312(c)(2)—

(A) by striking out "preceding fiscal year," and inserting in lieu thereof "fiscal year preceding the fiscal year for which determination is being made,"; and

(B) by striking out "such fiscal year" and inserting in lieu thereof "second preceding fiscal year";

(7) in section 323(a), by striking out "section 358(a)(2)" and inserting "section 360(a)(2)"; 20 USC 1062.

(8) in section 325(a)(1), by striking out "section 322" and inserting "section 323"; 20 USC 1063a.

(9) in section 326(a)(2), by inserting before the period at the end thereof the following: "except that the Morehouse School of Medicine shall receive at least $3,000,000"; Morehouse School of Medicine. 20 USC 1063b.

(10) in section 326(c), by striking out "section 333" and inserting "section 332";

(11) in section 327(a), by striking out "Act" and inserting in lieu thereof "part"; 20 USC 1063c.

20 USC 1065. (12) in section 332(f)(1), by inserting "(or section 355)" after "part A or B";

20 USC 1066. (13) in section 351(b)(6), by striking out "section 356" and inserting "section 357";

20 USC 1067. (14) in section 352(a)(2), by striking out "low- and middle-income" and inserting "low-income";

(15) in section 352(b), by adding at the end thereof the following:

Indians. 20 USC 1058. "(3) The Secretary may waive the requirement set forth in section 312(b)(1)(E) in the case of an institution located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians.";

20 USC 1069a. (16) in section 355(a) by inserting "or part B" immediately after "part A" each place it appears; and

(17) in section 355(b), by inserting "part A or" immediately before "part B" each place it appears.

(b) APPLICATION REVIEW PROCESS.—Part A of title III of the Act is amended by adding at the end thereof the following new section:

"APPLICATION REVIEW PROCESS

20 USC 1059a. "SEC. 314. (a) REVIEW PANEL.—(1) All applications submitted under part A by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

Minorities. "(2) The Secretary shall take care to include as readers representatives of historically and predominantly Black colleges, Hispanic institutions, Native American colleges and universities, and institutions with substantial numbers of students who are Hispanic, Native American, Asian American, and Native American Pacific Islander (including Native Hawaiians).

"(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under part A, including—

Grants. 20 USC 1057. "(A) explanations and examples of the types of activities referred to in section 311(b) that must receive special consideration for grants awarded under part A;

"(B) an enumeration of the factors to be used to determine the quality of applications submitted under part A; and

Grants. "(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under part A, the amount of any such grant, and the duration of any such grant.

Grants. "(b) RECOMMENDATIONS OF PANEL.—In awarding grants under part A, the Secretary shall take into consideration the recommendations of the panel established under subsection (a).

"(c) NOTIFICATION.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under part A of—

"(1) the scores given the applicant by the panel pursuant to this section;

"(2) the recommendations of the panel with respect to such application; and

"(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under part A and any modifications, if any, in the recommendations of the panel made by the Secretary.". Grants.

SEC. 3. PELL GRANTS.

(a) CLARIFICATION OF REFERENCE.—Section 411(g)(2) of the Act is amended by striking out "paragraph (1)" and inserting "paragraph (1)(B)". 20 USC 1070a.

(b) EXCLUSION OF FORCED SALE PROCEEDS.—(1) Section 411A of the Act is amended by adding at the end thereof the following new subsection: 20 USC 1070a-1.

"(b) EXCLUSION OF FORCED SALE PROCEEDS.—In the computation of family contributions for the program under this subpart for any academic year, there shall be excluded from family income any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation.".

(2) Section 411B(g) of the Act is amended— 20 USC 1070a-2.

(A) by striking out "paragraphs (1) through (7)" in the matter preceding paragraph (1) and inserting "paragraphs (1) through (6)"; and

(B) by striking out paragraph (7).

(3) Section 411C(f) of the Act is amended— 20 USC 1070a-3.

(A) by striking out "paragraphs (1) through (7)" in the matter preceding paragraph (1) and inserting "paragraphs (1) through (6)"; and

(B) by striking out paragraph (7).

(4) Section 411D(f) of the Act is amended by striking out paragraph (5). 20 USC 1070a-4.

(c) TREATMENT OF EXCLUDABLE INCOME.—(1) Sections 411B(d)(1)(A), 411C(c)(1)(A), and 411D(c)(1)(A) are each amended by inserting before the semicolon ", less any excludable income (as defined in section 411F(9))". 20 USC 1070a-6.

(2) Section 411B(i)(1)(A) of the Act is amended—

(A) by striking out "other than amounts earned under part C of this title"; and

(B) by inserting before the semicolon ", less any excludable income (as defined in section 411F(9))".

(d) EFFECTIVE FAMILY INCOME.—Section 411B(d)(1) of the Act is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out "minus" at the end of subparagraph (B) and inserting "and"; and

(3) by inserting after such subparagraph the following:

"(C) one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits, expected to be received during the award period, minus". Veterans.

(e) CONTRIBUTION FROM STUDENT'S AND SPOUSE'S ASSETS.—Section 411B(l) of the Act is amended by inserting before the period at the end thereof the following: ", except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined 29 USC 1651.

20 USC 1087vv.

in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

20 USC 1070a-2.

(f) Assessment of Discretionary Income.—(1) Section 411B(f)(1) of the Act is amended to read as follows:

"(f) Assessment of Discretionary Income.—(1) The discretionary income that is assessed under this subsection is equal to (A) the effective family income (as determined under subsection (d)), minus (B) the total offsets to such income (as determined under subsection (e)). If such discretionary income is a negative amount, the contribution from the parents' income is zero.".

20 USC 1070a-3.

(2) Section 411C(e)(1) of the Act is amended to read as follows:

"(e) Assessment of Discretionary Income.—(1) The discretionary income that is assessed under this subsection is equal to (A) the effective family income (as determined under subsection (c)), minus (B) the total offsets to such income (as determined under subsection (d)). If such discretionary income is a negative amount, the contribution from the student's (and spouse's) income is zero.".

20 USC 1070a-4.

(3) Section 411D(e)(1) of the Act is amended to read as follows:

"(e) Assessment of Discretionary Income.—(1) The discretionary income that is assessed under this subsection is equal to (A) the effective family income (as determined under subsection (c)), minus (B) the total offsets to such income (as determined under subsection (d)). If such discretionary income is a negative amount, the contribution from the student's (and spouse's) income is zero.".

(4) Sections 411B(f)(2), 411B(j)(2), 411C(e)(2), and 411D(e)(2) of the Act are each amended by striking out "effective family income" each place it appears in the text thereof and inserting "discretionary income".

(5) The tables in sections 411B(f)(2) and 411C(e)(2) of the Act are each amended—

(A) by striking out "**Effective family income**" and inserting "**Discretionary income**"; and

(B) by striking out "effective family income" and inserting "discretionary income".

(g) Treatment of Dislocated Workers and Displaced Homemakers.—Sections 411B(g)(1), 411C(f)(1), and 411D(f)(3) of the Act are each amended by inserting before the period at the end of the first sentence the following: ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

29 USC 1651.

20 USC 1070a-6.

(h) Correction of References.—(1) Section 411F(1)(B) is amended by striking out "paragraph (13)" and inserting "paragraph (15)".

(2) Section 411C(f)(5)(B) of the Act is amended by striking out "the calculation of effective family income required by subsection (c)" and inserting in lieu thereof "the assessment of discretionary income under subsection (e)".

(i) Tuition and Fees.—Section 411F(5)(A) is amended by striking out "student's tuition and uniform compulsory fees" and inserting "tuition and uniform compulsory fees normally charged a full-time student".

(j) Dependent of a Student.—Section 411F(6) is amended to read as follows:

"(6) Except as otherwise provided, the term (A) 'dependent of the student' means the student's spouse, the student's dependent children, and other persons who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year; and (B) the term 'dependent of the parent' means the parents of the student, the student, any of the student's dependent children, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this title, and other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents during the award year.".

(k) EXCLUDABLE INCOME.—Section 411F(9) of the Act is amended— 20 USC 1070a-6.

(1) in subparagraph (A), by striking out "(B), (C), and (D)" and inserting "(B) through (E)";

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) For a Native American Student, the annual adjusted family income does not include any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act or any income received by the student (and spouse) and student's parents under the Alaska Native Claims Settlement Act or the Maine Indians Claims Settlement Act."; Indians. 43 USC 1601 note. 25 USC 1721 note.

(3) in subparagraph (D), by inserting "(including any income earned from work under part C of this title)" after "financial assistance"; and 42 USC 2751.

(4) by adding at the end thereof the following new subparagraph:

"(E) Annual adjusted family income does not include any unemployment compensation received by a dislocated worker certified in accordance with title III of the Job Training Partnership Act.". 29 USC 1651.

(l) INDEPENDENT.—Section 411F(12) of the Act is amended—

(1) in subparagraph (B)(iii), by striking out "gradulate" and inserting "graduate"; and

(2) in subparagraph (B)(vi), by striking out "an annual total income" and by inserting in lieu thereof "annual total resources including all sources of resources other than parents)".

(m) UNTAXED INCOME AND BENEFITS.—Section 411F(15) of the Act is amended to read as follows:

"(15) The term 'untaxed income and benefits' means—

"(A) child support received;

"(B) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children; 42 USC 601.

"(C) workman's compensation;

"(D) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

"(E) interest on tax-free bonds;

"(F) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(G) cash support or any money paid on the student's behalf;

"(H) the amount of earned income credit claimed for Federal income tax purposes;

"(I) untaxed portion of pensions;

"(J) credit for Federal tax on special fuels;

"(K) the amount of foreign income excluded for purposes of Federal income taxes;

"(L) untaxed social security benefits;

"(M) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

"(N) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.".

29 USC 1501 note.

SEC. 4. SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS.

20 USC 1070b-3.

(a) FORMULA.—Section 413D(d)(2) of the Act is amended—

(1) by striking out subparagraph (D) and inserting the following:

"(D) multiply the number of eligible dependent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;"; and

(2) by striking out subparagraph (F) and inserting the following:

"(F) multiply the number of eligible independent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;".

(b) TECHNICAL AMENDMENTS.—(1) Section 413D(d)(3)(A) of the Act is amended by striking out "and for graduate and professional students".

(2) Section 413D(d)(3)(B) is amended—

(A) by striking out "and graduate and professional"; and

(B) by striking out "and graduate".

SEC. 5. STATE STUDENT INCENTIVE GRANTS.

20 USC 1070c-4.

Section 415E(1) of the Act is amended by striking out "literary" and inserting "literacy".

SEC. 6. STUDENT SUPPORT SERVICES.

20 USC 1070d-1b.

Section 417D(d) of the Higher Education Act of 1965 is amended by striking out "Post-Baccalaureate Achievement Program" and inserting in lieu thereof "Ronald E. McNair Post-Baccalaureate Achievement Program".

SEC. 7. SEPARATION OF HEP/CAMP AUTHORIZATION.

20 USC 1070d-2.

Section 418A(g) of the Act is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated for the high school equivalency program

$7,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) There are authorized to be appropriated for the college assistance migrant program $2,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.".

SEC. 8. VETERANS' EDUCATION OUTREACH.

Section 420A of the Act is amended— 20 USC 1070e-1.

(1) in subsection (b)(2)(B), by striking out "subchapter V or VI" and inserting "subchapter V";

(2) in subsection (b)(5), by striking out "paragraph (3)(A)" and inserting "paragraph (4)(A)";

(3) in subsection (c)(2)(A)(i), by striking out "subsection (e)" and inserting "subsection (b)(5)"; and

(4) in subsection (c)(2)(C)(ii)—

(A) by striking out "(I)"; and

(B) by striking out "and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34".

SEC. 9. SPECIAL CHILD CARE SERVICES.

Section 420B of the Act is amended— 20 USC 1070f.

(1) in subsection (b)(2)—

(A) by striking out "to pursue a successful program" in subparagraph (C) and inserting "to pursue successfully a program";

(B) by striking out subparagraph (B); and

(C) by redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively; and

(2) by striking out subsection (d) and inserting the following:

"(d) Definition.—For purposes of this subpart, the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using the criteria of poverty established by the Bureau of the Census.".

SEC. 10. GUARANTEED STUDENT LOANS.

(a) Inapplicability of Aggregate Loan Limits to Supplemental and PLUS Loans.—Sections 425(a)(2)(A) and 428(b)(1)(B) are each amended— 20 USC 1075, 1078.

(1) in clause (i), by inserting ", excluding loans made under section 428A or 428B" after "undergraduate education"; and

(2) in clause (ii) by inserting ", excluding loans made under section 428A or 428B" after "graduate or professional student)".

(b) Teacher Deferment; Internship Deferment.—(1) Sections 427(a)(2)(C)(vi) and 428(b)(1)(M)(vi) of the Act are each amended by inserting "nonprofit" before "private". 20 USC 1077.

(2) Sections 427(a)(2)(C)(vii) and 428(b)(1)(M)(vii) of the Act are each amended by inserting before the semicolon at the end thereof the following: "or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training". Hospitals. Health care facilities.

(c) Multiple Disbursement.—Sections 427(a)(4) and 428(b)(1)(O) of the Act are each amended by striking out "more than $1,000" and inserting "$1,000 or more".

(d) VARIABLE INTEREST RATES ON SUPPLEMENTAL AND PLUS LOANS.—(1) Section 427A(c)(4) of the Act is amended— 20 USC 1077a.

(A) in subparagraph (A), by striking out "to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1987," and inserting "and disbursed on or after July 1, 1987,";

(B) in such subparagraph (A), by striking out "any calendar year" and inserting "any 12-month period beginning on July 1 and ending on June 30"; and

(C) by striking out subparagraph (B) and inserting the following:

"(B) For any 12-month period beginning on July 1 and ending on June 30, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

"(i) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 3.25 percent.".

20 USC 1087-1. (2) Section 438(b)(2)(C) of the Act is amended by striking out "12.5 percent" and inserting "12 percent".

(e) COMPLIANCE WITH LOAN LIMITS.—Section 428(a)(2)(D) of the Act is amended by striking out "permits the student" and inserting "certifies the eligibility of any student". 20 USC 1078.

(f) INSURANCE PROGRAM AGREEMENTS.—Section 428(b)(1) of the Act is amended—

(1) by striking out "first or" in subparagraph (A)(i) and inserting "first and";

(2) by inserting before the semicolon at the end of subparagraph (N) the following: "and except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student";

(3) by striking out "being dispensed" in subparagraph (O)(i) and inserting "being disbursed";

(4) by striking out subparagraph (P) and inserting the following:

"(P) requires the borrower to notify the institution concerning any change in local address during enrollment and requires the borrower and the institution at which the borrower is in attendance promptly to notify the holder of the loan, directly or through the guaranty agency, concerning (i) any change of permanent address, (ii) when the student ceases to be enrolled on at least a half-time basis, and (iii) any other change in status, when such change in status affects the student's eligibility for the loan;"; and

(5) by inserting in subparagraph (T) after "eligible institutions" the following: "(other than nonresidential correspondence schools)".

(g) CLARIFICATION OF REFERENCE.—Section 428(b)(5) of the Act is amended by striking out "paragraph (1)(M)" and inserting "paragraph (1)(M)(i)(III)".

(h) GUARANTY AGENCY INFORMATION TRANSFERS.—Section 428(b)(6) of the Act is amended—

(1) in subparagraph (A), by striking out "Prior to the implementation of section 485B" and inserting "Until such time as the Secretary has implemented section 485B and is able to provide to guaranty agencies the information required by such section"; and 20 USC 1092b.

(2) in subparagraph (B), by striking out clause (ii) and inserting the following:

"(ii) the amount borrowed and the cumulative amount borrowed.".

(i) SUPPLEMENTAL PRECLAIMS ASSISTANCE.—Section 428(c)(6)(C)(iv) of the Act is amended by adding at the end thereof the following: "In the case of accounts brought into repayment status as a result of performing supplemental preclaims assistance, the cost of such assistance is a permissible charge to the borrower (for the cost of collection) for which the borrower shall be liable.". 20 USC 1078.

(j) SECRETARY'S EQUITABLE SHARE; GARNISHMENT.—Section 428(c)(6)(D) of the Act is amended by inserting "and enforces" after "enacts".

(k) REINSURANCE FEES.—Section 428(c)(9) of the Act is amended—

(1) by inserting "covered" before "loans" each place it appears in clauses (i) and (ii) of subparagraph (A); and

(2) by adding at the end thereof the following new subparagraph:

"(D) For purposes of subparagraph (A), the term 'covered loans' means loans made under this part to which the insurance applies, but does not include loans made under section 428A(d), 428B(d), or 428C.". 20 USC 1078-1. 20 USC 1078-2, 1078-3.

(l) ESCROW OF DISBURSEMENTS.—(1) The first sentence of section 428(i)(1) of the Act is amended by striking out "multiple".

(2) The third sentence of section 428(i)(1) of the Act is amended by striking out "45" and inserting in lieu thereof "21".

(m) LENDERS-OF-LAST-RESORT.—Section 428(j) is amended by adding at the end thereof the following new sentence: "The guaranty agency shall consider the request of any eligible lender, as defined under section 435(d)(1)(A) of this Act, to serve as the lender-of-last-resort pursuant to this subsection.". 20 USC 1085.

(n) USE OF SUPPLEMENTAL LOAN PROGRAM BY UNDERGRADUATES.—Section 428A(a) of the Act is amended by adding at the end thereof the following: "In addition, undergraduate dependent students shall be eligible to borrow funds under this section if the financial aid administrator determines, after review of the financial information submitted by the student and considering the debt burden of the student, that extenuating circumstances will likely preclude the student's parents from borrowing under section 428B for purposes of the expected family contribution and that the student's family is otherwise unable to provide such expected family contribution.".

(o) LOAN DEFERMENTS FOR SUPPLEMENTAL AND PLUS LOANS.—(1) Sections 428A(c)(2) and 428B(c)(2) of the Act is amended by striking out "and interest" after "principal" the first time it appears.

(2) Section 428B of the Act is amended—

(A) in subsection (a), by striking out ", but such a parent borrower" and all that follows through "clauses (i), (viii), and (ix) of such sections";

(B) in subsection (c)(1), by striking out "subject to deferral pursuant to sections 427(a)(2)(C) (i), (viii), and (ix) and 428(b)(1)(M) (i), (viii), and (ix)" and inserting in lieu thereof "subject to deferral (A) during any period during which the parent meets the conditions required for a deferral under clause (i), (viii), or (ix) of section 427(a)(2)(C) or 428(b)(1)(M); and (B) during any period during which the borrower has a dependent student for whom a loan obligation was incurred under this 20 USC 1077.

section and who meets the conditions required for a deferral under clause (i) of either such section"; and

(C) in subsection (c)(2), by striking out "under sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i)" and inserting "pursuant to paragraph (1) of this subsection".

(p) Limitation on Supplemental and PLUS Loans.—(1) Section 428A(b)(3) of the Act is amended by striking out the first sentence and inserting the following: "Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any student under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A).". 20 USC 1078-1. 20 USC 1078.

20 USC 1078-2. (2) Section 428B(b)(3) of the Act is amended by striking out the first sentence and inserting the following: "Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any parent under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A).".

(q) Repayment of Supplemental and PLUS Loans.—Sections 428A(c)(2)(A) and 428B(c)(2)(A) of the Act are each amended by inserting "monthly or" before "quarterly".

(r) Refinancing of Supplemental and PLUS Loans.—(1) Sections 428A(d) and 428B(d) of the Act are each amended—

(A) in paragraph (1)—

(i) by inserting "at any time" after "An eligible lender may" in the first sentence;

(ii) by striking out "Unless the borrower complies with the requirements of paragraph (2)," in the second sentence and inserting "Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3),"; and

(iii) by inserting "(if required by them)" after "shall be reported" in the third sentence;

(B) in paragraph (2)—

(i) by inserting "under this section before July 1, 1987, or" before "under section 428B";

(ii) by striking out "to reissue a loan" and inserting "to reissue a loan or loans"; and

(iii) by striking out "reissuing such loan" and inserting "reissuing such loan or loans"; and

(C) in paragraph (5)—

(i) by striking out "January 1, 1987" and inserting "October 1, 1987"; and

(ii) by inserting before the semicolon at the end of subparagraph (B) the following: "and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples".

20 USC 1078-1 note. 20 USC 1001 note. 20 USC 1077a. (2) An eligible lender who has refinanced a loan or loans under section 428A(d) or 428B(d) between the date of enactment of the Higher Education Amendments of 1986 and July 1, 1987, may, at the request of a borrower or with the written consent of the borrower, amend the note or other written evidence of loan as necessary to comply with the requirements of such sections and section 427A(c)(4) as amended by this Act. Any borrower who is denied such a request

shall be treated as eligible to obtain a loan from another lender under section 428A(d)(3) or 428B(d)(3), as applicable, for the purposes of discharging the loan from the original lender, and a borrower exercising this option shall not be subject to an additional insurance fee under section 428A(d)(3)(C) or 428B(d)(3)(C). 20 USC 1078-1; 1078-2.

(s) CONSOLIDATION LOANS.—Section 428C of the Act is amended— 20 USC 1078-3.

(1) in subsection (a)(1)(C), by striking out "(C) and (E)" and inserting in lieu thereof "(C), (E), and (J)";

(2) in subsection (a)(3)(A)—

(A) in division (i), by adding "and" at the end thereof;

(B) in division (ii), by striking out the semicolon and "and" at the end thereof and inserting in lieu thereof a period; and

(C) by striking out division (iii);

(3) in subsection (a)(3)(B)—

(A) by striking out "loans received under this title" in the first sentence and inserting "eligible student loans received";

(B) by striking out "under this part" and inserting "under this title";

(C) by striking out "and 428(b)(1)(B)" in the second sentence and inserting ", 428(b)(1)(B), 428A(b)(2), and 464(a)(2)"; and

(D) by adding at the end thereof the following new sentence: "Nothing in this subparagraph shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidation loans to receive, to maintain, or to make reports with respect to pre-existing records relating to any eligible student loan (as defined under section 428C(a)(4)) discharged by a borrower in receiving a consolidation loan.";

(4) in subsection (a)(4)(A), by inserting before the semicolon at the end thereof a comma and the following: "except for loans made to parent borrowers under section 428B, including loans made to parent borrowers under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986"; 20 USC 1001 note.

(5) in subsection (b)(1)(C)—

(A) by striking out "subsection (a)(2)" in clause (i) and inserting "subsection (a)(3)"; and

(B) by striking out "all loans received by the eligible borrower under this title" in clause (ii) and inserting "all eligible student loans received by the eligible borrower";

(6) in subsection (c)(2)(A)(v), by striking out "more" and inserting "equal to or greater"; and

(7) in subsection (c)(5), by inserting before the period at the end thereof the following: ", but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan".

(t) STATE GARNISHMENT PROGRAM.—Section 428E of the Act is amended— 20 USC 1078-5.

(1) in subsection (a)(1) by inserting before the semicolon a comma and the following: "except that any State which has a garnishment law in effect on the date of the enactment of the Higher Education Amendments of 1986 which provides for the deduction of an amount not to exceed 15 percent of disposable

pay, shall be deemed to meet the requirements of this paragraph";

(2) in subsection (a)(6), by striking out "proper notice under paragraph (2)," and inserting in lieu thereof "notice of the withholding order,"; and

(3) in subsection (c), by striking out "notice given to the employer pursuant to subsection (a)(2)" and inserting in lieu thereof "notice of the withholding order".

(u) REHABILITATION PROGRAM.—Section 428F of the Act is amended— 20 USC 1078-6.

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(v) INFORMATION CONCERNING BORROWERS.—Section 430A(e) of the Act is amended by adding at the end thereof the following new sentence: "To further the purpose of this section, an eligible institution may enter into an arrangement with any or all of the holders of delinquent loans made to borrowers who attend or previously attended such institution for the purpose of providing current information regarding the borrower's location or employment or for the purpose of assisting the holder in contacting and influencing borrowers to avoid default.". 20 USC 1080a.

(w) CLARIFICATION OF REFERENCE.—Section 431(a) of the Act is amended by striking out "section 422(c)(4)(C)" and inserting "section 422". 20 USC 1081.

(x) AUDITS OF FINANCIAL TRANSACTIONS.—Section 432(f) of the Act is amended by inserting after paragraph (3) the following new paragraph: 20 USC 1082.

"(4) AUDIT PROCEDURES.—In conducting audits pursuant to this subsection, the Comptroller General and the Inspector General of the Department of Education shall audit the records to determine the extent to which they, at a minimum, comply with Federal statutes, and rules and regulations prescribed by the Secretary, in effect at the time that the record was made, and in no case shall the Comptroller General or the Inspector General apply subsequently determined standards, procedures, or regulations to the records of such agency, lender, or Authority.".

(y) CIVIL PENALTIES.—Section 432(g)(2) of the Act is amended by striking out "representation" each place it appears in subparagraphs (A)(i) and (B) and inserting in lieu thereof "misrepresentation".

(z) STUDENT LOAN INFORMATION.—Section 433 of the Act is amended— 20 USC 1083.

(1) in the first sentence of subsection (a), by inserting "(other than a loan made under section 428C)" after "guaranteed under this part"; 20 USC 1078-3.

(2) in subsection (a), by striking out paragraph (8) and inserting the following:

"(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;";

(3) in subsection (b)(7), by inserting before the semicolon at the end thereof the following: ", except that such explanation is not required when the loan being made is a consolidation loan under section 428C"; and

(4) in subsection (d), by striking out "makes the first disbursement of a loan with respect to a borrower" and inserting "notifies a borrower of approval of a loan".

(aa) Definitions.—Section 435 of the Act is amended—

20 USC 1085.
Hospitals.
Health care facilities.

(1) in subsection (b)(3), by inserting before the semicolon the following: ", or in the case of a hospital or health care facility, which provides training of not less than one year for graduates of accredited health professions programs, leading to a degree or certificate upon completion of such training";

(2) in subsection (d)(1)—

(A) by striking out "and" at the end of subparagraph (H);

(B) by striking out the period at the end of subparagraph (I) and inserting "; and"; and

(C) by inserting after such subparagraph the following:

State and local governments.
20 USC 1078-3.

"(J) for purpose of making loans under section 428C, any nonprofit private agency functioning in any State as a secondary market.";

(3) in section 435(d)(2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(C) by inserting after subparagraph (B) the following:

"(C) shall make loans to not more than 50 percent of the undergraduate students at the institutions; and

"(D) shall not make a loan, other than a loan to a graduate or professional student, unless the borrower has previously received a loan from the school or has been denied a loan by an eligible lender;

except that the requirements of subparagraphs (C) and (D) shall not apply with respect to loans made, and loan commitments made, after the date of enactment of the Higher Education Amendments of 1986 and prior to July 1, 1987.";

20 USC 1001 note.

(4) by striking out paragraph (2) of subsection (g) and inserting the following:

"(2) Disabled dependent of a borrower.—Such term when used with respect to a disabled dependent of a borrower means a spouse or other dependent who, during a period of injury or illness of not less than 3 months, requires continuous nursing or similar services."; and

(5) by striking out "Definition of" in the heading of subsection (h).

(bb) Special Allowances.—Section 438(b) of the Act is amended—

20 USC 1087-1.

(1) by striking out "subsection (c)" in paragraph (2)(B)(iii) and inserting "subsection (d)"; and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) Use of average quarterly balance.—The Secretary shall permit lenders to calculate interest benefits and special allowance through the use of the average quarterly balance method until July 1, 1988.".

(cc) Report on Special Allowances.—Section 438(d)(4)(C) of the Act is amended by striking out ", as evidenced by the information submitted under paragraph (2)(G) of this subsection".

(dd) Correction of Reference.—Section 439(d)(1)(E)(iii) of the Act is amended by inserting "Labor and" before "Human Resources".

20 USC 1087-2.

SEC. 11. COLLEGE WORK-STUDY.

42 USC 2752.

(a) REALLOCATION.—Section 442(e)(2) of the Act is amended—

(1) by inserting "not to exceed" immediately before "25 percent";

(2) by striking out "section 448" and inserting in lieu thereof "section 447"; and

(3) by striking out "subsection (c)" and inserting in lieu thereof "section 447(c)".

42 USC 2753.

(b) WORK-STUDY AGREEMENTS.—Section 443(b) of the Act is amended—

(1) in paragraph (2)(A), by striking out "clause (6)(B)" and inserting "paragraph (5)(B)"; and

(2) in paragraph (5)(B), by striking out "clause (2)(A)" and inserting "paragraph (2)(A)".

(c) PRIVATE SECTOR AGREEMENT.—(1) Section 443(c) of the Act is amended by striking out "In addition to the" and inserting in lieu thereof "As part of its agreement".

(2) Section 443(c)(1) of the Act is amended by inserting "and subsection (b)(3)" before the semicolon.

42 USC 2756.

(d) JOB LOCATION AND DEVELOPMENT AGREEMENTS.—Section 446(b) of the Act is amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

SEC. 12. INCOME CONTINGENT LOAN DEMONSTRATION.

20 USC 1087d.

Section 454(a)(4) of the Act is amended to read as follows:

"(4)(A) The interest rate on loans under this part shall, at the discretion of the participating institution, be (i) computed in accordance with subparagraph (B) based on the interest rate computed for the calendar year in which the loan was made, and fixed over the life of the loan, or (ii) variable each calendar year based on the interest rate computed in accordance with subparagraph (B) for such calendar year.

"(B) The interest rate applicable on such loans in accordance with subparagraph (A) shall be obtained by—

"(i) computing the average of the bond equivalent rates of 91-day Treasury bills auctioned for the 3-month period ending September 30 preceding such year; and

"(ii) by adding 3 percent to the resulting percent.".

SEC. 13. DIRECT STUDENT LOANS.

20 USC 1087bb.

(a) ALLOCATIONS IN PROPORTION TO FISCAL YEAR 1985 FEDERAL CAPITAL CONTRIBUTION.—Section 462(a)(1) of the Act is amended by striking out subparagraph (A) and inserting the following:

"(A) 100 percent of the amount of Federal capital contribution such institution received under this part for fiscal year 1985, multiplied by".

(b) CORRECTION OF REFERENCE.—Section 462(d) of the Act is amended by redesignating paragraph (3) the second time it appears as paragraph (4).

(c) CORRECTION OF HEADING.—Section 462(e) of the Act is amended by striking out "; CASH ON HAND".

(d) CORRECTION OF REFERENCE.—Section 462(f) of the Act is amended by striking out "under paragraph (2)" and inserting "under subsection (g)".

Report.
20 USC 1087cc.

(e) NOTICE OF DEFAULT.—Section 463(a)(4) is amended by striking out "given to the Secretary" and everything that follows through "semiannually" and inserting "given to the Secretary in an annual report describing the total number of loans from such fund which are in such default".

(f) CORRECTION OF REFERENCE.—Section 463(b) of the Act is amended by striking out "section 485" and inserting "section 489".

20 USC 1087cc-1.

(g) ESTIMATES OF BALANCES.—Section 463A(a) of the Act is amended by striking out paragraph (8) and inserting the following:

"(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;".

(h) DEFENSE EDUCATIONAL LOAN REPAYMENT.—Section 463A(a)(10) of the Act is amended by striking out "section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);" and inserting "the Department of Defense educational loan repayment program (10 U.S.C. 2172);".

20 USC 1087dd.
Hospitals.
Health care facilities.

(i) INTERNSHIP DEFERMENT.—Section 464(c)(2)(A)(vi) is amended by inserting before the semicolon at the end thereof the following: "or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training".

20 USC 1087ee.

(j) REFERENCE TO OTHER PROGRAMS.—Section 465(a)(2) of the Act is amended—

(1) in subparagraph (A) by striking out "title I of the Elementary and Secondary Education Act of 1965" and inserting "chapter 1 of the Education Consolidation and Improvement Act of 1981";

20 USC 3801 *et seq.*

(2) in subparagraph (A), by striking out "such title I" and inserting "such chapter 1"; and

(3) in subparagraph (B), by striking out "section 222(a)(1) of the Economic Opportunity Act of 1964" and inserting "the Head Start Act".

42 USC 9801 note.

SEC. 14. NEEDS ANALYSIS.

Part F of title IV of the Act is amended—

20 USC 1087oo, 1087pp, 1087qq.

(1) in sections 475(c)(2), 475(c)(4), 475(d)(2), 476(b)(2), 476(c)(2), 477(b)(2), 477(c)(2), and 477(d), striking out "section 479" and inserting "section 478";

(2) in sections 475(c)(7) and 477(b)(7), by striking out "National";

(3) in sections 475(d)(2), 476(c)(2), and 477(c)(2), strike out "dislocated homemaker" and insert "displaced homemaker";

(4) by striking out the table contained in sections 475(d)(2)(C), 476(c)(2)(C), and 477(c)(2)(C) and inserting the following:

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1-$60,000	40 percent of NW
$60,001-$180,000	$24,000 plus 50 percent of NW over $60,000

"Adjusted Net Worth of a Business or Farm—Continued

If the net worth of a business or farm is—	Then the adjusted net worth is:
$180,001-$300,000	$84,000 plus 60 percent of NW over $180,000
$300,001 or more	$156,000 plus 100 percent of NW over $300,000";

20 USC 1087*oo*, 1087qq.

(5) in sections 475(d)(4)(B) and 477(c)(4)(B), by striking out "$15,000" and inserting "$15,999";

(6) in sections 475(d)(4)(C) and 477(c)(4)(C), by striking out "$15,000" each place it appears and inserting "$16,000";

(7) in section 475(d)(4)(D), by striking out "equal to or less than zero" and inserting "less than zero";

(8) in sections 475(e) and 477(d), insert a minus sign before "$3,409" each time it appears in the chart in each such section;

(9) in section 475(g)(1)(C), by striking out "paragraph (3)" and inserting "paragraph (2)";

(10) in section 475(g)(3), by inserting after "following table" the following: "(or a successor table prescribed by the Secretary under section 478)";

20 USC 1087rr.

(11) in section 475, by striking out subsection (h) and inserting the following:

"(h) Student (and Spouse) Income Supplemental Amount From Assets.—The student (and spouse) supplemental income from assets is determined by calculating the net assets of the student (and spouse) and multiplying the amount by 35 percent, except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero.";

29 USC 1651.
20 USC 1087vv.

(12) in such section, by adding at the end thereof the following new subsection:

"(i) Adjustments for Enrollment Periods Other Than 9 Months.—For periods of enrollment other than nine months, the parents' contribution from adjusted available income is determined as follows:

"(1) For periods of enrollment less than 9 months, the parents' contribution from adjusted available income (determined in accordance with subsection (b)) is divided by 9 and the result multiplied by the number of months enrolled.

"(2) For periods of enrollment greater than 9 months—

"(A) the parents' adjusted available income (determined in accordance with subsection (b)(1)) is increased by the difference between the standard maintenance allowance (determined in accordance with subsection (c)(4)) for a family of four and a family of five, each with one child in college;

"(B) the resulting revised parents' adjusted available income is assessed according to subsection (e) and adjusted according to subsection (b)(3) to determine a revised parents' contribution from adjusted available income;

"(C) the original parents' contribution from adjusted available income is subtracted from the revised parents' contribution from adjusted available income, and the result is divided by 12 to determine the monthly adjustment amount; and

"(D) the original parents' contribution from adjusted available income is increased by the product of the monthly adjustment amount multiplied by the number of months greater than 9 for which the student will be enrolled.";

(13) in section 476(b)(1)— 20 USC 1087pp.

(A) by striking out "subparagraph (B)" in subparagraph (C) and inserting "subparagraph (C)";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D); and

(C) by striking out everything preceding clause (i) of subparagraph (A) and inserting the following:

"(A) adding the student's adjusted gross income and any income earned from work but not reported on a Federal income tax return, and subtracting excludable income (as defined in section 480); 20 USC 1087vv.

"(B) computing the student's available taxable income by deducting from the amount determined under subparagraph (A)—";

(14) in section 476(b)(2), by striking out "total taxable income" and inserting "total income";

(15) in section 476(b)(1)(C), by inserting after "section 480(c))" the following: "plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title 28, United States Code";

(16) in section 476(b)(4)—

(A) by striking out "$8,900" each place it appears and inserting "$8,600"; and

(B) by striking out "$6,230" and inserting "$6,020";

(17) in section 476(c)(1)—

(A) by striking out the period at the end of subparagraph (C) and inserting a semicolon; and

(B) by inserting at the end thereof (flush with the margin of paragraph (1)) the following:

"except that the student's income supplemental amount from assets shall not be less than zero.";

(18) in section 477(a)(1)— 20 USC 1087 qq.

(A) by striking out "and" at the end of subparagraph (A);

(B) by inserting "and" after the semicolon at the end of subparagraph (B); and

(C) by inserting after such subparagraph the following:

"(C) the amount of veterans' benefits to be paid during the award period under chapters 32, 34, and 35 of title 38, United States Code;";

(19) in section 477(b)(5)(A), by striking out "$2,000" and inserting "$2,100";

(20) in section 478(d)— 20 USC 1087rr.

(A) by inserting ", rounded to the nearest $100," after "present value cost";

(B) by inserting "of 40 and above" after "each age cohort"; and

(C) by inserting after the second sentence the following: "For each age cohort below 40, the asset protection allowance shall be computed by decreasing the asset protection allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100.";

20 USC 1087rr.

(21) in section 478(c)(2), by striking out "'$26,000', '$91,000', and '$169,000'" and inserting "'$24,000', '$84,000', and '$156,000'";

(22) in section 478(f), by striking out "Consumer Price Index for Wage Earners and Clerical Workers" and inserting in lieu thereof "Consumer Price Index for All Urban Consumers";

20 USC 1087ss.

(23) in section 479(a)—

(A) by striking out "paragraph (2)" and inserting "subsection (b)";

(B) by striking out "families which" and inserting "families (1) who"; and

(C) by striking out "and which file a form 1040A pursuant to the Internal Revenue Code of 1954" and inserting "and (2) who file a form 1040A or 1040EZ pursuant to the Internal Revenue Code of 1986, or are not required to file pursuant to such Code";

26 USC 1 *et seq.*

(24) in section 479(b)—

(A) by striking out "and State" in paragraph (2);

(B) by striking out "and" at the end of paragraph (4);

(C) by striking out the period at the end of paragraph (5) and inserting "; and"; and

(D) by inserting after paragraph (5) the following new paragraph:

State and local governments.
Taxes.
20 USC 1087*oo*, 1087qq.
20 USC 1087pp.

"(6) an allowance (A) for State and other taxes, as defined in section 475(c)(2) for dependent students and in section 477(b)(2) for independent students with dependents, or (B) for State and local income taxes, as defined in section 476(b)(2) for independent students without dependents.";

(25) in section 479, by adding at the end thereof the following new subsection:

"(c) SIMPLIFIED APPLICATION FORM.—The Secretary shall develop and use a simplified application form for families described in this section to qualify for the use of a simplified needs analysis.";

20 USC 1087tt.

(26) by striking out section 479A and inserting in lieu thereof the following:

"DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS

"SEC. 479A. (a) IN GENERAL.—Nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B, C, and E of this title.

"(b) ADJUSTMENTS TO ASSETS TAKEN INTO ACCOUNT.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if—

"(1) the administrator determines, in his or her discretion, that the effective family income of the applicant is small in relation to—

"(A) the net value of the principal place of residence;

"(B) the net worth of a farm on which the family resides; or

"(C) the net worth of a family owned and operated small business;

"(2) such administrator reduces or eliminates the amount of such net value or net worth that is subject to assessment in the computation of the expected family contribution of that applicant; and

"(3) the administrator reports the amount of such adjustments made with respect to determinations for Pell Grants to the contractor or contractors processing applications for such grants for the award year.

Grants.

"(c) Asset Adjustment as Example.—The asset adjustment described in subsection (b) is an example of the type of adjustment which financial aid administrators are authorized to make by subsection (a), and shall not be considered to be the only adjustment that is so authorized.";

(27) by striking section 479B and inserting in lieu thereof the following:

20 USC 1087uu.

"STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS

"Sec. 479B. (a) Attendance Costs Not Treated as Income or Resources.—The portion of any student financial assistance received under this title, or under Bureau of Indian Affairs student assistance programs, that is made available for attendance costs described in subsection (b) shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

"(b) Attendance Costs.—The attendance costs described in this subsection are—

"(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

"NATIVE AMERICAN STUDENTS

"Sec. 479C. In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

20 USC 1087uu-1.

"(1) any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act; and

"(2) any income received by the student (and spouse) and student's parents under the Alaskan Native Claims Settlement Act or the Maine Indian Claims Settlement Act."; and

43 USC 1601 note; 25 USC 1721 note.

(28) in section 480—

20 USC 1087vv.

(A) by striking out "paragraphs (2) and (3)" in subsection (a)(1) and inserting "paragraphs (2) through (4)";

(B) by inserting before the period at the end of such subsection the following: "minus excludable income (as defined in subsection (f))";

(C) by striking out paragraph (2) of subsection (a) and inserting the following:

"(2) In the computation of family contributions for the programs under subpart 2 of part A and parts B, C, and E of this title for any academic year, there shall be excluded from family income any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation.";

(D) by inserting at the end of subsection (a) the following:

"(4) No portion of any student financial assistance received from any program by an individual shall be included as income in the computation of expected family contribution for any program funded in whole or in part under this Act.";

(E) by striking out subsections (b) and (c) and inserting the following:

"(b) UNTAXED INCOME AND BENEFITS OF PARENTS AND INDEPENDENT STUDENTS WITH DEPENDENTS.—The term 'untaxed income and benefits' when applied to parent contributions or the contributions of independent students with dependents (including spouses) means—

"(1) child support received;

"(2) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children; 42 USC 601.

"(3) workman's compensation;

"(4) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

"(5) interest on tax-free bonds;

"(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(7) cash support or any money paid on the student's behalf;

"(8) the amount of earned income credit claimed for Federal income tax purposes;

"(9) untaxed portion of pensions;

"(10) credit for Federal tax on special fuels;

"(11) the amount of foreign income excluded for purposes of Federal income taxes;

"(12) untaxed social security benefits;

"(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

"(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits. 29 USC 1501 note.

"(c) UNTAXED INCOME AND BENEFITS OF DEPENDENT STUDENTS OR INDEPENDENT STUDENTS WITHOUT DEPENDENTS.—For the purpose of this part, the term 'untaxed income and benefits' when applied to the contributions of dependent students or independent students without dependents means—

"(1) child support received;

"(2) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

42 USC 601.

"(3) workman's compensation;

"(4) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

"(5) interest on tax-free bonds;

"(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(7) cash support or any money paid on the student's behalf;

"(8) the amount of earned income credit claimed for Federal income tax purposes;

"(9) untaxed portion of pensions;

"(10) credit for Federal tax on special fuels;

"(11) the amount of foreign income excluded for purposes of Federal income taxes;

"(12) untaxed social security benefits;

"(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

"(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.";

29 USC 1501 note.

(F) in subsection (d)(2)(F), by striking out "an annual total income" and by inserting in lieu thereof "annual total resources (including all sources of resources other than parents)"; and

(G) by inserting after subsection (e) the following new subsections:

"(f) Excludable Income.—The term 'excludable income' means—

"(1) any unemployment compensation received by a dislocated worker certified in accordance with title III of the Job Training Partnership Act; and

29 USC 1651.

"(2) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of this title.

"(g) Assets.—The term 'assets' means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

"(h) Net Assets.—The term 'net assets' means the current market value at the time of application of the assets included in the definition of 'assets', minus the outstanding liabilities or indebtedness against the assets.".

SEC. 15. GENERAL PROVISIONS.

Part G of title IV of the Act is amended—

(1) in section 481(c), by striking out "subsection (d) of this section" and inserting in lieu thereof "section 484(d)";

20 USC 1088.

(2) in section 482(b)—

20 USC 1089.

(A) by striking out "or 442(e)" and inserting ", 442(e), or 462(j)"; and

(B) by striking out "and part C" and inserting ", part C, and part E";

20 USC 1090.

(3) in the second sentence of section 483(a)(1), by inserting "or institutions in which the students are enrolled or accepted for enrollment" after "that applicants";

(4) in the second sentence of such section 483(a)(1), by inserting before the period at the end thereof the following: "and on which the applicant shall clearly indicate a choice of lender";

(5) in section 483(a)(2)—

(A) by striking out "not less than 3" and inserting "not less than 5"; and

20 USC 1001 note.

(B) by adding at the end thereof the following: "The Secretary shall not select new multiple data entry processors after the date of enactment of the Higher Education Amendments Act of 1986, until the Advisory Commission on Student Financial Assistance has examined and made recommendations on the expansion of the number and kind of processors and its impact on students, has assessed and made recommendations on the relative cost of processing applications and development fees, and has examined and made recommendations on the implementation of a standardized fee for the reimbursement of all processors by the Federal Government.";

(6) in section 483—

(A) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(B) by inserting after subsection (a) the following:

Contracts. State and local governments.

"(b) CERTIFICATION OF CAPABILITY.—Beginning with the 1988-1989 processing year, the Secretary shall be authorized to enter into agreements with institutions of higher education, States, or private organizations for the purpose of certifying the capability of their systems for determining expected family contributions under part F of this title.";

20 USC 1091.

(7) in section 484—

(A) in subsection (a)(1), by inserting before the semicolon a comma and the following: "except as provided in subsection (b)(2)";

(B) in subsection (b), insert "(1)" before "In";

(C) in subsection (b), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(D) by inserting at the end of subsection (b) the following new paragraph:

"(2) A student who—

"(A) is carrying at least one-half the normal full-time work load for the course of study that the student is pursuing, as determined by an eligible institution, and

"(B) is enrolled in a course of study necessary for enrollment in a program leading to a degree or certificate,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B of this title. The eligibility described in this paragraph shall be restricted to one 12-month period.";

(8)(A) in section 484(d)—

(i) by striking out "or" at the end of paragraph (1); and

(ii) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) be counseled prior to admission and be enrolled in and successfully complete the institutionally prescribed program of remedial or developmental education not to exceed one academic year or its equivalent; or

"(3)(A) be administered a nationally recognized, standardized, or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which the applicant has applied; and

"(B) with respect to applicants who are unable to satisfy the institutions' admissions testing requirements specified in subparagraph (A), be enrolled in and successfully complete an institutionally prescribed program or course of remedial or developmental education not to exceed one academic year or its equivalent.";

(B) in section 484(d), by adding at the end thereof the following new sentence: 20 USC 1091.

"In order to be eligible for assistance a student cannot be enrolled in either an elementary or a secondary school.";

(9) in section 484(f), by adding at the end thereof the following new sentence: "In carrying out the provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applicants in any award year.";

(10) in section 485(b), by inserting "(other than loans made pursuant to section 428B)" after "part B of this title"; 20 USC 1092. *Ante*, p. 343.

(11) in section 485(d), by inserting after the second sentence the following: "In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences."; Loans.

(12) in section 485A(a), by striking out "clause (i), (ii), or (iii)" and inserting "subparagraph (A), (B), or (C)"; 20 USC 1092a.

(13) in section 485B— 20 USC 1092b.

(A) by striking out "Federal agencies" in subsection (b)(1) and inserting "public agencies";

(B) by striking out "of a borrower for whom the guaranty agency provides insurance" in subsection (b)(2)(D) and inserting "of any borrower"; and

(C) by striking out "Federal agency" in subsection (b)(3) and inserting "public agency";

(14) in section 488, by striking out "or 446" and inserting "or 442"; 20 USC 1095.

(15) in the second sentence of section 489(a), by striking out "section 448" and inserting in lieu thereof "section 447"; 20 USC 1096.

(16) in section 491(b), by adding at the end thereof the following new sentence: "The Secretary's authority to terminate advisory committees of the Department pursuant to section 448(b) of the General Education Provisions Act ceased to be effective on June 23, 1983."; 20 USC 1098. 20 USC 1233g.

(17) in section 491(i), by striking out "An amount, not to exceed $500,000 in any fiscal year" and inserting in lieu thereof "In each fiscal year not less than $500,000"; and

(18) in section 491, by adding at the end thereof the following new subsection:

"(j) SPECIAL INSTITUTIONAL LENDER STUDY.—

"(1) The Advisory Committee shall conduct a thorough study of institutional lender policy. In carrying out the study, the Advisory Committee shall examine, but not be limited to—

"(A) the relevance and current applicability of the institutional lender criteria established in section 435(d); 20 USC 1085.

"(B) the appropriateness of using default rates for loans made under part E or other institutional criteria to determine institutional participation;

"(C) whether or not a portion or all of any special allowance or other payments paid to institutional lenders should benefit need-based scholarship or grant programs;

"(D) whether or not institutional lenders should be required to hold loans made to eligible borrowers through graduation or termination of matriculation;

"(E) examine the extent and degree to which student access to loan capital would be adversely affected by the restrictions contained in section 435(d)(2); and

"(F) assess the potential impact on State secondary markets and lender portfolios if student borrowers at higher cost colleges and universities, who come from higher income families, concentrate their lending with a few large lenders and secondary markets.

"(2) The Advisory Committee shall consult with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate in carrying out the study required by this subsection.

Reports.

"(3) The Advisory Committee shall, not later than 2 years after the date of enactment of the Higher Education Technical Amendments Act of 1987, prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report of the study required by this section.".

SEC. 16. LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT.

Subpart 2 of part C of title V of the Act is amended—

20 USC 1109. (1) in the matter preceding paragraph (1) of section 541(b), by striking out "contractors" and inserting in lieu thereof "grantees";

20 USC 1109a. (2) in section 542, by striking out "for any fiscal year" and inserting "for fiscal year 1987 or any succeeding fiscal year";

20 USC 1109b. (3) in section 543—

(A) in subsection (a)—

(i) in the subsection heading, by striking out "CONTRACTS" and inserting in lieu thereof "GRANTS"; and

(ii) by striking out "enter into contracts with" and inserting in lieu thereof "award grants to";

(B) in subsection (b)—

(i) in the subsection heading, by striking out "CONTRACT" and inserting in lieu thereof "GRANT";

(ii) in the matter preceding paragraph (1), by striking out "contract entered into" and inserting in lieu thereof "grant awarded"; and

(iii) by striking out "contractor" each place it appears and inserting in lieu thereof "grantee"; and

(C) in subsection (c)—

(i) in the subsection heading, by striking out "CONTRACTORS" and inserting in lieu thereof "GRANTEES"; and

(ii) by striking out "contract" and inserting in lieu thereof "grant";

(4) in section 544— 20 USC 1109c.

(A) in the section heading, by striking out "CONTRACTS" and inserting in lieu thereof "GRANTS";

(B) in subsection (a), by striking out "CONTRACT" and "contract" each place they appear and inserting in lieu thereof "GRANT" and "grant", respectively; and

(C) in subsection (b), by striking out "CONTRACT", "contract", and "contractor" each place they appear and inserting in lieu thereof "GRANT", "grant", and "grantee", respectively; and

(5) in section 545— 20 USC 1109d.

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end thereof the following:

"(3) the term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

SEC. 17. CONGRESSIONAL TEACHER SCHOLARSHIP PROGRAM.

(a) DESIGNATION OF CONGRESSIONAL TEACHERS' SCHOLARSHIPS.—

(1) section 551 of the Act is amended by inserting "(a) PURPOSE.—" after the section designation; 20 USC 1111.

(2) by striking out the second sentence of such section; and

(3) by adding at the end thereof the following new subsection:

"(b) DESIGNATION.—Scholarships awarded under this subpart shall be referred to as the 'Paul Douglas Teacher Scholarships'.". Paul Douglas Teacher Scholarships.

(b) APPLICATIONS.—Section 553 of the Act is amended— 20 USC 1111b.

(1) in subsection (a), by striking out "section 546" and inserting "section 551";

(2) in subsection (b)(4)(A)—

(A) by striking out "elementary or" and inserting "preschool, elementary school, or";

(B) by inserting "or private nonprofit" immediately before "education program in any State"; and

(C)(i) by inserting "or" after "State," the first time it appears; and

(ii) by striking out "or, on a full-time basis handicapped children or children with limited English proficiency in a private nonprofit school,"; and

(3) in subsection (b)(4)(B), by striking out "section 557" and inserting "section 556".

(c) REPAYMENT PROVISION.—Section 557 of the Act is amended by inserting after "interest" the following: "(but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of this title)". 20 USC 1111f.

(d) EXCEPTIONS TO REPAYMENT.—Section 558(a)(6) of the Act is amended by inserting before the semicolon the following: "for a single period not to exceed 27 months". 20 USC 1111g.

SEC. 18. LANGUAGE AND AREA CENTERS.

20 USC 1122.

Section 602(b)(1)(B) of the Act is amended by striking out "in a program of competency-based training," immediately after "in a program of competency-based language training,".

SEC. 19. ACADEMIC FACILITIES.

Title VII of the Act is amended—

20 USC 1132a.

(1) in section 701(b), by inserting "part A or B of" after "grants under";

20 USC 1132a-1.

(2) in section 702(a), by inserting at the end thereof a comma and the following: "or for a preceding fiscal year";

20 USC 1132d.

(3) in the matter preceding paragraph (1) in section 731(a) by striking out "and insure";

20 USC 1132d-2.

(4) in section 733—

(A) in the section heading, by striking out "AND INSURANCE"; and

(B) in subsection (a) by striking out "and insuring";

20 USC 1132g-3.

(5) in section 764(c)(1), by inserting "at least a two-year program acceptable for full credit toward" immediately before "a baccalaureate degree"; and

20 USC 1132i-1.

(6) in section 782(1)(B)—

(A) by striking out "section 724" and inserting "section 701", and

(B) by striking out "section 843" and inserting "section 853".

SEC. 20. JACOB K. JAVITS FELLOWS PROGRAM.

Part C of title IX of the Act is amended—

20 USC 1134h.

(1) by striking out the heading of section 931 and inserting the following:

"AWARD OF JACOB K. JAVITS FELLOWSHIPS";

20 USC 1134i.

(2) in section 932(a)(1), by striking out "National Graduate" and inserting "Jacob K. Javits";

(3) in section 932(a)(2)(C), by striking out "directing" and inserting "selecting"; and

20 USC 1134j.

(4) in section 933(b)(1), by striking out the period at the end thereof and inserting in lieu thereof a comma and "except that such amount charged to a fellowship recipient and collected from such recipient for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payment to the institution under this subsection.".

SEC. 21. GENERAL PROVISIONS.

20 USC 1141.

Ante, p. 356.

(a) TECHNICAL AMENDMENT.—Section 1201(a) of the Act is amended by striking out "have the ability to benefit from the training offered by the institution" and inserting in lieu thereof "meet the requirements of section 484(d) of this Act".

20 USC 1145e.

(b) PEER REVIEW PROCESS.—Title XII of the Act is amended by redesignating section 1210 as section 1211, and by adding after section 1209 the following new section:

"APPLICATION OF PEER REVIEW PROCESS

20 USC 1145d-1.

"SEC. 1210. All applications submitted under the provisions of this Act which require peer review shall be read by a panel of readers composed of individuals selected by the Secretary which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.".

SEC. 22. EFFECTIVE DATES OF THE HIGHER EDUCATION AMENDMENTS OF 1986.

(a) SEOG ALLOCATION.—Section 401(b) of the Higher Education Amendments of 1986 is amended—

20 USC 1070a-1 note.

(1) by redesignating paragraph (6) as paragraph (7); and

20 USC 1070d-1b note.

(2) by inserting after paragraph (5) the following new paragraph:

20 USC 1070b-3 note.

"(6) The changes made in section 413D of the Act shall apply with respect to the allocation of funds for the academic year 1988-1989 and succeeding academic years.".

20 USC 1070b-3.

(b) GSL AMENDMENTS.—Section 402(b) of such Amendments is amended—

20 USC 1071 note.

(1) by striking out paragraph (2) and inserting the following:

"(2) the changes in sections 427(a)(2)(C) and 428(b)(1)(M) of the Act (other than clauses (viii), (ix), and (x) of each such section) shall apply only to loans to new borrowers that (A) are made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1987; or (B) are disbursed on or after July 1, 1987;";

(2) in paragraphs (3) and (4), by inserting "disbursed on or after January 1, 1987, or" after "only to loans"; and

(3) in paragraph (7), by inserting "disbursed on or after 30 days after the date of enactment of this Act or" after "with respect to loans".

(c) CWS AMENDMENTS.—Section 403(b) of such Amendments is amended by striking out "(b) EFFECTIVE DATE.—" and inserting in lieu thereof the following:

42 USC 2753 note.

"(b) EFFECTIVE DATES.—(1) Section 442 of the Act shall apply with respect to the allocation of funds for academic year 1988-1989 and succeeding academic years.

42 USC 2752 note.

"(2)".

42 USC 2753 note.

(d) NDSL AMENDMENTS.—Section 405(b) of such Amendments is amended—

20 USC 1087dd note

(1) by inserting "and section 463A" after "Section 463(a)(9)" in paragraph (2);

(2) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(3) by inserting after the subsection heading the following:

"(1) Section 462 of the Act shall apply with respect to academic year 1988-1989 and succeeding academic years.".

20 USC 1087bb.

(e) EFFECTIVE DATE OF CERTAIN NEED ANALYSIS PROVISIONS.—Section 406(b) of such Amendments is amended—

(1) by striking out "paragraphs (2) and (3)" in paragraph (1) and inserting "paragraphs (2) through (4)";

20 USC 1087kk note.

(2) by redesignating paragraph (4) as paragraph (5); and

20 USC 1087vv note.

(3) by inserting after paragraph (3) the following new paragraph:

"(4) Section 479B of the Act (as so added) shall apply with respect to financial assistance provided for any academic year beginning after such date of enactment.".

Ante, p. 353.
20 USC 1087kk note.

20 USC 1145d note.

(f) SUNSET FOR DISCLOSURE OF FOREIGN GIFTS.—Section 1206(b) of such Amendments is amended by striking out "section 1208" and inserting "section 1209".

SEC. 23. EDUCATION ADMINISTRATION.

Title XIII of the Higher Education Amendments of 1986 is amended—

20 USC 1091 note.

(1) in section 1301, by striking out "section 484(d)" and inserting "section 484(c)";

20 USC 1121 note.

(2) in section 1302(b)(1), by striking out "this title" and inserting "title VI of the Act";

20 USC 1221e-1 note.

(3) in section 1303—

(A) by striking out "shall, through the Office of Education Research and Improvement or the Center for Education Statistics," in subsection (a) and inserting ", through the Office of Educational Research and Improvement,";

(B) by striking out "the Department of Education," in subsection (b)(3);

(C) by striking out "Resources," in such subsection and inserting "Resources"; and

(D) by adding at the end thereof the following:

Appropriation authorization.

"(f) There are authorized to be appropriated $2,700,000 for the fiscal year 1987 and for each of the 2 succeeding fiscal years to carry out the provisions of this section.";

20 USC 1011 note.

(4) in section 1304—

(A) by striking out "of this title" in subsection (a) and inserting "of title I of the Act";

(B) by inserting "the provision of" before "an information network" in subsection (b)(2);

(C) by striking out "under this title" in subsection (c) and inserting "under this section"; and

(D) by striking out "purposes of this title" in such subsection and inserting "purposes of title I of the Act";

100 Stat. 1583.

(5) in section 1307—

(A) by striking out "$2,700,000" and inserting in lieu thereof "$1,000,000"; and

(B) by striking out "this part" and inserting in lieu thereof "sections 1301 and 1302";

Loans.
20 USC 1071 note.

(6) in section 1314 by adding at the end thereof the following new sentence: "Nothing in this section shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors to maintain or report records relating to the loans discharged by borrowers in receiving a consolidation loan pursuant to section 428C of the Act."; and

20 USC 1078-3.
20 USC 1221-1 note.

(7) in section 1341, by striking out subsection (b) and inserting in lieu thereof the following:

Contracts.

"(b) REPORT REQUIRED.—Not later than one year after the date of entering into a contract with the Department of Education for the study described in this section, the National Academy of Sciences shall prepare and submit to the Congress a report, together with a description of programs on the use of volunteers and with such recommendations as deemed appropriate.".

SEC. 24. GENERAL EDUCATION PROVISIONS ACT.

20 USC 1221e.

(a) EDUCATIONAL RESEARCH.—Section 405(g)(1)(C) of the General Education Provisions Act is amended to read as follows:

"(C) not less than $5,700,000 shall be available in each fiscal year to assist a separate system of 16 education resources information clearinghouses (including direct supporting dissemination services) pursuant to subsection (d)(3)(A) of this section, having the same functions and scope of work as the clearinghouses had on the date of enactment of the Higher Education Amendments of 1986;".

20 USC 1001 note.

(b) Education Statistics.—Section 406(e)(1) of the General Education Provisions Act is amended by adding at the end thereof the following new sentence: "All funds received in payment for work or services described in this paragraph shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.".

20 USC 1221e-1.

SEC. 25. UNITED STATES INSTITUTE OF PEACE.

Section 1703 of the United States Institute of Peace Act is amended by inserting after "(3)" the following: "establish a Jeannette Rankin Research Program on Peace to".

22 USC 4604.

SEC. 26. EXEMPTION FROM CERTAIN PROVISIONS OF LAW.

Loans.
Contracts.
California.

The parties to the term loan and security agreement dated March 3, 1986, as amended, pursuant to which up to $21,000,000 of loans will be made to students and parents of students at a university located in California by a branch of a foreign bank located in New York shall, with respect to loans made on or before February 20, 1987, and the transactions relating thereto under such term loan and security agreement, be deemed not to be in violation of the provisions of sections 435(d)(5)(A) and 490(c) of the Higher Education Act of 1965.

20 USC 1085, 1097.

SEC. 27. EFFECTIVE DATE OF TECHNICAL AMENDMENTS.

The amendments made by this Act shall take effect as if enacted as part of the Higher Education Amendments of 1986.

20 USC 1001 note.

Approved June 3, 1987.

LEGISLATIVE HISTORY—H.R. 1846:

HOUSE REPORTS: No. 100-44 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Apr. 21, considered and passed House.
May 19, considered and passed Senate, amended.
May 20, House concurred in Senate amendment.

○

Public Law 100-51
100th Congress

Joint Resolution

June 16, 1987
[H.J. Res. 280]

To observe the 300th Commencement exercise at the Ohio State University on June 12, 1987.

Whereas the Ohio State University's 300th Commencement ceremony is scheduled for June 12, 1987;

Whereas the 300th Commencement is of particular significance and honor to the rich heritage of the University;

Whereas this very special occasion in the life of the Ohio State University should be observed with all appropriate and due celebration of academic excellence; and

Whereas this landmark event commemorates a truly historic occasion for the University, its faculty, staff, and students, and its 260,000 proud alumni nationwide: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the date June 12, 1987, is observed on the occasion of the 300th Commencement exercise at the Ohio State University, and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States to commemorate this date with appropriate programs, ceremonies, and activities.

Approved June 16, 1987.

LEGISLATIVE HISTORY—H.J. Res. 280:

CONGRESSIONAL RECORD, Vol. 133 (1987):
May 21, considered and passed House.
June 3, considered and passed Senate.

○

91-139 O - 87 (51)

Public Law 100-52
100th Congress

Joint Resolution

June 16, 1987
[S.J. Res. 5]

Designating June 14, 1987, as "Baltic Freedom Day".

Whereas the people of the Baltic Republics of Lithuania, Latvia, and Estonia have cherished the principles of religious and political freedom and independence;

Whereas the Baltic Republics have existed as independent, sovereign nations belonging to and fully recognized by the League of Nations; and

Whereas the people of the Baltic Republics have individual and separate cultures, national traditions, and languages distinctively foreign to those of Russia;

Whereas the Union of the Soviet Socialist Republics (U.S.S.R.) in 1940 did illegally seize and occupy the Baltic Republics and by force incorporate them against their national will and contrary to their desire for independence and sovereignty into the U.S.S.R.;

Whereas the U.S.S.R. since 1940 has systematically removed native Baltic peoples from their homelands by deporting them to Siberia and caused great masses of Russians to relocate in the Baltic Republics, thus threatening the Baltic cultures with extinction;

Whereas the U.S.S.R. has imposed upon the captive people of the Baltic Republics an oppressive political system which has destroyed every vestige of democracy, civil liberties, and religious freedom;

Whereas the people of Estonia, Latvia, and Lithuania find themselves today subjugated by the U.S.S.R., locked into a union they deplore, denied basic human rights, and persecuted for daring to protest;

Whereas the U.S.S.R. refuses to abide by the Helsinki accords which the U.S.S.R. voluntarily signed;

Whereas the United States stands as a champion of liberty, dedicated to the principles of national self-determination, human rights, and religious freedom, and opposed to oppression and imperialism;

Whereas the United States, as a member of the United Nations, has repeatedly voted with a majority of that international body to uphold the right of other countries of the world, including those in Africa and Asia, to determine their fates and be free of foreign domination; and

Whereas the U.S.S.R. has steadfastly refused to return to the people of the Baltic States of Latvia, Lithuania, and Estonia, the right to exist as independent republics separate and apart from the U.S.S.R. or permit a return of personal, political, and religious freedoms: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States recognizes the continuing desire and the right of the people of Lithuania, Latvia, and Estonia for freedom and independence from the domination of the U.S.S.R., deplores the refusal of the U.S.S.R. to recognize the sovereignty of the Baltic Republics and to yield to their rightful demands for independence from foreign domination and oppression and that the fourteenth day of June 1987, the anniversary of the mass deportation of Baltic peoples from their homelands in 1941, be designated "Baltic Freedom Day" as a symbol of the solidarity of the American people with the aspirations of the enslaved Baltic people and that the President of the United States be authorized and requested to issue a proclamation for the observance of Baltic Freedom Day with appropriate ceremonies and activities.

Approved June 16, 1987.

LEGISLATIVE HISTORY—S.J. Res. 5:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 20, considered and passed Senate.
June 11, considered and passed House.

○

Public Law 100-53
100th Congress

An Act

To amend title 5, United States Code, to provide enhanced retirement credit for United States magistrates.

June 18, 1987
[H.R. 1947]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Magistrates' Retirement Parity Act of 1987.
5 USC 8331 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Magistrates' Retirement Parity Act of 1987".

SEC. 2. ANNUITIES UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(1) by amending paragraph (22) to read as follows:

"(22) 'bankruptcy judge' means an individual—

"(A) who is appointed under section 34 of the Bankruptcy Act (11 U.S.C. 62) or under section 404(d) of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549), and—

28 USC note prec. 151.

"(i) who is serving as a United States bankruptcy judge on March 31, 1984; or

"(ii) whose service as a United States bankruptcy judge at any time in the period beginning on October 1, 1979, and ending on July 10, 1984, is terminated by reason of death or disability; or

"(B) who is appointed as a bankruptcy judge under section 152 of title 28;";

(2) by striking out "and" at the end of paragraph (23);

(3) by striking out the period at the end of paragraph (24) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new paragraph:

"(25) 'magistrate' or 'United States magistrate' means an individual appointed under section 631 of title 28.".

(b) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "and" after "Member" and inserting in lieu thereof ", a United States magistrate,"; and

(B) by inserting a comma after "Military Appeals"; and

(2) in subsection (c), by inserting at the end of the table the following:

"United States magistrate	2½	August 1, 1920, to June 30, 1926.
	3½	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6½	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to September 30, 1987.
	8	After September 30, 1987.".

(c) IMMEDIATE RETIREMENT.—Section 8336(k) of title 5, United States Code, is amended to read as follows:

"(k) A bankruptcy judge or United States magistrate who is separated from service, except by removal, after becoming 62 years of age and completing 5 years of civilian service, or after becoming 60 years of age and completing 10 years of service as a bankruptcy judge or United States magistrate, is entitled to an annuity.".

(d) COMPUTATION OF ANNUITY.—Section 8339(n) of title 5, United States Code, is amended to read as follows:

"(n) The annuity of an employee who is a bankruptcy judge or United States magistrate is computed, with respect to service as a referee in bankruptcy, as a bankruptcy judge, as a United States magistrate, and as a United States commissioner and with respect to the military service of any such individual (not exceeding 5 years) creditable under section 8332 of this title, by multiplying 2½ percent of the individual's average pay by the years of that service.".

5 USC 8331 note.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on October 1, 1987, and shall apply to bankruptcy judges and United States magistrates in office on that date and to individuals subsequently appointed to such positions to whom chapter 83 of title 5, United States Code, otherwise applies. 5 USC 8301 *et seq.*

Approved June 18, 1987.

LEGISLATIVE HISTORY—H.R. 1947:

CONGRESSIONAL RECORD, Vol. 133 (1987):
May 27, considered and passed House.
June 3, considered and passed Senate.

○

Public Law 100-54
100th Congress

Joint Resolution

Recognizing the service and contributions of the Honorable Wilbur J. Cohen.

June 18, 1987
[H.J. Res. 283]

Whereas the Congress mourns the loss of the Honorable Wilbur J. Cohen, a great humanitarian who was a compassionate spokesman, advocate, and champion of the poor and the common people;

Whereas Wilbur J. Cohen was a participant and author in the creation of all social legislation in this country over the past five decades;

Whereas Wilbur J. Cohen had a distinguished career in the Federal Government from 1935-1956, including being the 1st employee of the Social Security Board and the director of the office of research and statistics;

Whereas Wilbur J. Cohen held the posts of the Assistant Secretary, Under Secretary, and Secretary of the Department of Health, Education, and Welfare under the Kennedy and Johnson Administrations;

Whereas Wilbur J. Cohen had an additional distinguished career as a professor, while only holding a Bachelor's degree, at the University of Michigan at Ann Arbor and at the University of Texas at Austin;

Whereas Wilbur J. Cohen was the principal architect of the Medicare/Medicaid amendments of 1965;

Whereas, in the last weeks of his life, Wilbur J. Cohen saw pending catastrophic legislation as a vehicle for expanding all aspects of health care, including prevention, home care, and nursing home coverage, in addition to long-term hospitalization coverage; and

Whereas, in the last 52 years as a public and private citizen, Wilbur J. Cohen effectively advocated for expansion of social insurance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Honorable Wilbur J. Cohen, champion of social insurance, architect of Social Security, disability insurance, Medicare and Medicaid, mental health legislation, children's programs, and civil rights legislation, is recognized for outstanding service and contributions for the development of a social insurance system that provides vital health and social services to all Americans regardless of their age, sex, race, creed, or national origin.

Approved June 18, 1987.

LEGISLATIVE HISTORY—H.J. Res. 283:

CONGRESSIONAL RECORD, Vol. 133 (1987):
May 27, considered and passed House.
June 3, considered and passed Senate.

○

Public Law 100-55
100th Congress

An Act

To prohibit the imposition of an entrance fee at the Statue of Liberty National Monument, and for other purposes.

June 19, 1987
[S. 626]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, after the date of enactment of this Act, the Secretary of the Interior shall not charge any entrance or admission fee at the Statue of Liberty National Monument, New Jersey and New York.

16 USC 460*l*-6a note.

Approved June 19, 1987.

LEGISLATIVE HISTORY—S. 626:

HOUSE REPORTS: No. 100-136 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-32 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
    Apr. 7, considered and passed Senate.
    June 8, considered and passed House.

○

Public Law 100-56
100th Congress

Joint Resolution

June 23, 1987
[H.J. Res. 106]

To designate June 19, 1987, as "American Gospel Arts Day".

Whereas Gospel music is an American art, a product of the fusion of the African and European cultures;

Whereas Gospel music is the forerunner of popular music in America;

Whereas Gospel music, as an art form, is an important part of our cultural heritage;

Whereas the black American church community, in which Gospel music has its roots, has historically been a source for peaceful social change and a positive influence in all communities;

Whereas it is in the national interest to preserve Gospel music as an American art form, and promote recognition of the Gospel heritage; and

Whereas June 19 is traditionally observed in the black community as a special day of appreciation for black American cultural heritage and civil rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 19, 1987, is hereby designated "American Gospel Arts Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved June 23, 1987.

LEGISLATIVE HISTORY—H.J. Res. 106:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 2, considered and passed House.
June 16, considered and passed Senate.

○

Public Law 100-57
100th Congress

Joint Resolution

To designate the third week in June 1987 as "National Dairy Goat Awareness Week".

June 25, 1987
[H.J. Res. 17]

Whereas United States goat cheeses are in demand by consumers and replacing imported cheeses;

Whereas due to the efficiency of the modern domestic dairy goat, which produces an excellent healthful milk, the dairy goat is becoming increasingly popular and useful on our Nation's family farms;

Whereas United States farmers have developed a dairy goat that produces superior milk and that is sought after and exported worldwide; and

Whereas there is a need to further educate consumers as to the high nutritional value of products made from goats' milk: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the period beginning the second Saturday, and ending the third Saturday, of June 1987 is designated as "National Dairy Goat Awareness Week"; and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States to commemorate such week with appropriate programs, ceremonies, and activities.

Approved June 25, 1987.

LEGISLATIVE HISTORY—H.J. Res. 17:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 10, considered and passed House.
June 16, considered and passed Senate.

○

Public Law 100-58
100th Congress

Joint Resolution

June 25, 1987
[H.J. Res. 178]

Designating June 25, 1987, as "National Catfish Day".

Whereas catfish comprised the third highest volume of finned fish consumed in the United States in 1986;
Whereas 99 percent of all catfish consumed in the United States are now farm-raised catfish;
Whereas the farm-raised catfish is not like its bottom-feeding ancestors, but is surface-fed soybean meal, corn, fish meal, vitamins, and minerals in clean freshwater ponds;
Whereas the farm-raised catfish is the product of state-of-the-art methods in aquaculture;
Whereas the production of farm-raised catfish increased by 1200 percent between 1975 and 1985 and is expected to continue to increase in 1987;
Whereas the accompanying growth of the catfish processing industry creates thousands of permanent year-round jobs;
Whereas the cost of producing farm-raised catfish is very stable and averaged only 65 cents per pound over the past eight years;
Whereas catfish is an American delicacy and can be cooked in many delicious ways, and consumption of catfish is growing in popularity; and
Whereas farm-raised catfish are low in cholesterol, are a low-calorie source of protein, and are a nutritious addition to the general diet of the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 25, 1987, is designated as "National Catfish Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Approved June 25, 1987.

LEGISLATIVE HISTORY--H.J. Res. 178:

CONGRESSIONAL RECORD, Vol. 133 (1987):
May 11, considered and passed House.
June 19, considered and passed Senate.

O

Public Law 100-59
100th Congress

An Act

To designate the Federal Building located at 10 Causeway Street, Boston, Massachusetts, as the "Thomas P. O'Neill, Jr., Federal Building".

June 29, 1987
[H.R. 2243]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 10 Causeway Street, Boston, Massachusetts, shall be known and designated as the "Thomas P. O'Neill, Jr., Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference to such building in any law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "Thomas P. O'Neill, Jr., Federal Building".

Approved June 29, 1987.

LEGISLATIVE HISTORY—H.R. 2243:

HOUSE REPORTS: No. 100-127 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 8, considered and passed House.
June 18, considered and passed Senate.

○

Public Law 100-60
100th Congress

An Act

June 29, 1987
[H.R. 2100]

To designate the border station at 9931 Guide Meridian Road, Lynden, Washington, as the "Kenneth G. Ward Border Station".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The border station at 9931 Guide Meridian Road, Lynden, Washington, shall be known and designated as the "Kenneth G. Ward Border Station".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the border station referred to in section 1 shall be deemed to be a reference to the "Kenneth G. Ward Border Station".

Approved June 29, 1987.

LEGISLATIVE HISTORY—H.R. 2100:

HOUSE REPORTS: No. 100-134 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 15, considered and passed House.
June 17, considered and passed Senate.

○

Public Law 100-61
100th Congress

Joint Resolution

Designating the week beginning June 21, 1987, as "National Outward Bound Week".

June 29, 1987
[H.J. Res. 284]

Whereas Outward Bound is an organization that offers young people the opportunity to participate in rigorous outdoor recreational programs to improve their self-confidence, physical fitness, outdoor skills, and sense of social responsibility;

Whereas since 1962 when Outward Bound offered its first program in the United States in the State of Colorado, Outward Bound has dedicated its resources and leadership to the betterment of young people and the environment of the United States;

Whereas Outward Bound is a pioneer in the development and application of experience-based outdoor recreational programs in the United States;

Whereas the principles of Outward Bound, including accomplishment through perseverance, teamwork, leadership, and social responsibility, give countless young people the courage to cope better with adversities, overcome personal obstacles, and discover their potential for achievement and compassion;

Whereas over 150,000 people in the United States have participated in the rigorous outdoor recreational programs offered by Outward Bound; and

Whereas Outward Bound serves as the model and inspiration for hundreds of other experience-based programs that have been established in the United States since 1962: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning June 21, 1987, is designated as "National Outward Bound Week" in honor of the 25th anniversary of the first Outward Bound outdoor recreational program offered in the United States, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved June 29, 1987.

LEGISLATIVE HISTORY—H.J. Res. 284 (S.J. Res 145):

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 18, considered and passed House.
June 23, considered and passed Senate.

○

Public Law 100-62
100th Congress
Joint Resolution

June 29, 1987
[S.J. Res. 86]

To designate October 28, 1987, as "National Immigrants Day".

Whereas the Statue of Liberty has been the symbol of freedom, hope, and opportunity for millions of immigrants since the people of France dedicated the Lady of Liberty to the people of America on October 28, 1886;

Whereas the Statue of Liberty serves as a reminder to all that the United States is a nation of immigrants, a nation of nations;

Whereas the Statue of Liberty is a lasting memorial to the immigrants who have made America great;

Whereas millions of immigrants settled throughout the vast territory of the United States, and supported the ideals of independence and liberty;

Whereas the torch held by the Statue of Liberty serves as a beacon of freedom that lives in the soul of every American;

Whereas on October 28, 1886, the Statue of Liberty began to greet immigrants who came to America in pursuit of their dreams; and

Whereas it is only fitting that we set aside October 28, 1987, as a day of celebration to honor the immigrants welcomed by the burning torch of the Lady of Liberty to this land of freedom: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 28, 1987, is designated as "National Immigrants Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Approved June 29, 1987.

LEGISLATIVE HISTORY—S.J. Res. 86:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 5, considered and passed Senate.
June 18, considered and passed House.

○

Public Law 100-63
100th Congress

An Act

To authorize the establishment of a Peace Garden on a site to be selected by the Secretary of the Interior.

June 30, 1987
[H.R. 191]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Parks, monuments, etc.
40 USC 1003 note.
District of Columbia.
Public buildings and grounds.

SECTION 1. ESTABLISHMENT OF PEACE GARDEN.

The Secretary of the Interior, acting through the Director of the National Park Service is authorized to enter into an agreement with the Peace Garden Project, Incorporated (a nonprofit corporation organized under the laws of the State of California) pursuant to which the Peace Garden Project, Incorporated may construct a garden to be known as the "Peace Garden" on a site on Federal land in the District of Columbia to honor the commitment of the people of the United States to world peace. The site for the Peace Garden shall be selected by the Secretary of the Interior, subject to the approval of the Commission of Fine Arts and the National Capital Planning Commission.

SEC. 2. PROCEDURES AND DOCUMENTATION.

(a) PROCEDURES.—The site selection, design and construction of the Peace Garden shall comply with all procedures, rules, policies, and provisions of law applicable to the establishment of commemorative works on Federal land in the District of Columbia.

(b) DOCUMENTATION.—The agreement under section 1 shall require that the Peace Garden Project, Incorporated provide complete documentation of the design and construction of the Peace Garden to the Director of the National Park Service. Such documentation shall be permanently maintained.

SEC. 3. PREPARATION AND APPROVAL OF DESIGN PLANS.

The agreement under section 1 shall require the Peace Garden Project, Incorporated to be responsible for the preparation of the design plans for the Peace Garden. Such plans shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission.

SEC. 4. APPROVAL FOR COMMENCEMENT OF CONSTRUCTION.

The Peace Garden Project, Incorporated may not commence construction of the Peace Garden until both of the following conditions have been met:

(1) The Secretary of the Interior has determined that the full amount of funds estimated to be necessary for the completion of such construction in accordance with the design plans approved under section 3 are available from non-Federal sources.

(2) An additional amount equal to 10 percent of the estimated construction cost has been made available from non-Federal sources to the Secretary of the Interior to provide for maintenance of the Peace Garden.

SEC. 5. MAINTENANCE.

The Secretary of the Interior shall, upon the completion of the construction of the Peace Garden, maintain the garden. Notwithstanding any other provision of law, the Secretary may retain and use for such purpose the monies made available under paragraph (2) of section 4.

SEC. 6. PAYMENT OF EXPENSES.

The United States may not pay any expense of the construction of the Peace Garden except that technical advice may be provided by the Secretary of the Interior as he deems necessary.

SEC. 7. EXPIRATION OF AUTHORITY.

The authority to establish the Peace Garden under this Act shall expire at the end of the 5-year period beginning on the date of the enactment of this Act, unless construction of such garden begins during such period.

Approved June 30, 1987.

LEGISLATIVE HISTORY—H.R. 191:

HOUSE REPORTS: No. 100-17 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-69 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 10, considered and passed House.
June 17, considered and passed Senate.

○

Public Law 100-64
100th Congress

Joint Resolution

Designating July 2, 1987, as "National Literacy Day".

July 6, 1987
[S.J. Res. 117]

Whereas literacy is a necessary tool for survival in our society;

Whereas 35,000,000 Americans today read at a level which is less than necessary for full survival needs;

Whereas there are 27,000,000 adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;

Whereas illiteracy is growing rapidly, as 2,300,000 persons, including 1,200,000 legal and illegal immigrants, 1,000,000 high school dropouts, and 100,000 refugees, are added to the pool of illiterates annually;

Whereas the annual cost of illiteracy to the United States in terms of welfare expenditures, crime, prison expenses, lost revenues, and industrial and military accidents has been estimated at $225,000,000,000;

Whereas the competitiveness of the United States is eroded by the presence in the workplace of millions of Americans who are functionally or technologically illiterate;

Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare and unemployment compensation;

Whereas the percentage of illiterates in proportion to population size is higher for blacks and Hispanics, resulting in increased economic and social discrimination against these minorities;

Whereas the prison population represents the single highest concentration of adult illiteracy;

Whereas 1,000,000 children in the United States between the ages of 12 and 17 cannot read above a 3rd grade level, 13 percent of all 17-year-olds are functionally illiterate, and 15 percent of graduates of urban high schools read at less than a 6th grade level;

Whereas 85 percent of the juveniles who appear in criminal court are functionally illiterate;

Whereas the 47 percent illiteracy rate among black youths is expected to increase to 50 percent by 1990;

Whereas one-half of all heads of households cannot read past the 8th grade level and one-third of all mothers on welfare are functionally illiterate;

Whereas the cycle of illiteracy continues because the children of illiterate parents are often illiterate themselves because of the lack of support they receive from their home environment;

Whereas Federal, State, municipal, and private literacy programs have only been able to reach 5 percent of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to understand the severity of the problem and its detrimental effects on our society, and to reach those who are illiterate and unaware of the free services and help available to them; and

Whereas it is also necessary to recognize and thank the thousands of volunteers who are working to promote literacy and provide support to the millions of illiterates in need of assistance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1987, is designated as "National Literacy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved July 6, 1987.

LEGISLATIVE HISTORY—S.J. Res. 117:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 5, considered and passed Senate.
June 29, considered and passed House.

○

Public Law 100-65
100th Congress

An Act

To provide for the conveyance of certain public lands in Cherokee, De Kalb, and Etowah Counties, Alabama, and for other purposes.

July 10, 1987
[H.R. 626]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to convey, without consideration, all right, title, and interest of the United States in those public lands originally granted and conveyed to the State of Alabama by the United States pursuant to the Act of June 3, 1856 (11 Stat. 17), in aid of the Coosa and Chattooga Railroad and subsequently forfeited to the United States pursuant to the Act of September 29, 1890 (26 Stat. 496), to any trustee qualified under the laws of the State of Alabama to do business as a trustee and approved by the Secretary of the Interior. Such trustee shall convey said right, title, and interest in those lands, in such manner as he determines appropriate, to those persons whom he determines to be current owners of record of the balance of the interests in such lands. No costs incurred by the trustee in implementing his responsibilities under this Act shall be borne by the United States.

Railroads.

43 USC 904.

SEC. 2. All minerals shall be reserved to the United States together with the right to prospect for, mine and remove the same.

Minerals and mining.

Approved July 10, 1987.

LEGISLATIVE HISTORY—H.R. 626:

HOUSE REPORTS: No. 100-13 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-74 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 10, considered and passed House.
June 25, considered and passed Senate.

○

Public Law 100-66
100th Congress

An Act

July 10, 1987
[H.R. 2480]

To extend temporarily the governing international fishery agreement between the United States and the Republic of Korea, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 1823 note.

SECTION 1. EXTENSION OF GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND SOUTH KOREA.

Notwithstanding any provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the governing international fishery agreement entered into between the Government of the United States and the Government of the Republic of Korea on July 26, 1982, shall remain in force and effect with respect to the United States until the closing date of the sixty-day period referred to in section 203(a) of such Act that applies with respect to any new governing international fishery agreement between the United States and the Republic of Korea that is transmitted to the Congress under section 203(a) after May 1, 1987, or November 1, 1987, whichever is earlier. 16 USC 1823.

SEC. 2. TECHNICAL AMENDMENT.

Section 309(a)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(a)(1)) is amended by striking out "(J)" and inserting "(I)".

SEC. 3. FEDERAL FELLOWSHIPS.

Section 208 of the National Sea Grant College Program Act (33 U.S.C. 1127) is amended—

(1) by striking out "Sea" in the third sentence of subsection (a) and inserting "Except as provided in subsection (b), sea";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection:

"(b) FEDERAL FELLOWSHIPS.—(1) As part of the sea grant fellowship program, the Secretary may award sea grant fellowships to support the placement of qualified individuals in positions with the executive and legislative branches of the United States Government. No fellowship may be awarded under this paragraph for a period exceeding one year.

"(2) For purposes of this subsection, the term 'qualified individual' means an individual at the graduate level of education in fields related to ocean and coastal resources.".

SEC. 4. EFFECTIVE DATE.

33 USC 1127 note.

The amendment made by section 3 shall take effect January 1, 1978.

Approved July 10, 1987.

LEGISLATIVE HISTORY—H.R. 2480:

HOUSE REPORTS: No. 100-161 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 22, considered and passed House.
June 30, considered and passed Senate.

○

Public Law 100-67
100th Congress

Joint Resolution

July 10, 1987
[H.J. Res. 181]

Commemorating the bicentennial of the Northwest Ordinance of 1787.

Whereas, on July 13, 1787, the Congress of the United States, which was established by the Articles of Confederation, enacted a law entitled "An Ordinance for the government of the territory of the United States northwest of the river Ohio";

Whereas such law, commonly known as the Northwest Ordinance, provided civil government for and opened to settlement the Northwest Territory from which all or part of the States of Ohio, Indiana, Illinois, Michigan, Wisconsin, and Minnesota were subsequently formed;

Whereas the Northwest Ordinance provided that States formed in the Northwest Territory would be admitted into the Union on an equal footing with the original States, and admission into the Union on this basis was subsequently applied to States formed in other territories of the United States;

Whereas the Northwest Ordinance led to the orderly development of the Northwest Territory;

Whereas the Northwest Ordinance recognized the dignity of the individual without regard to race, religion or origin and provided for the equality of civil rights for all people by prohibiting slavery and involuntary servitude in the Territory, thereby preceding the Bill of Rights;

Whereas the Northwest Ordinance encouraged public education by providing for free public education within the local community: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Northwest Ordinance of 1787 is hereby commemorated as one of the fundamental legal documents of the United States in that the Northwest Ordinance is an early example of the commitment of the people of the United States to democratic principles, religious freedom, and individual rights. The President of the United States is authorized and requested to issue a proclamation, as soon as practicable after the date of the adoption of this joint resolution, that calls upon the people of the United States to carry out appropriate ceremonies and activities commemorating the bicentennial of the Northwest Ordinance.

Approved July 10, 1987.

LEGISLATIVE HISTORY—H.J. Res. 181 (S.J. Res. 82):

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 10, considered and passed House.
June 26, considered and passed Senate.

○

Public Law 100-68
100th Congress

Joint Resolution

July 10, 1987
[S.J. Res. 15]

Designating the month of November 1987 as "National Alzheimer's Disease Month".

Whereas more than two and one-half million Americans are affected by Alzheimer's disease, which is a surprisingly common disorder that destroys certain vital cells of the brain;

Whereas Alzheimer's disease is the fourth leading cause of death among older Americans;

Whereas Alzheimer's disease is responsible for 50 per centum of all nursing home admissions, at an annual cost of more than $25,000,000,000;

Whereas in one-third of all American families one parent will succumb to this disease;

Whereas Alzheimer's disease is not a normal consequence of aging; and

Whereas an increase in the national awareness of the problem of Alzheimer's disease and recognition of national organizations such as the Alzheimer's Disease and Related Disorders Association may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for Alzheimer's disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1987 is designated as "National Alzheimer's Disease Month". The President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved July 10, 1987.

LEGISLATIVE HISTORY—S.J. Res. 15:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 5, considered and passed Senate.
June 29, considered and passed House.

○

Public Law 100-69
100th Congress

Joint Resolution

To designate the period commencing on July 27, 1987, and ending on August 2, 1987, as "National Czech American Heritage Week".

July 10, 1987
[S.J. Res. 51]

Whereas since the immigration of the first documented Czech settler, Augustine Herman, to New Amsterdam in 1633, Czechs and Americans of Czech descent have played a vital role as contributors to United States rural and urban life;

Whereas Czech immigrants, seeking religious, economic, and political freedom, have throughout the years contributed significantly to the arts, sports, education, and commerce;

Whereas Czech immigrants, fleeing the communist regime in 1948 and the 1968 Soviet led invasion of Czechoslovakia, represent the latest in the tradition of Czech immigrants seeking political freedom in the United States, and are particularly noteworthy for their impressive contributions in literature and other intellectual and professional pursuits;

Whereas in the 19th century Czech immigrants established hundreds of gymnastic clubs, known as "sokols", throughout the United States, and this dedication and aptitude for sports continues and is well embodied in the accomplishments of the recent Czech immigrant, Martina Navratilova, the number one ranked women's tennis player in the world for the past five consecutive years; and

Whereas the state of Nebraska has the largest percentage of Czech descendants per capita, and the town of Wilber, Nebraska, known as the Czech capital of the United States, celebrates its 26th Annual National Czech Festival on August 1-2, 1987: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on July 27, 1987, and ending on August 2, 1987, is designated as "National Czech American Heritage Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies and activities.

Approved July 10, 1987.

LEGISLATIVE HISTORY—S.J. Res. 51:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
June 29, considered and passed House.

○

Public Law 100-70
100th Congress

Joint Resolution

July 10, 1987
[S.J. Res. 75]

To designate the week of August 2, 1987, through August 8, 1987, as "National Podiatric Medicine Week".

Whereas the American Podiatric Medical Association celebrates its 75th anniversary in 1987;

Whereas foot-related diseases and injuries continue to plague countless Americans, millions of whom seek and require professional care each year;

Whereas basic podiatric medical research offers significant promise for the prevention and relief of numerous foot health complaints;

Whereas doctors of podiatric medicine, as the guardians of the Nation's foot health, are committed along with their medical colleagues to cost effective, high quality, comprehensive patient care; and

Whereas the American Podiatric Medical Association will hold its 75th annual meeting in Washington, D.C., during the week beginning August 2, 1987: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of August 2, 1987, through August 8, 1987, is designated as "National Podiatric Medicine Week". The President is requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.

Approved July 10, 1987.

LEGISLATIVE HISTORY—S.J. Res. 75:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 5, considered and passed Senate.
June 29, considered and passed House.

○

Public Law 100-71
100th Congress

An Act

Making supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes.

July 11, 1987
[H.R. 1827]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes, namely:

Supplemental Appropriations Act, 1987.

TITLE I—PROGRAM SUPPLEMENTALS

CHAPTER I

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

The sum of $62,500,000, to be derived from $27,500,000 appropriated pursuant to Public Law 99-500 and Public Law 99-591 for commercialization of the land remote sensing satellite system and $35,000,000 appropriated pursuant to the same law for the polar orbiting satellite system, is hereby reprogrammed for a two spacecraft land remote sensing satellite system under a plan which provides for the cost of the second satellite from funds from users or other sources other than funds from the National Oceanic and Atmospheric Administration. The release of such funds is subject to the funding plan being approved by the House and Senate Committees on Appropriations.

100 Stat. 1783, 3341.

None of the funds appropriated for the Department of Commerce in fiscal year 1987 shall be obligated or expended to promulgate or implement the March 2, 1987 proposed rulemaking on Sea Turtle Conservation; Shrimp Trawl Requirements for waters described in the proposed rulemaking as western Gulf of Mexico offshore, western Gulf of Mexico inshore, and Louisiana inshore, zones 10 through 21.

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, $750,000 shall be made available as authorized by said Act, to remain available until expended.

16 USC 4001 note.

Funds appropriated or otherwise made available to the Department of Commerce and the National Oceanic and Atmospheric Administration shall be available for the procurement of launch services for geostationary weather satellites I, J, and K, to be conducted only by the National Aeronautics and Space Administration: *Provided,* That in the procurement of launch services for the National Oceanic and Atmospheric Administration for the GOES I, J, and K spacecraft, the National Aeronautics and Space Adminis-

91-139 O - 87 -- 1 (71)

tration may provide, in its contract or contracts for launch services, for the payment for contingent liability of the Government which may accrue in the event the Government should decide to terminate the contract before the expiration of the contract period. Such contract or contracts shall limit the payments the Federal Government is allowed to make under the contracts to amounts provided in advance in appropriations Acts. In January of each year, the Administrator of the National Oceanic and Atmospheric Administration shall report to the House and Senate Committees on Appropriations the projected aggregate contingent liability, through the next fiscal year and in total, of the Government under termination provisions of any launch services contracts authorized in this section: *Provided further,* That such contract or contracts may not be entered into until the Department of Commerce submits a written certification to the appropriate Committees of the Congress that the fiscal year 1988 budget request for launch vehicles for GOES I, J, and K fully meets such contractual requirements for fiscal year 1988 of $80,000,000 or submits a proposed budget amendment for fiscal year 1988 to the Congress requesting any additional funds required in fiscal year 1988 to meet the obligations of the proposed contractual agreement.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

99 Stat. 1316.

42 USC 6701 note.

Not to exceed $14,100,000 appropriated and available for obligation and expenditure under section 108(a)(1) of Public Law 99-190, as amended, shall remain available for obligation through September 30, 1988: *Provided,* That the Economic Development Administration shall close out the audits concerning grants to New York, New York pursuant to title I of the Local Public Works Capital Development and Investment Act of 1976, not later than August 1, 1987.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $7,600,000, to remain available until September 30, 1988.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and expenses, general legal activities", $8,100,000, to remain available until September 30, 1988.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For an additional amount for "Salaries and expenses, Antitrust Division", $200,000, to remain available until September 30, 1988.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

In the appropriation language under this heading in Public Law 99-500 and Public Law 99-591, add at the end thereof the following: "Notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the United States Marshals Service may collect fees and expenses for the service of civil process, including: complaints, summonses, subpoenas and similar process; and seizures, levies, and sales associated with judicial orders of execution; and credit not to exceed $1,000,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.". 100 Stat. 1783, 3341.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States Prisoners", $9,630,000, to remain available until September 30, 1988.

UNITED STATES TRUSTEE SYSTEM FUND

In addition to amounts made available under the head "Salaries and expenses, oversight of bankruptcy cases", for the expansion of the United States Trustees Program, as authorized by section 115 of the "Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986" (Public Law 99-554), $12,000,000: *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors. 100 Stat. 3094.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,989,000, to remain available until September 30, 1988.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses, Drug Enforcement Administration", $776,000, to remain available until September 30, 1988: *Provided,* That in appropriation language under this head in the Department of Justice Appropriations Act, 1987, as included in Public Law 99-500 and Public Law 99-591, delete "five hundred seventy-five" and substitute "1,030". 100 Stat. 1783-45, 3341-45.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $147,793,000, to remain available until September 30, 1988: *Provided,* That in appropriation language under this head in the Department of Justice Appropriations Act, 1987, as included in Public Law 99-500 and Public Law 99-591, delete the phrase "(not to exceed four hundred ninety, all of which shall be for replacement only)" and substitute "(not to exceed 1,796, of which 490 shall be for replacement only)". 100 Stat. 1783-45, 3341-45.

General Provisions—Department of Justice

8 USC 1356.

100 Stat. 1783-53, 3341-53.

SECTION 1. Section 205(h)(1)(A) of the Departments of Commerce, Justice, and State, and the Judiciary and Related Agencies Appropriations Act, fiscal year 1987, in Public Law 99-500 and Public Law 99-591 are amended by striking "All of the fees collected under subsection (d) shall be deposited in a separate account within the general fund of the Treasury of the United States" and inserting in lieu thereof "All of the fees collected under subsection (d) shall be deposited in a separate account within the general fund of the Treasury of the United States, to remain available until expended"

DEPARTMENT OF STATE

Administration of Foreign Affairs

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $61,750,000, to remain available until September 30, 1988.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For an additional amount for "Acquisition and Maintenance of Buildings Abroad", $9,480,000, to remain available until expended: *Provided,* That these funds shall be available subject to the approval of the House and Senate Appropriations Committees' policies concerning the reprogramming of funds contained in House Report 99-669.

The Secretary of State shall not permit the Soviet Union to occupy the new chancery building at its new embassy complex in Washington, D.C. or any other new facility in the Washington, D.C. metropolitan area, until a new chancery building is ready for occupancy for the United States embassy in Moscow: *Provided,* That none of the funds appropriated in this Act or any prior Act may be obligated for the new office building in Moscow prior to November 1, 1987.

International Organizations and Conferences

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

22 USC 269a note.

100 Stat. 1783-57, 3341-57.

For an additional amount for "Contributions to International Organizations", $268,831 for payment of the United States assessed contribution to the Interparliamentary Union: *Provided,* That in the appropriation language under the heading "Contributions to International Organizations" in the Department of State Appropriations Act, 1987, as included in Public Law 99-500 and Public Law 99-591, amend the phrase that reads "of which $130,000,000, to remain available until expended, shall become available for expenditure on October 1, 1987" to read as follows: "of which $65,000,000, to remain available until expended, shall become available for expenditure on October 1, 1987".

INTERNATIONAL COMMISSIONS

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For an additional amount for "American Sections, International Commissions", $474,000, to remain available until September 30, 1988.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $37,800,000, to remain available until September 30, 1988.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $100,000.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,000,000.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

For payment to the Secretary of the Treasury for debt reduction, $1,375,000,000, to remain available until expended.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For an additional amount for "Grants and expenses", $33,195,000, to remain available until expended.

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99-603, $217,000, to remain available until expended. 8 USC 1101 note.

Dwight David Eisenhower Centennial Commission

EXPENSES

100 Stat. 3497.

For necessary expenses of the Dwight David Eisenhower Centennial Commission as authorized by Public Law 99-624, $50,000, to remain available until expended.

Federal Communications Commission

99 Stat. 293.

The authority under the Supplemental Appropriations Act, 1985 (Public Law 99-88) with respect to the relocation of the Fort Lauderdale Monitoring Station shall extend through fiscal year 1988 and under the same terms and conditions of Public Law 99-88.

Small Business Administration

SALARIES AND EXPENSES

15 USC 633 note.
15 USC 631 note.

For an additional amount for "Salaries and expenses", $10,000,000 for disaster loan making activities, derived by transfer from the "Disaster Loan Fund": *Provided,* That hereafter, notwithstanding any law, rule or regulation, moneys in any fund established by the Small Business Act which are not needed for current operations shall remain in such funds and shall be available solely to carry out the provisions and purposes of programs operated from such funds pursuant to law as provided in appropriations Acts.

United States Information Agency

SALARIES AND EXPENSES

100 Stat. 3341.

For an additional amount for "Salaries and expenses", $8,098,176, of which $598,176 shall be used for purchase of Pakistani Rupees from the special account for the Informational Media Guarantee Program to carry out the provisions of section 1011(d) of the Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1442(d)). The limitation in Public Law 99-591 on the receipts to this appropriation from fees or other payments received from or in connection with English-teaching programs is increased by $650,000.

RADIO BROADCASTING TO CUBA

For an additional amount to carry out the provisions of section 7 of the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465(e)), $993,000, to remain available until expended.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

Operation and Maintenance

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $37,500,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $60,000,000.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies", $431,000,000.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and maintenance, Army Reserve", $7,500,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and maintenance, Navy Reserve", $2,500,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard", $5,000,000.

PROCUREMENT

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft procurement, Air Force", $122,000,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For an additional amount for "Research, development, test, and evaluation, Navy", $7,000,000, for Manufacturing Technology.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

For an additional amount for "Research, development, test, and evaluation, Defense Agencies", $75,000,000.

ADMINISTRATIVE PROVISIONS

SECTION 1. Within the funds appropriated for operation and maintenance of the Armed Forces for fiscal year 1987, and pursuant to section 403(a) of title 10, United States Code, funds may be used for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code.

10 USC 401 *et seq.*

SEC. 2. Section 9015 of the Department of Defense Appropriations Act, 1987 (as included in Public Laws 99-500 and 99-591) is amended by inserting "and not to exceed an additional $490,372,000 of funds otherwise available to the Department of Defense for military functions (except military construction) which would expire on September 30, 1987", directly following "(except military construction)".

100 Stat. 1783-103, 3341-103.

Aircraft and air carriers.

SEC. 3. None of the funds previously appropriated to the Air Force may be used to conduct a trainer aircraft competition unless such competition includes candidate aircraft from at least two United States firms and at least one candidate aircraft is compliant with the T-46/Next Generation Trainer system specifications as it pertained to the source selection of the Next Generation Trainer in 1982.

Contracts.
Exports.
100 Stat. 1783-112, 3341-112.

SEC. 4. Notwithstanding section 2324(e)(1)(H) of title 10, United States Code, and section 9061 of the Department of Defense Appropriations Act, 1987, Public Laws 99-500 and 99-591, the Secretary of Defense may allow under covered contracts reasonable costs incurred to promote American aerospace exports at domestic and international exhibits.

Rocket launch systems.

SEC. 5. (a) None of the funds appropriated by this or any other Act for research, development, testing, and evaluation for the National Aeronautics and Space Administration (NASA) or the Department of Defense may be obligated or expended for the Advanced Launch System/Heavy Lift Launch Vehicle, hereinafter referred to as "ALS", or for the design, construction, or modification of test facilities for rocket propulsion systems to be integrated into or be compatible with ALS, until the Committees on Appropriations of the Senate and the House of Representatives have received a plan, submitted jointly by the Secretary of Defense and the Administrator of NASA, and approved by the President, delineating the respective responsibilities of, and apportioning of costs to, NASA and the Department of Defense relative to the ALS program and the Committees on Appropriations of the Senate and the House of Representatives have established a date for the release of said funds: *Provided,* That such plan shall make maximum use of existing unique Federal testing facilities for rocket propulsion systems and shall identify the respective responsibilities of the Federal entities and facilities to be used for rocket propulsion research, development, and testing: *Provided further,* That notwithstanding the requirements set forth in subsection (a) $12,000,000 previously appropriated for fiscal year 1987 and allocated for concept definition of the ALS shall be available for that purpose.

(b) Of the funds appropriated for "Research, development, test, and evaluation, Defense Agencies" by this Act, $38,000,000 shall be transferred to NASA as a part of the ALS program utilizing facilities and budgetary resources of both NASA and components of the Defense Department: *Provided,* That funds appropriated by this or any other Act for research, development, test, and evaluation of the ALS system may be obligated and expended only for ALS variants which embody advanced technologies with a design goal of reducing the cost to launch payloads to low Earth orbit by a factor of ten compared with current space boosters costing less than $3,000 (in constant fiscal 1987 dollars) per pound to low Earth orbit: *Provided further,* That none of the funds appropriated by this Act may be obligated or expended for research, development, test, and evaluation intended to facilitate early deployment of a ballistic missile defense system.

Drugs and drug abuse.
100 Stat. 3207-74.

SEC. 6. Notwithstanding section 3052(c) (1) and (2) of Public Law 99-570, the Secretary of the Navy shall immediately transfer an APS-125 radar system, to the United States Customs Service to be used for drug interdiction purposes: *Provided,* That $7,500,000 made available in Public Law 99-349, the Urgent Supplemental Appropriations Act of 1986, for an APS-138 radar system shall be made available to the Navy for procurement of an APS-139 radar system

100 Stat. 710.

as replacement of the radar transferred to the United States Customs Service.

Constitution, Bicentennial; celebration activities.

SEC. 7. The Secretary of the Army, as Executive Agent for the Department of Defense, may authorize activities on the part of the Armed Forces in celebration of the Bicentennial of the Constitution, and in support of Congressional Bicentennial activities. Such sums as are necessary to pay the expenses of these activities shall be made available from funds otherwise appropriated to the Department of Defense, except that such funds shall not be counted against the limitation on funds available for public affairs or legislative liaison activities of the Department of Defense.

Reports. Kuwait. Persian Gulf region.

SEC. 8. Within seven days after enactment of this Act, the Secretary of Defense shall submit a report to the Congress, in appropriate classified and unclassified form, regarding the implementation of any agreement between the governments of the United States and Kuwait for United States military protection of Kuwaiti shipping, which includes a plan which fully meets the security needs of our forces, in conjunction with the forces of our friends and allies in the Persian Gulf region, and specifically addresses, at a minimum:

(a) an assessment of the threats to American forces, to Kuwaiti interests and shipping, and otherwise impacting on the interests of the United States and its friends and allies in the Persian Gulf region;

(b) the Rules of Engagement, alert status and readiness conditions under which our military forces will operate under in the Persian Gulf, and when such conditions will be in force; and

(c) cooperative arrangements entered into, being negotiated or contemplated with our European allies with a stake in the Persian Gulf, who have forces deployed or planned for deployment in the Persian Gulf region, and with states littoral to the Persian Gulf for a shared security system, including provision for air cover of those forces.

USS Stark.

SEC. 9. Notwithstanding any other provision of law, payments received hereafter as compensation for damages to the USS Stark and other United States governmental expenses arising from the attack on the USS Stark shall be credited to applicable Department of Defense appropriations or funds available for obligation on the date of receipt of such payments.

Vessels. Texas.

SEC. 10. None of the funds appropriated for the Department of Defense in fiscal year 1987 are available for remuneration of any individual or entity associated with fund raising for the restoration of the Battleship Texas: *Provided,* That the grant for the restoration should be made to the Texas Parks and Wildlife Department vice the Battleship Texas Advisory Board of the State of Texas.

UNAUTHORIZED APPROPRIATIONS

100 Stat. 1783-128, 1783-129, 3341-128, 3341-129.

50 USC 414.

SEC. 11. (a) Notwithstanding section 9126 or section 9133 of the Department of Defense Appropriations Act, 1987 (as contained in section 101(c) of the joint resolution entitled "Joint resolution making continuing appropriations for fiscal year 1987, and for other purposes", Public Law 99-500 and Public Law 99-591), only funds specifically authorized by the Congress in accordance with section 502 of the National Security Act of 1947 may be obligated or expended for intelligence or intelligence-related activities.

(b) All intelligence and intelligence-related activities for which funds were appropriated in the Defense Appropriations Act, 1987 shall be considered specifically authorized by Congress pursuant to section 502 of the National Security Act of 1947. 50 USC 414.

CHAPTER III

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

100 Stat. 1783-195, 3341-195.

Using funds previously appropriated in the Energy and Water Development Appropriations Act, 1987, Public Law 99-500 and Public Law 99-591, the Secretary of the Army is directed to undertake the following studies: Ohio River Water Development Study, between Rivermile 40-491, Ohio; Maumee Bay State Park, including preconstruction engineering and design, Ohio; St. Johns County, including preconstruction and design, Florida; Jacksonville Harbor, St. John's River and Intracoastal Waterway Study, Florida; St. John's River Study, Florida; and Water Resources Based Economic Development Computer Model (to continue design and testing) and, in addition, $350,000 for the purposes of studying and evaluating at an estimated cost of $850,000 alternative disposal sites to the currently active San Jacinto disposal area on Galveston Island at full Federal expense; the Secretary of the Army is also directed to undertake environmental studies and submit recommendations to the Committees on Appropriations of the House and Senate on the advisability of modifying project operation and maintenance requirements, assuming that the current disposal site will no longer be available for extensive Federal use in the near future.

CONSTRUCTION, GENERAL

The Corps of Engineers is directed to proceed with the Fairfield Vicinity Streams, California, project under the provisions of section 117 of Public Law 99-190. 99 Stat. 1318.

99 Stat. 564. Using funds previously provided in the Energy and Water Development Appropriations Acts, 1986 and 1987 (Public Laws 99-141, 99-500 and 99-591), the Secretary of the Army is directed to undertake the following projects in the amounts as specified hereafter:

Project	Amount
Port Austin Harbor, Michigan	$2,800,000
Sand Island Beach, Hawaii	$600,000
Wellsburg, West Virginia (Ohio River milepost 74.8 to 72.8)	
Cox Run Area	$50,000
Middle School Area	$50,000
Water Works Vicinity, Wellsburg Municipal Pool and Park Vicinity	$200,000
Main Street Areas	$100,000
Sistersville, West Virginia City Park Area	$50,000
Glen Dale, West Virginia	
Glen Dale Airport	$125,000
Sewer Outfalls	$125,000

In regard to the Wellsburg, Sistersville and Glen Dale projects, the Congress finds that an emergency exists in satisfaction of the requirements of Section 14—Emergency Streambank and Shoreline Protection.

Using funds previously provided in the Energy and Water Development Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), the Secretary of the Army is directed to use $5,000,000 to initiate land acquisition activities as described in section 1114 of Public Law 99-662.

100 Stat. 1783-195, 3341-195.
16 USC 460tt.

OPERATION AND MAINTENANCE, GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and Maintenance, general", $125,000 to be derived by transfer from "General Investigations" to perform a cumulative environmental analysis of section 55 measures along the 46-mile reach of the Platte River between Hershey, Nebraska, and the Lincoln-Dawson County line.

OPERATION AND MAINTENANCE, GENERAL

Of amounts appropriated for this account in Public Laws 99-500 and 99-591, such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund.

100 Stat. 1783, 3341.
33 USC 2201 note.

REVOLVING FUND

The Corps of Engineers is directed to advertise and procure an automated system that adheres to specifications developed by the Corps of Engineers for civil program requirements without regard to the Army Information Architecture Tier 2 standards for operating systems.

GENERAL PROVISIONS

Reports.
33 USC 2213 note.

The Secretary of the Army shall file a report with the appropriate committees of the House of Representatives and the Senate within ninety days after a written request is made pursuant to the provisions of subsection (m) of section 103 of Public Law 99-662 indicating the action taken on the request. In addition, the Secretary of the Army shall file a report with the appropriate committees of the House of Representatives and the Senate within ninety days after enactment of this Act listing any project or study falling under the provisions of subsection (e)(1) of section 103 of Public Law 99-662.

33 USC 2213.

Texas.
Oklahoma.
Flood control.
5 USC app.

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), the Secretary of the Army is directed to establish an advisory committee for the Denison Dam (Lake Texoma), Red River, Texas and Oklahoma project authorized by the Flood Control Act approved June 28, 1938 (52 Stat. 1219). The purpose of the Committee shall be advisory only and it shall provide information and recommendations to the Corps of Engineers regarding the operations of Lake Texoma for its congressionally authorized purposes. The Committee shall be composed of representatives equally divided among the project purposes and between the States of Texas and Oklahoma.

Conservation.
Water.
Energy.

The Corps of Engineers, taking into consideration recommendations of the Southwestern Power Administration and the Lake Texoma Advisory Committee, shall, to the extent feasible, develop a management plan for the conservation pool in Lake Texoma that:

(1) attempts to maintain a water surface elevation between 617 and 612 msl: *Provided however,* That hydroelectric power will be generated to help satisfy electric loads when the water surface elevation is between 617 and 612 msl;

Public information.

(2) when the water surface elevation drops to 612 msl or lower, implements a public information program;

(3) when the water surface elevation is between 612 and 607 msl, provides for the Corps to notify the SWPA that hydroelectric power generation should only be made when it is needed for rapid response, short term peaking purposes as determined by the power scheduling entity;

(4) when the water surface elevation is between 607 and 590 msl—

(a) provides for the Corps to notify the SWPA that hydroelectric power generation should only be made to satisfy critical power needs on the power scheduling entity's electrical system as determined by the power scheduling entity; and

(b) provides for the Corps of Engineers to notify municipal and industrial water users that they should implement water conservation measures designed to lessen the impact of municipal and industrial water withdrawals.

Any amendments to the current water control plan specified above shall not supersede or adversely affect any existing permit, lease license contract, public law or flood control operation relating to Denison Dam (Lake Texoma). The management plan shall have no impact upon the provisions of section 838 of the Water Resources Development Act of 1986. The management plan shall be reevaluated on or after September 30, 1989 by the Corps of Engineers, taking into consideration the recommendations of the Southwestern Power Administration and the Lake Texoma Advisory Committee.

100 Stat. 4174.

Oklahoma.
Arkansas.
Louisiana.
Texas.

The United States Army Corps of Engineers, Tulsa District, shall issue a final report on the Oklahoma portion of the comprehensive study of the Red River Basin, Oklahoma, Arkansas, Louisiana and Texas, no later than September 30, 1988.

The management plan specified above should be formally processed to the Committees on Environment and Public Works and Public Works and Transportation in the Senate and House of Representatives, respectively, if appropriate, for authorization as required prior to any amendments to the current operating plan that could impact health and safety, authorized purposes, or expose the Federal Government to liability. None of the funds in this Act or any other Act relating to water resource development may be used to construct or enter into an agreement to construct additional hydroelectric power generation units at Denison Dam (Lake Texoma) until September 30, 1989.

88 Stat. 39.

Section 91 of the Water Resources Development Act of 1974 is amended by striking out "$28,725,000" in the last sentence and inserting in lieu thereof "$30,500,000".

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

(TRANSFER OF FUNDS)

For an additional amount for the Department of the Interior, Bureau of Reclamation, "Construction Program", for the cleanup of Kesterson Reservoir and San Luis Drain of the San Luis Unit, Central Valley Project, to remain available until expended, $5,600,000, to be derived by transfer of unobligated balances in the "Loan Program": *Provided*, That no funds may be obligated for this purpose until the issuance of a waste discharge permit by the Central Valley Regional Water Resources Control Board and a determination by the California Department of Health Services on the classification of the waste at Kesterson Reservoir and San Luis Drain.

In addition, title II of Public Law 99-591 (100 Stat. 3341-200, 201), dated October 30, 1986, "Department of the Interior, Bureau of Reclamation, Construction Program (Including Transfer of Funds)", is amended by striking out "by August 1, 1987,".

Using funds previously provided in the Energy and Water Development Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), the Secretary of the Interior is directed to undertake the following project in the amount specified hereafter:

100 Stat. 1783-195.
100 Stat. 3341-195.

Project	Amount
O'Neill Unit, Nebraska	$771,000

Using funds previously provided in the Energy and Water Development Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), the Secretary of the Interior shall proceed with contracting for construction of the East-side and West-side roads and other features at the McGee Creek, Oklahoma, project in the amount specified hereafter:

Project	Amount
McGee Creek, Oklahoma	$4,800,000

LOAN PROGRAM

(TRANSFER OF FUNDS)

For an additional amount for "Loan program" for the United Water Conservation District, to remain available until expended, $570,000, to be derived by transfer of unobligated balances in the "Construction program" from Teton Dam Failure, Payment of Claims funds provided under Public Law 94-355 and Public Law 94-438.

90 Stat. 889.
90 Stat. 1415.

DEPARTMENT OF ENERGY

POWER MARKETING ADMINISTRATIONS

SOUTHWESTERN POWER ADMINISTRATION

Notwithstanding provisions of title 5, U.S.C., except for section 5308, no funds approved for Southwestern Power Administration shall be used to pay the rates of basic pay and premium pay for power system dispatchers unless such rates are based on those prevailing for similar occupations in the electric power industry.

ADMINISTRATIVE PROVISION

None of the funds appropriated by this or any other Act to the Department of Energy shall be used by the Department to implement Section 2.2.2.2. of DOE/ER 0315 (financial and other incentives) in its review of Superconducting Super Collider proposals, in order to ensure that the Department of Energy bases its final decision on where to site the facility solely on the overall suitability of the site.

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

Of the amounts heretofore appropriated and made available for Energy Supply, Research and Development Activities, an additional $1,200,000 shall be for completion of the MOD-5-B Wind Turbine Project.

CHAPTER IV

FOREIGN ASSISTANCE AND RELATED PROGRAMS

Multilateral Economic Assistance

Funds Appropriated to the President

International Financial Institutions

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For an additional amount for payment to the International Development Association by the Secretary of the Treasury, $207,476,749 for the United States contribution to the seventh replenishment, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For an additional amount for payment to the International Finance Corporation by the Secretary of the Treasury, $7,205,610 for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For an additional amount for payment to the African Development Fund by the Secretary of the Treasury, $36,639,000 for the United States contribution to the fourth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For an additional amount for payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $6,492,127 to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $17,375,058.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

ASSISTANCE FOR CENTRAL AMERCIA

(TRANSFER OF FUNDS)

(a) For an additional amount for the "Economic support fund", $300,000,000, for use pursuant to this heading for Central America, to be derived by transfer from the following amounts appropriated in prior appropriations Acts for the Department of Defense: "Aircraft Procurement, Army", fiscal year 1985, $10,000,000; "Missile Procurement, Army", fiscal year 1985, $15,000,000; "Weapons and Tracked Combat Vehicles, Army", fiscal year 1985, $20,000,000; "Procurement of Ammunition, Army", fiscal year 1985, $5,000,000; "Other Procurement, Army", fiscal year 1985, $37,000,000; "Aircraft Procurement, Navy", fiscal year 1985, $19,000,000; "Weapons Procurement, Navy", fiscal year 1985, $35,000,000; "Shipbuilding and Conversion, Navy", fiscal year 1983, $45,000,000; "Other Procurement, Navy", fiscal year 1985, $5,000,000; "Procurement, Marine Corps", fiscal year 1985, $8,000,000; "Aircraft Procurement, Air Force", fiscal year 1985, $101,000,000: *Provided*, That of the funds obligated in fiscal year 1987 not more than $87,000,000 shall be expended prior to October 1, 1987.

(b) Funds transferred pursuant to paragraph (a) shall remain available until September 30, 1987: *Provided*, That the President shall make available the $300,000,000 transferred pursuant to paragraph (a) for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to Economic support fund assistance) for the countries of Central America with democratically elected governments as follows: 22 USC 2346.

$54,750,000 shall be made available only for assistance for Guatemala,

$54,750,000 shall be made available only for assistance for Costa Rica,

$59,750,000 shall be made available only for assistance for Honduras,

$129,750,000 shall be made available only for assistance for El Salvador,

$1,000,000 shall be made available only for assistance for Belize.

(c) Of the funds specified for El Salvador in paragraph (b), $75,000,000 shall be made available only for earthquake relief and reconstruction which shall be used in accordance with the authorities contained in section 491 of the Foreign Assistance Act of 1961. 22 USC 2292. Funds made available for the purposes of this paragraph shall be accounted for separately.

(d) Of the funds specified in paragraph (a), less those amounts designated for earthquake assistance by paragraph (c), not less than 40 percent shall be used for assistance in accordance with the policy directions, purposes, and authorities of chapter 1 and chapter 9 of part I of the Foreign Assistance Act of 1961 and the remainder shall be used in a manner which will generate local currencies for use in accordance with those policy directions, purposes, and authorities.

22 USC 2151, 2292.

(e) The assistance specified in paragraph (b) shall be in addition to the amounts previously allocated for fiscal year 1987 for these countries pursuant to section 653 of the Foreign Assistance Act of 1961.

22 USC 2413.

(f) The local currencies generated from the funds specified in paragraph (b) for El Salavdor shall be used for projects described in section 702(e)(2) of the International Security and Development Cooperation Act of 1985 (and of those local currencies, not less than 50 percent shall be for projects assisting agarian reform and the agricultural sector and not less than 10 percent shall be used for judicial reform).

99 Stat. 237.

(g) Of the aggregate of the funds specified in paragraph (b), $10,000,000 shall be made available only for Child Survival Fund activities in the Central American democracies.

(h) The assistance provided under this heading shall be made available consistent with the policies contained in section 702 of the International Security and Development Cooperation Act of 1985 (relating to El Salvador), section 703 of that Act (relating to Guatemala), and chapter 6 of part I of the Foreign Assistance Act of 1961 (relating to the Central American Democracy, Peace, and Development Initiative).

99 Stat. 239.
22 USC 2271.

(i) Funds made available for assistance pursuant to this heading may be obligated only in accordance with the congressional notification procedures applicable under section 523 of the Foreign Assistance and Related Programs Appropriations Act, 1987, and section 634A of the Foreign Assistance Act of 1961.

100 Stat. 1783-230, 3341-230.
22 USC 2394-1.

(j) Of the funds specified for Honduras in paragraph (b), $20,000,000 shall be obligated, but shall not be expended, except as provided in the fourth proviso, until the Government of Honduras and an American citizen, whose property and businesses in the vicinity of Trujillo, Honduras were affected by actions of the Government of Honduras with respect to the Regional Military Training Center, reach a settlement concerning compensation: *Provided*, That in order to facilitate such a settlement the Department of State shall select an independent factfinder. The factfinder shall correct and expand, as may be appropriate, the exising factfinder's report. Such report shall be issued by September 30, 1987: *Provided further*, That if the two parties have not reached a full and final settlement of this matter, including a complete waiver of further claims and liabilities against the Governments of Honduras and the United States, by November 30, 1987, then the Department of State shall request that both parties submit the disagreement to binding international arbitration in accordance with the rules of procedure of the Inter-American Commercial Arbitration Commission. The Commission shall select the arbitrators, and may appoint such experts as it finds necessary in order to establish a base of factual and financial information for the case: *Provided further*, That if the Government of Honduras refuses to agree to binding international arbitration, then the $20,000,000 shall be deobligated and immediately returned to the Treasury of the United States: *Provided* *further,* That if the United States citizen refuses to agree to binding international arbitration and refuses to agree that the award resulting from the arbitration will constitute a full and final settlement of any and all claims, liabilities and demands, including those which may be directed at the United States, its officers, agents and employees, arising directly or indirectly from the establishment of the Regional Military Training Center, then the $20,000,000 shall be made available for expenditure to the Government of Honduras: *Provided further,* That arbitrators shall consider maintenance costs, interest costs, professional fee costs, land, business and asset valuations and all other matters they deem appropriate: *Provided further,* That nothing in this provision shall prevent the two parties prior to a final arbitration award from reaching a binding full and final written agreement outside the arbitration proceedings: *Provided further,* That funds previously appropriated for the Economic support fund shall be used to pay for the reasonable costs of the activities of the factfinder, the International Arbitration Commission, the arbitrators and the experts appointed by the arbitrators.

ASSISTANCE IN SUPPORT OF SOLIDARITY

For an additional amount for the "Economic Support Fund", $1,000,000, which shall be made available, notwithstanding any other provision of law, only for the support of the independent Polish trade union "Solidarity".

ASSISTANCE FOR SOUTHERN AFRICA

Terrorism.
Prohibition.

For an additional amount for "Energy and selected development activities, Development Assistance", $50,000,000 to remain available until September 30, 1988: *Provided,* That none of these funds may be available for activities in Mozambique or Angola: *Provided further,* That none of these funds may be available to any country for which the President proposes to disburse funds within the Southern Africa Development Coordination Conference until the President certifies that such country (1) has not advocated the form of terrorism, commonly known as "necklacing", used against South African blacks; (2) has provided assurances that it has taken action against any person who has been found to have practiced necklacing against South African blacks; and (3) is not knowingly allowing terrorists who practice necklacing to operate in its territory: *Provided further,* That such funds shall be made available only as follows:

(a) $37,500,000 shall be made available to assist the member states of the Southern Africa Development Coordination Conference (SADCC) in carrying out the most urgent sector projects supported by SADCC in the following sectors: transportation and communications, energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity), agricultural research and training, and industrial development and trade (including private sector initiatives): *Provided,* That of this amount not less than 60 percent shall be used in the transportation sector: *Provided further,* That none of the funds made available under this paragraph may be made available for the design, rehabilitation, construction, or equipping of any rail or road transportation corridor other than the Northern Corridor, which links southern Africa with Dar es Salaam, Tanzania.

22 USC 2346d.

(b) $12,500,000 shall be made available for projects and activities for disadvantaged South Africans in accordance with section 535 of the Foreign Assistance Act of 1961, or for humanitarian assistance for the member states of SADCC. Assistance for the member states of SADCC may include such activities as: transport of emergency food and medical supplies; refugee assistance; and disaster relief and rehabilitation assistance which shall be provided pursuant to the authorities contained in section 491 of the Foreign Assistance Act.

22 USC 2292.

(c) Of the funds made available for the SADCC member countries for humanitarian assistance by paragraph (b), up to $5,000,000 may be made available for the United Nations Children's Fund's emergency appeals for affected countries in southern Africa.

(d) None of the funds appropriated by this Act for southern Africa shall be obligated or expended until the President has submitted to the House Foreign Affairs Committee, the Senate Foreign Relations Committee, and the Committees on Appropations the third quarter Project Accounting Information System Report of all economic assistance funds administered by the Agency for International Development that are allocated for southern Africa and which were authorized by the International Security and Development Cooperation Act of 1985 and Public Law 99-440 and, which pursuant to such authorizations were subsequently appropriated.

22 USC 2151 note, 5001 note.

INDEPENDENT AGENCIES

PEACE CORPS

For an additional amount to carry out the provisions of the Peace Corps Act (75 Stat. 612) (22 U.S.C. 2501, et seq.), $7,200,000, to remain available until September 30, 1988.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

Philippines.
22 USC 2311.

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $50,000,000, which shall be used only for the Philippines: *Provided*, That amounts appropriated under this heading shall be available notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956.

22 USC 2412.
22 USC 2680.

FOREIGN MILITARY CREDIT SALES

Morocco.
Kenya.
22 USC 2763.

For an additional amount to carry out the provisions of section 23 of the Arms Export Control Act, $13,000,000 of which $10,000,000 shall be available only for Morocco, and $3,000,000 shall be available only for Kenya.

EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

LIMITATION ON PROGRAM ACTIVITY

Notwithstanding the "limitation on program activity" contained in title IV of the Foreign Assistance and Related Programs Appropriations Act, 1987 in Public Law 99-500 and Public Law 99-591, during the fiscal year 1987 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be reduced from $900,000,000 to $680,000,000 and shall be provided under the terms and conditions in the Foreign Assistance and Related Programs Appropriations Act of 1987 as they apply to the Export-Import Bank.

100 Stat. 1783-225, 3341-225.

100 Stat. 1783-214, 3341-214.

GENERAL PROVISIONS

GUARANTY RESERVE FUND

Section 24(c) of the Arms Export Control Act is amended by striking the second paragraph and inserting the following:

22 USC 2764.

"Funds provided for necessary expenses to carry out the provisions of section 23 of the Arms Export Control Act and of section 503 of the Foreign Assistance Act of 1961, as amended, may be used to pay claims on the Guaranty Reserve Fund to the extent that funds in the Guaranty Reserve Fund are inadequate for that purpose.".

22 USC 2763.
22 USC 2311.

REPEAL OF SECTION 215(2)

Section 215(2) of title II of the Military Construction Appropriations Act, 1987 as contained in Public Law 99-500 and Public Law 99-591 is hereby repealed.

100 Stat. 1783-307, 3341-307.

INTER-AMERICAN DEVELOPMENT BANK

It is the sense of the Congress that United States economic and foreign policy interests in the western hemisphere would be best served if the Secretary of the Treasury were to adhere to the Administration's proposal to modify the voting procedures within the Inter-American Development Bank to require that decisions be taken by the board by a voting majority of 65 percent of the voting shares.

DAIRY SURPLUS PRODUCTS

Funds provided for new development projects of private entities and cooperatives utilizing surplus dairy products may also be used for development projects that include surplus dairy livestock under the Dairy Termination Program.

CHAPTER V

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

PAYMENTS FOR THE OPERATION OF LOW-INCOME HOUSING PROJECTS

(INCLUDING RESCISSION)

Of the amounts made available under this head in section 101(g) of Public Laws 99-500 and 99-591 (100 Stat. 1783-242, 3341-242) for payments to public housing agencies and Indian housing authorities, $65,000,000 are rescinded and the balance shall be for payment of operating subsidies under section 9, United States Housing Act of 1937 (42 U.S.C. 1437g): *Provided*, That, notwithstanding section 9(d) of such Act, any amount of such balance not required for such purpose shall be made available only for increased liability insurance costs not reflected in the performance funding system formula (24 C.F.R. Part 990).

For an additional amount for "Payments for the operation of low-income housing projects", $65,000,000, as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), to be available for obligation on September 25, 1987, and to remain available until September 30, 1988: *Provided*, That such amount shall be available only for insurance costs not reflected in the performance funding system formula.

RENT SUPPLEMENT

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is further reduced in fiscal year 1987 by not more than $14,420,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1), is further reduced in fiscal year 1987 by not more than $2,699,000 in uncommitted balances of authorizations provided for this purpose in appropriation Acts.

COMMUNITY PLANNING AND DEVELOPMENT

URBAN RENEWAL LAND DISPOSITION PROCEEDS

Notwithstanding any other provision of law or other requirement, the City of Camden in the State of New Jersey is authorized to retain any land disposition proceeds from the financially closed-out Center City Urban Renewal Project (No. N.J. R.150) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Camden shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this section, all past and future earnings from such proceeds, including any interest.

42 USC 5301.

INDEPENDENT AGENCIES

American Battle Monuments Commission

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,000,000: *Provided*, That of the foregoing amount, $1,350,000 shall be available until expended and placed in a reserve for release at the discretion of the Secretary of the American Battle Monuments Commission after consultation with the Congress, and $150,000 shall be available until expended for the establishment of a memorial on Guadalcanal in the Solomon Islands.

Consumer Product Safety Commission

SALARIES AND EXPENSES

Of the funds provided to the Consumer Product Safety Commission for "Salaries and expenses" in Public Law 99-500 and Public Law 99-591, an additional $20,000 shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission appointed pursuant to 15 U.S.C. 2053.

100 Stat. 1783.
100 Stat. 3341.

Environmental Protection Agency

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $12,000,000, to be derived by transfer from "Construction grants".

RESEARCH AND DEVELOPMENT

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-54 relating to the Environmental Protection Agency, "Research and development", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

ABATEMENT, CONTROL, AND COMPLIANCE

Of the funds appropriated to the Environmental Protection Agency for "Abatement, control, and compliance" in Public Law 99-500 and Public Law 99-591 for the purposes of the Asbestos School Hazards Abatement Act of 1984, an additional $2,000,000 shall be available for administrative expenses for section 206(d)(2) Public Law 99-519.

20 USC 3901 note.
15 USC 2646.

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-55 relating to the Environmental Protection Agency, "Abatement, control, and compliance", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

(TRANSFER OF FUNDS)

For an additional amount for "Abatement, control, and compliance", $27,000,000, to remain available until September 30, 1988, and to be derived by transfer from "Construction grants".

CONSTRUCTION GRANTS

100 Stat. 1783.
100 Stat. 3341.

Of the funds appropriated to the Environmental Protection Agency for "Construction grants" in Public Law 99-500 and Public Law 99-591, the $1,200,000,000 which was not to become available until enactment of a subsequent appropriations Act authorizing the obligation of such funds is hereby made available: *Provided,* That the $1,161,000,000 remaining after the transfers to "Salaries and expenses" and "Abatement, control, and compliance" shall be allocated and used in accordance with the provisions of the Water Quality Act of 1987 (Public Law 100-4).

Ante, p. 7.

ADVANCES TO TRUST FUNDS

Pursuant to Public Law 99-500 and Public Law 99-591, amounts advanced to the Hazardous Substance Response Trust Fund shall remain available until expended.

HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

Of the funds provided to the Environmental Protection Agency for "Hazardous Substance Response Trust Fund" in Public Law 99-500 and Public Law 99-591, no more than $16,000,000 shall be available to carry out the purposes of the Emergency Planning and Community Right-to-Know Act of 1986 (Public Law 99-499).

42 USC 11001 note.

Federal Emergency Management Agency

DISASTER RELIEF

For an additional amount for "Disaster relief", $57,475,000, to remain available until expended.

ADMINISTRATIVE PROVISION

Mobile homes.

The regulation changes to 44 CFR parts 59 and 60 promulgated by the Federal Emergency Management Agency and set forth at 51 Fed. Reg. 30306-30309 (August 25, 1986), which amended the definition, placement, and elevation of mobile homes in an existing mobile home park or mobile home subdivision, as previously defined, shall not be effective from enactment of this Act through September 30, 1988.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

CONSTRUCTION OF FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Construction of facilities", $303,000,000, to become available on September 25, 1987, and remain available until September 30, 1989, of which $300,000,000 shall be transferred to "Space flight, control and data communications".

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $80,200,000, to remain available until expended.

MEDICAL CARE

100 Stat. 1783-242, 3341-242.

Of the funds provided under this head in the conference report on H.R. 5313, Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1987, as enacted by Public Law 99-500 and Public Law 99-591, $44,178,000 shall remain available until September 30, 1988, to fund central procurement contracts for the acquisition of automated data processing equipment and contracts for major systems support in amounts not less than $1,000,000 for the Decentralized Hospital Computer Program and the Integrated Hospital System.

GENERAL OPERATING EXPENSES

Of the funds provided under this head in the conference report on H.R. 5313, Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1987, as enacted by Public Law 99-500 and Public Law 99-591, $34,178,000 shall remain available until September 30, 1988, to fund contracts in amounts not less than $1,000,000 for the acquisition of automated data processing equipment and services to support the modernization program of the Department of Veterans Benefits.

CONSTRUCTION, MAJOR PROJECTS

Of the unobligated balance available under this heading, not to exceed $2,000,000 shall be available for the settlement of a contractor's claim arising from the construction of an addition to Building No. 1 at the Veterans Administration Medical Center, Huntington, West Virginia; and, notwithstanding any other provision of law, not to exceed $900,000 from the unobligated balance under this heading shall be available for the settlement of a contractor's claim arising from the construction of the Basic Science Addition at the Veterans Administration Medical Center, Huntington, West Virginia, authorized pursuant to Public Law 92-541, as amended.

38 USC 101 note.

VETERANS JOB TRAINING

For payments to defray the costs of training and provision of incentives to employers to hire and train certain veterans as authorized by the Veterans' Job Training Act, as amended (29 U.S.C. 1721), $30,000,000, to remain available until September 30, 1989.

LOAN GUARANTY REVOLVING FUND

38 USC 1801 *et seq.*

For expenses necessary to carry out Loan Guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $100,000,000, to remain available until expended.

ADMINISTRATIVE PROVISION

The mission of the Veterans Administration Medical Center at Walla Walla, Washington, shall not be changed from that in existence on January 1, 1987.

CHAPTER VI

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for "Management of lands and resources", $2,126,000, of which $1,255,000 for hazardous waste site activities in Oroville, Washington, shall remain available until September 30, 1988.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource management", $3,100,000.

CONSTRUCTION AND ANADROMOUS FISH

For an additional amount for "Construction and anadromous fish", $15,000,000, to remain available until expended.

LAND ACQUISITION

For an additional amount for "Land acquisition", $5,815,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SERVICE

For an additional amount for "Operation of the national park system", $18,250,000.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

16 USC 460*l*-10a note.

The contract authority provided for fiscal year 1987 by 16 U.S.C. 460l-10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

16 USC 251k note.

Washington.

For an additional amount for "Land acquisition and State assistance", $22,910,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided*, That pursuant to 16 U.S.C. 251k, the Secretary may acquire the 270-acre parcel known as Keystone Spit on Whidbey Island, Washington, and convey such parcel to the State of Washington in exchange for the approximately 1,000 acres of tidelands owned by such State within the boundary of Olympic National Park: *Provided further*, That if recreational uses of these tidelands must be regulated, the National Park Service shall consult with the State of Washington prior to the implementation of any such regulations: *Provided further*, That the exchange must include the mineral rights of the tidelands.

ADMINISTRATIVE PROVISION

Pests and pesticides.
West Virginia.

Notwithstanding any other provision of law, the pesticide application program described in the West Virginia Department of Natural Resources' permit application to conduct a pesticide (bacillus thuringiensis israelensis [Bti]) spraying program on the New River, West Virginia, to control the river's black fly (Simulium jenningsi) population, received by the Superintendent of New River Gorge National River, West Virginia, on September 9, 1986, is hereby approved as a demonstration project for a period of eight years from the date of enactment of this Act, unless the pesticide Bti is removed from the registered list of pesticides, as determined by the Environmental Protection Agency, at an earlier date. No additonal analyses, proposals, or approvals will be required for the State to conduct similar pesticide application programs during the period of the demonstration project provided herein. The State shall notify the National Park Service of its planned annual program at least ninety days in advance of spraying, and shall consider the recommendations provided by the National Park Service, the United States Fish and Wildlife Service, and other parties in the conduct of the pesticide application program. The State shall also enter into an indemnity agreement with the National Park Service which will protect the Service from all tort claims which might arise from the State's spraying program. The State and the National Park Service shall jointly conduct a monitoring program on the effects of the pesticide application, including the impact on natural, cultural and recreational values of the National River.

Claims.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $2,597,000, of which $597,000 shall remain available until expended.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For an additional amount for "Leasing and royalty management", $800,000: *Provided*, That none of the funds in this or any other Act may be used in implement, prior to November 1, 1987, a rule which modifies the product valuation guidelines of the Minerals Management Service.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
ABANDONED MINE RECLAMATION FUND

30 USC 1235.

Section 405(k) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) is amended by adding at the end thereof, "except for purposes of subsection (c) of this section with respect to the Navajo, Hopi and Crow Indian Tribes".

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $3,153,000: *Provided*, That not to exceed $226,000 shall be paid for the settlement of three appeals related to mineral leasing revenues that have been collected and disbursed to Indian allottees.

The Bureau of Indian Affairs shall not transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled and the tribe or individual has been provided with an accounting of such funds, and the appropriate Committees of the Congress and the tribes have been consulted with as to the terms of the proposed contract or agreement: *Provided*, That the Bureau may not implement any regulations (and any amendments to, or revisions of, regulations) relating to the Bureau of Indian Affairs' Higher Education Grant Program that were not in effect on March 1, 1987, until after Congress has completed the fiscal year 1988 appropriations process, nor may the Bureau implement or take steps leading to implementation of proposed initiatives, including but not limited to imposition of a flat fifteen per centum administrative fee for tribal contractors, and imposition of tuition fees at Bureau post-secondary schools, until Congress has reviewed all such initiatives and approved them as part of the fiscal year 1988 appropriations process.

GENERAL PROVISIONS

Indians.
Oklahoma.
Claims.
Mines and mining.

Any funds appropriated under Public Law 84-747 (64 Stat. 573) in satisfaction of judgment awarded the Choctaw Nation of Oklahoma in Docket Numbered 16 of Indian Claims Commission which have not been distributed on the date of enactment of this Act (including all interest and investment income accrued thereon) shall be held in trust by the Secretary of the Interior for the Choctaw Nation of Oklahoma and shall be invested under the Act of June 24, 1938 (25 U.S.C. 162a).

The funds may be used on an annual budgetary basis by the tribal governing body subject to the approval of the Secretary.

None of the funds in this or any other Act shall be available prior to March 31, 1988, to issue a patent for an oil shale mining claim located prior to enactment of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 181, et seq., 41 Stat. 437), as provided for under the General Mining Law of 1872, as amended (30 U.S.C. 22, et seq., 17 Stat. 91) except for patent applications C-012327, C-016671, C-023661, C-41836, C-43354, C-39464, C-38579, C-38402, C-35080, and C-36293.

RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

STATE AND PRIVATE FORESTRY

(INCLUDING TRANSFER OF FUNDS AND DISAPPROVAL OF DEFERRAL)

For an additional amount for "State and private forestry", $8,000,000, of which $7,005,000 shall remain available until expended, and of which $995,000 shall be transferred to the "Forest Research" appropriation account of the Forest Service, to remain available until expended.

The Congress disapproves deferral D87-35 relating to the Forest Service, "State and private forestry", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

CONSTRUCTION

For an additional amount for "Construction", $1,000,000, to remain available until expended.

LAND ACQUISITION

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-36 relating to the Forest Service, "Land acquisition", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

TIMBER ROADS, PURCHASER ELECTION, FOREST SERVICE

(RESCISSION)

(INCLUDING DISAPPROVAL OF DEFERRAL)

Of the funds previously made available and unobligated in this permanent appropriation account, $30,000,000 is rescinded.

The Congress disapproves deferral D87-37 relating to the Forest Service, "Timber roads, purchaser election, Forest Service", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

HIGHWAY CONSTRUCTION: MOUNT ST. HELENS NATIONAL VOLCANIC MONUMENT

For payment of obligations incurred for construction of a road serving the Mount St. Helens National Volcanic Monument, $9,915,000, to be derived from the Highway Trust Fund (other than

Mass Transit Account), to remain available until expended to liquidate the contract authority provided in title II of the Interior and Related Agencies Appropriations Act, 1987, as included in section 101(h) of Public Law 99-500 and Public Law 99-591.

100 Stat. 1783-267, 3341-268.

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

100 Stat. 1783-242, 3341-242.

Public Law 99-500 and Public Law 99-591, section 101(h), Interior and Related Agencies Appropriations Act, 1987, under this head, is amended by inserting ", Wasatch" after the word "Cache".

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

Personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without Congress having reviewed and approved such a proposal as part of the fiscal year 1988 appropriations process.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $700,000.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

Public Law 96-388, as amended (36 U.S.C. 1401 et seq.) is further amended as follows:

(1) 36 U.S.C. 1405(a) is amended by deleting the words "the President upon the recommendation of the Chairperson of the Council" and substituting "the Chairperson of the Council, subject to confirmation of the Council", and adding the following new sentence: "The Executive Director shall serve at the pleasure of the Council.";

(2) 36 U.S.C. 1405(b) is amended by striking the "." in subsection (2) and adding "; and" after "law" and adding the following new subsection:

"(3) implement decisions of the Council, in the manner directed by the Council, and perform such other functions as may be assigned from time to time by the Council, the Executive Committee of the Council, or the Chairperson of the Council.".

GENERAL PROVISION

16 USC 544 note. 16 USC 544f note.

Notwithstanding the provisions of Public Law 99-663, which established the Columbia River Gorge National Scenic Area, the Pierce National Wildlife Refuge and the Little White Salmon National Fish Hatchery shall continue to be administered, operated and maintained in accordance with the provisions of the National

Wildlife Refuge System Administration Act, Fish and Wildlife Coordination Act, and Fish and Wildlife Act of 1956 by the U.S. Fish and Wildlife Service. 16 USC 668dd note. 16 USC 661 note, 742a note.

CHAPTER VII

DEPARTMENT OF LABOR

Employment and Training Administration

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for "Training and employment services" for activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended, $20,000,000. 19 USC 2296-2298.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Grants. Contracts.

For an additional amount for "Community service employment for older Americans", to carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $7,800,000. 42 USC 3056d.

For an additional amount for "Community service employment for older Americans", to carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $2,200,000.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for "State unemployment insurance and employment service operations", $65,000,000 from the Employment Security Administration account in the Unemployment Trust Fund, of which $15,000,000 shall be used to carry out the targeted jobs tax credit program under section 51 of the Internal Revenue Code of 1986, and of which $27,500,000 shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1987. 100 Stat. 2095.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

For an additional amount for "Health resources and services", $18,750,000 for carrying out title V of the Social Security Act, as amended. 42 USC 701.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for "Disease control, research, and training", $20,000,000.

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE ON AGING

For an additional amount for "National Institute on Aging", $750,000.

NATIONAL CENTER FOR NURSING RESEARCH

For an additional amount for "National Center for Nursing Research", $1,000,000.

PUBLIC HEALTH SERVICE

PUBLIC HEALTH EMERGENCY FUND

42 USC 247d.

For carrying out title III, section 319 of the Public Health Service Act, as amended, $30,000,000 for the emergency provision of drugs determined to prolong the life of individuals with Acquired Immune Deficiency Syndrome, to remain available until September 30, 1988.

FAMILY SUPPORT ADMINISTRATION

WORK INCENTIVES

For an additional amount for "Work incentives", $23,000,000.

OFFICE OF HUMAN DEVELOPMENT SERVICES

FAMILY SOCIAL SERVICES

(INCLUDING TRANSFER OF FUNDS)

42 USC 670.

For an additional amount for "Family social services", $165,227,000 for part E of title IV of the Social Security Act, of which $43,583,000 shall be derived from unobligated balances in "Social Services Block Grant": *Provided,* That of the total additional amount, $127,184,000 shall be available for foster care and $38,043,000 shall be available for adoption assistance.

42 USC 3030f.

For an additional amount for Home Delivered Nutrition Services under subpart 2 of part C of title III of the Older Americans Act of 1965, $1,400,000.

DEPARTMENT OF EDUCATION

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

Of the funds appropriated for Rehabilitation Services and Handicapped Research for fiscal year 1987, $15,860,000 is available for Special Demonstration Programs under section 311(a)(b)(c).

VOCATIONAL AND ADULT EDUCATION

Of the $11,000,000 appropriated for fiscal year 1987 for title IV of the Carl D. Perkins Vocational Education Act, $7,050,000 shall be for activities authorized by part A, including $6,000,000 for section 404, $450,000 shall be for section 415 of part B, and $3,500,000 shall be for section 422 of part C.

20 USC 2401.
20 USC 2404.
20 USC 2471.
20 USC 2422.

STUDENT FINANCIAL ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Student financial assistance", $287,000,000, to be derived by transfer from "Guaranteed student loans".

The allotment of the State of Louisiana under subpart 3 of part A of title IV of the Higher Education Act of 1965, from funds appropriated for fiscal year 1987, shall be expended without regard to the provision of sections 415A(a), 415C(b) (6), (8) and (10) of such subpart.

Louisiana.
20 USC 1070c.
20 USC 1070c-2.

HIGHER EDUCATION

For an additional amount for "Higher education", $3,300,000, of which $1,000,000 shall be for activities authorized under part B of title III of the Higher Education Act, $1,000,000 shall be for activities authorized under part A of title VI of said Act, and $1,300,000 shall be for activities authorized under part C of title IX of said Act.

20 USC 1060 *et seq.*
20 USC 1121 *et seq.*
20 USC 1134h *et seq.*

CHICAGO LITIGATION SETTLEMENT

(TRANSFER OF FUNDS)

Discrimination, prohibition.
Claims.

To enable the United States of America to satisfy in full any and all obligations it may have to provide financial assistance for the Chicago Board's Desegregation Plan under section 15.1 of the Consent Decree entered in the case United States v. Board of Education of the City of Chicago, 80 C 5124, and to resolve all claims of the Chicago Board and all litigation concerning the United States' obligations to the Chicago Board under section 15.1, there is hereby appropriated $83,000,000 to be derived by transfer of remaining unobligated or contingently obligated balances of appropriations for fiscal years 1983 through 1986 for the Department of Education that would have been expended or lapsed but for the escrow provisions established as a result of the litigation between the Chicago Board and the United States: *Provided,* That the Secretary of Education shall make these funds available to the Board to be used only for desegregation activities in accordance with the terms and conditions of the Consent Decree: *Provided further,* That these funds shall be made available to the Board in five equal annual grants beginning in fiscal year 1988: *Provided further,* That this $83,000,000 reappropriation constitutes full and final satisfaction of any and all past, present and future claims that the Chicago Board may have against the United States arising under or resulting from section 15.1 of the Consent Decree, and releases the United States from any further liability under section 15.1: *Provided further,* That the funds appropriated by this Act shall remain available until expended.

RELATED AGENCIES

National Commission To Prevent Infant Mortality

OPERATING EXPENSES

For "Operating expenses", $700,000, to remain available until September 30, 1988.

CHAPTER VIII

LEGISLATIVE BRANCH

SENATE

Payments to Widows and Heirs of Deceased Members of Congress

Cecile F. Zorinsky. Edward Zorinsky.

For a payment to Cecile F. Zorinsky, widow of Edward Zorinsky, late a Senator from Nebraska, $89,500.

Salaries, Officers and Employees

OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $100,000.

Administrative, Clerical and Legislative Assistance to Senators

For an additional amount for "Administrative, Clerical and Legislative Assistance to Senators", $27,700, which shall not be available until July 1, 1987.

Miscellaneous Items

For an additional amount for "Miscellaneous items", $1,300,000.

Administrative Provisions

2 USC 31a-2a.

Section 1. (a) The Secretary of the Senate shall, upon the written request of the Majority or Minority Leader of the Senate, transfer from any available funds in such Leader's allotment in the Leader's Representation Allowance (as defined in subsection (b)(1)) for any fiscal year (commencing with the fiscal year ending September 30, 1985) to such Leader's Expense Allowance (as defined in subsection (b)(2)) to such year such amount as is specified in the request. Any funds so transferred for any fiscal year at the request of either such Leader shall be available to such Leader for such year for the same purposes as, and in like manner and subject to the same conditions as, are other funds which are available to him for such year as his expense allowance as Majority or Minority Leader.

(b)(1) The term "Leader's Representation Allowance" means the Representation Allowance Account for the Majority and Minority Leaders established by section 197 of Public Law 99-88 (2 U.S.C. 31a-2).

(2) The term "Leader's Expense Allowance", when used in reference to the Majority or Minority Leader of the Senate, refers to the moneys available, for any fiscal year, to such Leader as an

expense allowance and the appropriation account from which such moneys are funded.

2 USC 65f.

SEC. 2. (a) The Secretary of the Senate is authorized to use any available funds (but not in excess of $25,000 for any fiscal year), out of the appropriation account (within the Contingent Fund of the Senate) for the Secretary of the Senate, to assist him in the proper discharge, within the United States, of his appropriate responsibilities to members of foreign parliamentary groups or other foreign officials.

(b) The provisions of subsection (a) shall be effective in the case of expenditures for fiscal years ending after September 30, 1986.

SEC. 3. (a) Effective July 1, 1987, the table contained in section 105(d)(1) of the Legislative Branch Appropriation Act of 1968, as amended (2 U.S.C. 61-1(d)(1)), is amended by striking out—

"$904,114 if such population is 5,000,000 but less than 7,000,000;" and inserting in lieu thereof

"$904,114 if such population is 5,000,000 but less than 6,000,000;

"$931,810 if such population is 6,000,000 but less than 7,000,000;".

Georgia.
North Carolina.
2 USC 61-1 note.

(b) Effective July 1, 1987, the administrative and clerical allowance of each Senator from the State of Georgia and the State of North Carolina is increased to that allowed Senators from States having a population of six million but less than seven million, the population of said State having exceeded six million inhabitants.

Indiana.
Massachusetts.
Missouri.
Virginia.
2 USC 61-1 note.

(c) Effective July 1, 1987, the administrative and clerical allowance of each Senator from the State of Indiana, the State of Massachusetts, the State of Missouri, and the State of Virginia, is that allowed Senators from States having a population of five million but less than six million.

SEC. 4. The chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1987, at his election, transfer not more than $40,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

100 Stat. 3341-287; *post*, pp. 424, 425.

SEC. 5. Section 101(j) of Public Law 99-591 is amended by adding at the end thereof the following new sentence; "For purposes of the preceding sentence, the figure '$177,435,714' which appears in such H.R. 5203, in title I, under the item 'SALARIES, OFFICERS AND EMPLOYEES', shall be deemed to be '$177,535,714'.".

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

Elizabeth J. Grotberg. John E. Grotberg. Joy Temes. Sala Burton.

For payment to Elizabeth J. Grotberg, widow of John E. Grotberg, late a Representative from the State of Illinois, $75,100.

For payment to Joy Temes, daughter of Sala Burton, late a Representative from the State of California, $77,400.

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For an additional amount for "Standing committees, special and select", $1,950,000.

ALLOWANCES AND EXPENSES

For an additional amount for "Allowances and expenses", $9,508,000, including "Supplies, materials, administrative costs and Federal tort claims", $8,893,000, of which $6,845,000 shall remain available until expended for the purchase of a telephone switch for the House of Representatives; "Reemployed annuitants reimbursements", $368,000; and a special session or ceremony of the Congress in honor of the Bicentennial of the Constitution, $247,000, subject to adoption of an authorizing resolution.

SALARIES, OFFICERS AND EMPLOYEES

For an additional amount for "Salaries, officers and employees", $371,000, including "Office of the Clerk", $280,000; "Office of the Sergeant at Arms", $72,000; and "Office of the Law Revision Counsel", $19,000.

ADMINISTRATIVE PROVISION

100 Stat. 1783-287; *ante*, p. 423; *post*, p. 425.

Section 101(j) of the Legislative Branch Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591) is amended by inserting " 'House leadership offices,' " after " 'Allowances and expenses,' ".

JOINT ITEMS

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for "General expenses", $180,000.

CAPITOL GUIDE SERVICE

For an additional amount to "Capitol Guide Service", $109,000.

ADMINISTRATIVE PROVISIONS

Title I of the Legislative Branch Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591) is amended, in clause (4) of the paragraph relating to "Office of the Attending Physician" under the main heading "Joint Items", by striking out "eleven" and inserting in lieu thereof "twelve".

Effective October 18, 1986, section 101(j) of the joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes (Public Laws 99-500 and 99-591; 100 Stat. 1783-287, 3341-287) is amended by inserting ", and the provisions of H.R. 5203 (to such extent and in such manner) shall be effective as if enacted into law" immediately before the period at the end.

2 USC 84b, 117e and note; 40 USC 166f, 184b-184f, 206 note; 44 USC 1719. *Ante*, pp. 423, 424.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $350,000.

CHAPTER IX

MILITARY CONSTRUCTION

Administrative Provisions

MATHER AIR FORCE BASE

The Department of Defense is directed to terminate all work in connection with the study for possible base closure of Mather Air Force Base, California.

California.

FAMILY HOUSING, NAVY AND MARINE CORPS

In addition to any other funds which may be available for such purpose, the Secretary of the Navy is authorized to expend monies made available by the City of San Diego, California for the relocation or replacement of four family housing units in San Diego, California as a consequence of a final judgment in United States v. 35.934 Acres of Land, et al., Civil Action No. 800-0021-E in United States District Court for the Southern District of California.

California.

TORREJON AIR BASE, SPAIN

It is the sense of the Congress that all facility construction costs associated with the relocation of the Tactical Fighter Wing at Torrejon Air Base, Spain, to another location, should be the responsibility of the North Atlantic Treaty Organization.

NAVAL AIR STATION, ADAK, ALASKA

Within the funds previously appropriated for military construction planning and design, Navy, $1,500,000 shall be available for design of a middle school at Naval Air Station, Adak, Alaska.

CHAPTER X

DEPARTMENT OF AGRICULTURE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Section 17(g)(1) of the Child Nutrition Act of 1966 is amended—

(1) by inserting "and" after "September 30, 1986,"; and

42 USC 1786.

(2) by striking "and September 30, 1988" and all that follows through the end of the sentence and inserting in lieu thereof "September 30, 1988, and September 30, 1989.".

OFFICE OF THE SECRETARY OF AGRICULTURE

INVESTIGATIONS OF CHANGES NEEDED IN FARM PROGRAMS IN ORDER TO RESTORE THE AMERICAN FARM ECONOMY

To enable the Secretary of Agriculture to investigate whether producers of basic agricultural commodities, including soybeans, favor the imposition of mandatory limits on the production of basic agricultural commodities, including soybeans, that will result in prices for such commodities that provide a fair return to the farm producer at not less than the cost of production, $6,000,000.

To enable the Secretary of Agriculture to investigate the quantity of each basic agricultural commodity, including soybeans, needed by crop year to meet domestic consumption, to maintain an adequate reserve, and to regain and retain our fair share of world markets, $2,000,000.

To enable the Secretary of Agriculture to investigate the changes needed in existing rules and regulations of the Department of Agriculture to provide for implementation of mandatory limits on the production of basic agricultural commodities, including soybeans, and nonrecourse loans on basic agricultural commodities, including soybeans, that reflect a fair return to the farm producer at not less than the cost of production, $2,000,000.

AGRICULTURAL RESEARCH SERVICE

For an additional amount for "Agricultural Research Service", $9,891,000, to remain available until expended.

COOPERATIVE STATE RESEARCH SERVICE

For an additional amount for "Cooperative State Research Service", $300,000: *Provided,* That of the amounts appropriated under the heading "Cooperative State Research Service" in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, made applicable by section 101(a) of the Continuing Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), for payments to agricultural experiment stations to carry out the purposes of the Hatch Act, as amended (7 U.S.C. 361a-361i), any monies available for allotment to any recipient, but withheld by the Secretary of Agriculture for failure to meet the matching requirements of the Hatch Act, may be reapportioned to other agricultural experiment stations and used to carry out the purposes of the Hatch Act: *Provided further,* That no experiment station that received funds under the Hatch Act during fiscal year 1986 shall receive a total allotment in fiscal year 1987 that exceeds the total allotment it received in fiscal year 1986.

100 Stat. 1783, 3341.

For grants to States for the establishment and operation of international trade development centers, as authorized by the National Agricultural Research Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292), $3,200,000, to remain available until expended.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $30,200,000, to remain available until expended: *Provided,* That of available funds under "Agricultural Stabilization and Conservation Service, Rural Clean Water Program", $6,000,000 are rescinded.

EXTENSION SERVICE

For an additional amount for "Extension Service, Federal administration and coordination", for special grants for financially stressed and dislocated farmers, $300,000, to remain available until expended.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

For an additional amount for "Animal and Plant Health Inspection Service", $8,500,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

(TRANSFER OF FUNDS)

For an additional amount for "Agricultural Stabilization and Conservation Service, Salaries and expenses", $24,000,000: *Provided,* That not to exceed $24,000,000 of the above amount may be transferred to this account from the Commodity Credit Corporation.

DAIRY INDEMNITY PROGRAM

For the Dairy Indemnity Program, an additional $553,000, to remain available until expended: *Provided,* That this amount shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

GENERAL SALES MANAGER

(TRANSFER OF FUNDS)

Not to exceed an additional $705,000 may be transferred from the Commodity Credit Corporation funds to the General Sales Manager to help implement export programs, including the adjustment of the offering price to remain competitive, as authorized by law, and programs mandated in the Food Security Act of 1985. 7 USC 1281 note.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

(TRANSFER OF FUNDS)

To reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), $5,553,189,000, such funds to be available, together with other resources available to the Corporation, to finance the Corporation's programs and activities during fiscal year 1987: *Provided*, That of the foregoing amount not to exceed the following amounts shall be available for the following programs: export guaranteed loan claims, $300,000,000; conservation reserve program, $400,000,000; additional payments to producers under section 633(B) of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), which shall be made to cover the difference between the partial payment and the amount of the full claim, $135,000,000, and for other disaster payments required by the Farm Disaster Assistance Act of 1987, $25,000,000; and interest payments to the United States Treasury, $440,000,000: *Provided further*, That five per centum of the funds available for the conservation reserve program in this Act shall be transferred to the conservation operations account of the Soil Conservation Service for services of its technicians in carrying out the conservation programs of the Food Security Act of 1985.

100 Stat. 1783-30, 3341-30.

Ante, p. 318.

7 USC 1281 note.

HONEY

Section 1001(2)(C) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(C)), as amended by Public Law 99-500 and Public Law 99-591, is amended—

(1) by inserting "(i)" after "(C)", and

(2) by adding at the end the following:

"(ii) No certificate redeemable for stocks of a commodity held by the Commodity Credit Corporation may be redeemed for honey held by the Corporation.".

FARMERS HOME ADMINISTRATION

7 USC 1981b note.

The Secretary may adjust interest rates on existing nonsubsidized loans if he determines such interest rates are excessive in relation to prevailing commercial rates for comparable loans: *Provided*, That such rate adjustments shall constitute a change in the loan agreement and not a new loan.

42 USC 1472 note.

100 Stat. 1783-34, 3341-34.

The limitations on loan prepayments contained in section 634 of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987 shall remain in effect through September 30, 1987.

RURAL DEVELOPMENT GRANTS

For a grant pursuant to section 310B(c) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1932), for the development of Choctaw Regional Rural Industrial Park, $3,000,000.

RURAL HOUSING INSURANCE FUND

During fiscal year 1987, and within the resources and authority available, obligations for direct loans and related advances pursuant to section 515 of the Housing Act of 1949 (42 U.S.C. 1485), shall not exceed $554,900,000.

42 USC 1490a.

For an additional amount for rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, $115,000,000, to be used for contracts for newly constructed units financed under sections 514, 515 and 516 of the Housing Act of 1949 (42 U.S.C. 1484, 1485, 1486).

LOAN REGULATIONS

7 USC 1989 note.

Hereafter, funds appropriated or available to the Farmers Home Administration under this or any other Act to make or to service farm loans shall be available for continuing assistance to delinquent borrowers on the basis of the policies contained in Farmers Home Administration Announcement Number 1113-1960, dated November 30, 1984.

Hereafter, none of the funds appropriated or made available by this or any other Act, or otherwise made available to the Secretary of Agriculture or the Farmers Home Administration, may be used to implement section 1944.16(c)(1) of title 7, Code of Federal Regulations, as published in 52 Federal Register 11983 (April 14, 1987) or any other regulation that would have the same effect as such regulation.

RURAL ELECTRIFICATION ADMINISTRATION

7 USC 936a note.

Hereafter, notwithstanding section 306A(d) of the Rural Electrification Act of 1936 (7 U.S.C. 936a(d)), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A of such Act.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Soil Conservation Service, Watershed and flood prevention operations" for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented, $300,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

CHANGE IN TUITION LIMITATION FOR PRIVATE SCHOOLS

(a) School Lunch Programs.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended to read as follows:

> "(5) 'School' means (A) any public or nonprofit private school of high school grade or under, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term 'nonprofit', when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.".

Puerto Rico.

26 USC 501; 100 Stat. 2095.

(b) SCHOOL BREAKFAST PROGRAMS.—Section 15(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1784(c)) is amended to read as follows:

Puerto Rico.

"(c) 'School' means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term 'nonprofit', when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.".

26 USC 4241; 100 Stat. 2095. 42 USC 1760 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1987.

REIMBURSEMENT

99 Stat. 1185.

Of the funds made available under the heading "CHILD NUTRITION PROGRAMS" of title III of the provisions made effective by section 101(a) of Public Law 99-190 but not requested through an official budget request transmitted to the Congress, $167,500,000 shall be available to the Secretary of Agriculture to reimburse State agencies for meals served under child nutrition programs conducted under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) in September 1987.

SPECIAL MILK PROGRAM

For an additional amount for "Food and Nutrition Service, Special milk program", $3,426,000.

FOREIGN AGRICULTURAL SERVICE

For an additional amount for "Foreign Agricultural Service" to offset increases in overseas costs, $1,500,000.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(TRANSFER OF FUNDS)

Funds available to the Department of Agriculture during fiscal year 1987 shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581-3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues. Such funds may be transferred for such purpose from one appropriation to another or to a single account: *Provided*, That not to exceed a total of $500,000 may be expended for such purpose and such amount shall remain available until expended.

Food and Drug Administration

For an additional amount for "Food and Drug Administration, Salaries and expenses", $1,500,000 for evaluation and analysis of the drugs, vaccines, and tests for treatment of Acquired Immune Deficiency Syndrome. Diseases.

For an additional amount for orphan drug grants and contracts, $500,000.

Section 3 of the Saccharin Study and Labeling Act (21 U.S.C. 348 nt.) is amended by striking out "May 1, 1987" and inserting in lieu thereof "May 1, 1992".

CHAPTER XI

DEPARTMENT OF TRANSPORTATION

Coast Guard

OPERATING EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Operating expenses", $4,120,000, to be derived by transfer from "United States Customs Service, Operation and Maintenance, Air Interdiction Program": *Provided*, That this provision shall be effective only upon validation of the transfer by the General Accounting Office.

Federal Aviation Administration

OPERATIONS

(TRANSFER OF FUNDS)

For an additional amount for "Operations", $60,000,000, of which $11,619,000 shall be derived by transfer from "Operation and maintenance, Metropolitan Washington airports", and $5,000,000 shall be derived by transfer from "Construction, Metropolitan Washington airports".

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other laws authorizing such obligations, and obligations for noise compatibility planning and programs, $160,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That the first proviso under the heading "Grants-in-Aid for Airports (Liquidation of Contract Authorization) (Airport and Airway Trust Fund)", as contained in the Department of Transportation and Related Agencies Appropriations Act, 1987, 99th Congress, H.R. 5205, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference thereon, 99th Congress, House Report 99-976, as filed in the House of Representatives on October 7, 1986, as if enacted into 49 USC app. 1714.

law, pursuant to section 101(l) of Public Law 99-500 and Public Law 99-591, approved October 30, 1986, is amended as follows: 100 Stat. 1783-308, 3341-308.

"*Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,000,000,000 in fiscal year 1987 for grants-in-aid for airport planning and development and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended: *Provided further*, That an additional $25,000,000 of such commitments may be made in fiscal year 1987 using unobligated amounts in the supplementary discretionary fund provided by sections 505(a) and 507(a)(3)(B) of such Act, without affecting the amount authorized to be appropriated from the Airport and Airway Trust Fund under section 506(c), the amount of apportionments required to be made under section 507, or the satisfaction of general limitations under section 508(d) of such Act.".

49 USC app. 2205.

49 USC app. 2204.

49 USC app. 2207.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

For the settlement of promissory notes issued to the Secretary of the Treasury, $2,602,000, to remain available until expended, together with such sums as may be necessary for the payment of interest due under the terms and conditions of such notes.

FEDERAL HIGHWAY ADMINISTRATION

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97-424, $35,000,000, to be derived from the Highway Trust Fund and to remain available until expended. 49 USC app. 2302.

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

(TRANSFER OF FUNDS)

For an additional amount for "Baltimore-Washington Parkway", $2,000,000, to be derived by transfer from "Motor Carrier Safety Grants" and to remain available until expended.

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

(TRANSFER OF FUNDS)

For an additional amount for "Highway Safety and Economic Development Demonstration Projects", $5,000,000, to be derived by transfer from "Motor Carrier Safety Grants" and to remain available until expended.

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

(TRANSFER OF FUNDS)

For an additional amount for "Highway Safety Improvement Demonstration Project", $2,000,000, to be derived by transfer from "Motor Carrier Safety Grants" and to remain available until expended.

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

(TRANSFER OF FUNDS)

For an additional amount for "Highway-Railroad Grade Crossing Safety Demonstration Project", $2,000,000, to be derived by transfer from "Motor Carrier Safety Grants" and to remain available until expended.

VEHICULAR AND PEDESTRIAN SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

(TRANSFER OF FUNDS)

Massachusetts.

For the purpose of carrying out a demonstration of methods of improving vehicular and pedestrian safety on roads on the Federal-aid urban and Federal-aid secondary systems, involving Route 66 in Northampton and Huntington, Massachusetts, there is hereby authorized to be appropriated $12,000,000, to be derived from the Highway Trust Fund and to remain available until expended, of which $5,000,000 is hereby appropriated to be derived by transfer from "Motor Carrier Safety Grants" and to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

(TRANSFER OF FUNDS)

For an additional amount for "Operations and Research", $1,000,000, to be derived from unobligated balances of funds made available by section 311 of Public Law 96-131 for replacement of facilities associated with Interstate Route 170 and to be merged with this account, notwithstanding any limitation on obligations on Federal-aid highways, and to remain available until expended.

93 Stat. 1038.

FEDERAL RAILROAD ADMINISTRATION

RAIL SERVICE ASSISTANCE

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-42 relating to the Federal Railroad Administration, "Rail Service Assistance", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-45 relating to the Federal Railroad Administration, "Northeast Corridor Improvement Program", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

For payment to the Secretary of the Treasury for debt reduction, $12,500,000, to remain available until expended, together with such sums as may be necessary for the payment of interest due to the Secretary of the Treasury under the terms and conditions of such debt.

SETTLEMENTS OF RAILROAD LITIGATION

45 USC 720.

For the settlement of promissory notes pursuant to section 210(f) of the Regional Rail Reorganization Act of 1973 (Public Law 93-236), as amended, $56,928,495, to remain available until expended, together with such sums as may be necessary for the payment of interest due to the Secretary of the Treasury under the terms and conditions of such notes.

CONRAIL COMMUTER TRANSITION ASSISTANCE

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-46 relating to the Federal Railroad Administration, "Conrail Commuter Transition Assistance", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

URBAN MASS TRANSPORTATION ADMINISTRATION

RESEARCH, TRAINING, AND HUMAN RESOURCES

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves $4,336,000 of the proposed deferral D87-47 relating to the Urban Mass Transportation Administration, "Research, Training, and Human Resources", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the deferral disapproved herein shall be made available for obligation.

INTERSTATE TRANSFER GRANTS—TRANSIT

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D87-48 relating to the Urban Mass Transportation Administration, "Interstate Transfer Grants—Transit", as set forth in the message of January 28, 1987, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $4,000,000, or so much thereof as may be available in and derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662. 33 USC 2201 note.

RELATED AGENCIES

DEPARTMENT OF THE TREASURY

REBATE OF SAINT LAWRENCE SEAWAY TOLLS

(HARBOR MAINTENANCE TRUST FUND)

For rebate of the United States portion of tolls paid for use of the Saint Lawrence Seaway, pursuant to Public Law 99-662, $6,250,000, or so much thereof as may be available in and derived from the Harbor Maintenance Trust Fund, to remain available until expended, of which not to exceed $250,000 shall be available for expenses of administering the rebates.

PANAMA CANAL COMMISSION

OPERATING EXPENSES

For an additional amount for "Operating Expenses", $5,013,000, to be derived from the Panama Canal Commission Fund, of which

$3,000,000 shall be available to cover the cost of removing a landslide at the Panama Canal, and $2,013,000 shall be available for payment to the Republic of Panama, pursuant to article XIII, paragraph 4(c) of the Panama Canal Treaty of 1977.

TIAS 10029.

GENERAL PROVISIONS

AMTRAK ADVISORY COMMISSION

None of the funds provided for the Department of Transportation in this or any other Act shall be used to implement any charter establishing an advisory commission on the privatization of Amtrak.

DISCRETIONARY BRIDGE PROGRAM

Iowa.

Notwithstanding any other provision of law, the Secretary of Transportation is directed to consider phase 1 and phase 2 of the construction of a bridge across the Mississippi River at Dubuque, Iowa, known as the Dubuque City Island Bridge, as one project, and for the purpose of determining which projects to fund under the discretionary bridge program, assign to phase 2 of such construction the same priority that was given to phase 1 of such construction.

POMPANO BEACH AIR PARK

Florida.

None of the funds appropriated for the Federal Aviation Administration under this or any prior Act shall be used (1) to compel the city of Pompano Beach, Florida, to redesignate any land designated as nonaviation use land at the Pompano Beach Air Park as of November 1, 1966, or (2) to take any action to revert the Pompano Beach Air Park.

CHAPTER XII

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,000,000, to remain available until expended for repairs and improvements to the Treasury Annex.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

100 Stat. 1783-309, 3341-309.

Of the funds appropriated under this heading by the Treasury, Postal Service, and General Government Appropriations Act, fiscal year 1987, Public Law 99-500 and Public Law 99-591, $2,500,000 shall remain available until September 30, 1988: *Provided*, That funds made available under this heading by the Treasury, Postal Service, and General Government Appropriations Act, fiscal year 1987, Public Law 99-500 and Public Law 99-591 shall be used in part to raise the base level of employment at the Federal Law Enforcement Training Center to 325 full-time equivalent positions in the fiscal year ending September 30, 1987.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,900,000, which shall remain available through September 30, 1988, for headquarters relocation.

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,000,000: *Provided*, That the additional funds made available by this Act shall be used in part to raise the base level of employment for the Bureau of Alcohol, Tobacco, and Firearms to 3,251 full-time equivalent positions for the fiscal year ending September 30, 1987: *Provided further*, That funds made available by this Act may be used to purchase two additional special explosives investigative vehicles and associated investigative equipment.

UNITED STATES CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

Of the funds appropriated under this heading in Public Law 99-500 and Public Law 99-591, $2,500,000 shall remain available until September 30, 1988, for the purpose stated in the conference report to accompany H.J. Res. 738 (House Report 99-1005).

100 Stat. 1783, 3341.

(DISAPPROVAL OF DELAY IN AVAILABILITY)

The Congress disapproves the proposal to delay availability of obligation of $32,099,000 for Operation and Maintenance, Air Interdiction Program, until after October 1, 1987, contained in House Document 100-31, of February 9, 1987. This disapproval shall be effective upon enactment into law of this Act and the funds shall be made available for obligation.

INTERNAL REVENUE SERVICE

PROCESSING TAX RETURNS

For an additional amount for "Processing tax returns", $55,200,000.

EXAMINATION AND APPEALS

For an additional amount for "Examination and appeals", $8,110,000.

INVESTIGATION, COLLECTION AND TAXPAYER SERVICE

For an additional amount for "Investigation, collection, and taxpayer service", $16,690,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

100 Stat. 1783-309, 3341-309.

For an additional amount for "Salaries and expenses", $5,722,000: *Provided,* That of the funds appropriated under this heading in the Treasury, Postal Service, and General Government Appropriations Act, fiscal year 1987, Public Law 99-500 and Public Law 99-591, $6,000,000 appropriated for continued construction at the James J. Rowley Secret Service Training Center shall remain available until expended.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1987, $61,900,000 shall be made available for rental of space: *Provided,* That any revenues, collections and any other sums accruing to this fund during fiscal year 1987 in excess of $2,447,756,000, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)), shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For an additional amount for "Operating expenses", $475,000.

CUSTOMS FORFEITURE FUND

TECHNICAL CORRECTION TO PUBLIC LAW 99-570

100 Stat. 3207-12.

Section 1152(b) of Public Law 99-570 is repealed, and shall be treated as though it had never been enacted.

ALLOWANCES FOR CERTAIN GSA PERSONNEL

Notwithstanding sections 5923 and 5924, title 5, United States Code, and any applicable regulations, the General Services Administration shall honor allowances initially authorized, resulting in an aggregate amount of $27,000 payable to twenty-one General Services Administration employees for certain cost of living and related expenses during official foreign duty from November 1984 through September 1985.

TITLE II—INCREASED PAY COSTS FOR THE FISCAL YEAR 1987

For additional amounts for appropriations for the fiscal year 1987, for increased pay costs authorized by or pursuant to law as follows:

LEGISLATIVE BRANCH

SENATE

"Salaries, officers and employees", $5,715,000;
"Office of the Legislative Counsel of the Senate", $47,000;
"Inquiries and investigations", $1,116,000;

HOUSE OF REPRESENTATIVES

"House leadership offices", $39,000;
"Members' clerk hire", $2,584,000;
"Committee employees", $720,000;
"Special and select committees", $446,000;
"Allowances and expenses", $408,000;
"Salaries, officers and employees", $618,000;

JOINT ITEMS

"Joint Economic Committee", $75,000;
"Joint Committee on Printing", $10,000;

OFFICE OF TECHNOLOGY ASSESSMENT

"Salaries and expenses", $209,000;

CONGRESSIONAL BUDGET OFFICE

"Salaries and expenses", $80,000;

ARCHITECT OF THE CAPITOL

Office of the Architect of the Capitol: "Salaries", $50,000;
"Capitol buildings", $70,000;
"Capitol grounds", $40,000;
"Senate office buildings", $250,000;
"House office buildings", $300,000;
"Capitol power plant", $40,000;
Library buildings and grounds: "Structural and mechanical care", $50,000;

BOTANIC GARDEN

"Salaries and expenses", $25,000;

LIBRARY OF CONGRESS

"Salaries and expenses", $605,000;

Copyright Office: "Salaries and expenses", $173,000, of which not more than $17,000 shall be derived from collections during fiscal year 1987 under 17 U.S.C. 111(d)(3) and 116(c)(1);

Congressional Research Service: "Salaries and expenses", $215,000;

COPYRIGHT ROYALTY TRIBUNAL

"Salaries and expenses", $5,000, of which $4,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807;

GOVERNMENT PRINTING OFFICE

Office of Superintendent of Documents: "Salaries and expenses", $46,000;

GENERAL ACCOUNTING OFFICE

"Salaries and expenses", $2,500,000;

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

"Salaries and expenses", $504,000;
"Care of the building and grounds", $24,000;

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

"Salaries and expenses", $97,000;

UNITED STATES COURT OF INTERNATIONAL TRADE

"Salaries and expenses", $69,000;

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

"Salaries and expenses", $15,032,000;
"Defender services", $593,000;

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

"Salaries and expenses", $504,000;

FEDERAL JUDICIAL CENTER

"Salaries and expenses", $116,000;

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY

"Council on Environmental Quality and Office of Environmental Quality", $3,000;

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

"Office of Science and Technology Policy", $3,000;

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

"Salaries and expenses", $77,000;

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

"Operating expenses, Agency for International Development", $2,175,000;

"Operating expenses of the Agency for International Development, Office of the Inspector General", $103,000;

PEACE CORPS

"Peace Corps, operating expenses", $324,000;

AFRICAN DEVELOPMENT FOUNDATION

"African Development Foundation", $15,000;

DEPARTMENT OF AGRICULTURE

(INCLUDING TRANSFER OF FUNDS)

"Office of the Secretary", $31,000;

"Office of the Assistant Secretary for Administration", $7,000;

"Office of the Assistant Secretary for Governmental and Public Affairs", $7,000;

"Office of the Assistant Secretary for Economics", $7,000;

"Office of the Assistant Secretary for Science and Education", $7,000;

"Office of the Assistant Secretary for Marketing and Inspection Service", $7,000;

"Office of the Under Secretary for International Affairs and Commodity Programs", $8,000;

"Office of the Under Secretary for Small Community and Rural Development", $8,000;

"Office of the Assistant Secretary for Natural Resources and Environment", $7,000;

"Office of the Assistant Secretary for Food and Consumer Services", $7,000;

"Departmental Administration", for budget and program analysis, $79,000; for personnel, finance and management, operations, information resources management, equal opportunity, small and disadvantaged business utilization, and administrative law judges and judicial officers, $232,000; making a total of $311,000;

"Building operations and maintenance", $35,000;

"Office of Governmental and Public Affairs", for public affairs, $53,000; for congressional relations, $5,000; and for intergovernmental affairs, $4,000;

"Office of the Inspector General", $400,000;

"Office of the General Counsel", $300,000;

"Agricultural Research Service", $3,935,000;

"National Agricultural Library", $65,000;

"Economic Research Service", $415,000;

"National Agricultural Statistics Service", $490,000;

"World Agricultural Outlook Board", $15,000;

"Foreign Agricultural Service", $567,000;

"General Sales Manager", an additional $114,000, to be derived by transfer from the Commodity Credit Corporation fund;

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

"Salaries and expenses", an additional $8,967,000, to be derived by transfer from the Commodity Credit Corporation funds;

FARMERS HOME ADMINISTRATION

"Salaries and expenses", $3,000,000;

SOIL CONSERVATION SERVICE

"Conservation operations", $7,297,000;
"River basin surveys and investigations", $102,000;
"Watershed planning", $74,000;
"Watershed and flood prevention operations", $943,000;

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

"Salaries and expenses", $2,000,000;

FEDERAL GRAIN INSPECTION SERVICE

"Salaries and expenses", $53,000;

AGRICULTURAL MARKETING SERVICE

"Limitation on administrative expenses", (increase of $501,000 in limitation);

"Funds for strengthening markets, income and supply (section 32)", (increase of $112,000 in the limitation, "marketing agreements and orders");

"Packers and Stockyards Administration", $78,000;
"Agricultural Cooperative Service", $32,000;
"Office of Transportation", $23,000;
"Food Safety Inspection Service", $7,000,000;

FOOD AND NUTRITION SERVICE

"Food program administration", $713,000;

HUMAN NUTRITION INFORMATION SERVICE

"Salaries and expenses", $34,000;

FOREST SERVICE

"Forest research", $1,844,000;
"State and private forestry", $413,000;
"National forest system", $17,574,000;
"Construction", $2,859,000;

DEPARTMENT OF COMMERCE

(TRANSFERS OF FUNDS)

GENERAL ADMINISTRATION

"Salaries and expenses", $450,000, to be derived by transfer of unobligated balances from "Regional development programs";

ECONOMIC DEVELOPMENT ADMINISTRATION

"Salaries and expenses", $397,000, to be derived by transfer from "Economic Development Revolving Fund";

ECONOMIC AND STATISTICAL ANALYSIS

"Salaries and expenses", $332,000, to be derived by transfer of unobligated balances from "Regional development programs";

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

"Operations, Research, and Facilities", $7,505,000, to be derived by transfer from "Coastal Energy Impact Fund";

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

"Salaries and expenses", $243,000, to be derived by transfer from National Telecommunications and Information Administration, "Public telecommunications facilities, planning and construction";

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

"Operation and Maintenance, Army", $2,679,000;
"Operation and Maintenance, Navy", $3,350,000;
"Operation and Maintenance, Marine Corps", $183,000;
"Operation and Maintenance, Air Force", $1,925,000;
"Operation and Maintenance, Defense Agencies", $2,307,000;
"Operation and Maintenance, Army Reserve", $109,000;
"Operation and Maintenance, Navy Reserve", $29,000;
"Operation and Maintenance, Marine Corps Reserve", $3,000;
"Operation and Maintenance, Air Force Reserve", $281,000;
"Operation and Maintenance, Army National Guard", $285,000;
"Operation and Maintenance, Air National Guard", $618,000;
"Court of Military Appeals, Defense", $1,000;

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

"Research, Development, Test, and Evaluation, Army", $336,000;
"Research, Development, Test, and Evaluation, Navy", $33,000;
"Research, Development, Test, and Evaluation, Air Force", $306,000;
"Research, Development, Test, and Evaluation, Defense Agencies", $115,000;

DEPARTMENT OF DEFENSE—CIVIL

(INCLUDING TRANSFER OF FUNDS)

CORPS OF ENGINEERS—CIVIL

"General expenses", $1,832,000, to be derived by transfer from "Construction, General";

SOLDIERS' AND AIRMEN'S HOME

"Operation and maintenance", $554,000, to be derived by transfer from "Capital outlay";

DEPARTMENT OF ENERGY

(INCLUDING TRANSFER OF FUNDS)

"Energy Information Administration", $469,000, to be derived by transfer of unobligated balances in "Energy Information Administration";

"Emergency preparedness", $89,000, to be derived by transfer of unobligated balances in "Emergency preparedness";

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

"Salaries and expenses", $5,892,000;

HEALTH RESOURCES AND SERVICES ADMINISTRATION

"Indian health services", $7,686,000;

NATIONAL INSTITUTES OF HEALTH

"Office of the Director", $150,000;

SAINT ELIZABETHS HOSPITAL

"Federal Subsidy for Saint Elizabeths Hospital", $2,487,000;

SOCIAL SECURITY ADMINISTRATION

"Limitation on administrative expenses", $18,000,000, to be derived from amounts available in this account for automatic data processing and telecommunications activities;

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT

"Human Development Services", $1,300,000;

DEPARTMENTAL MANAGEMENT

"General departmental management", $2,200,000;

"Office of Consumer Affairs", $10,000;

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

"Management of lands and resources", $5,622,000;

"Oregon and California grant lands", $815,000;

UNITED STATES FISH AND WILDLIFE SERVICE

"Resource management", $3,046,000;

NATIONAL PARK SERVICE

"Operation of the national park system", $9,960,000;

"National recreation and preservation", $200,000;

GEOLOGICAL SURVEY

"Surveys, investigations, and research", $6,072,000;

BUREAU OF MINES

"Mines and minerals", $900,000;

BUREAU OF RECLAMATION

"Construction Program", $3,034,000;
"Operation and Maintenance", $1,808,000;

BUREAU OF INDIAN AFFAIRS

"Operation of Indian programs", $9,765,000;

DEPARTMENTAL OFFICES

"Office of the Secretary", $175,000: *Provided,* That the limitation on expenses for the immediate Office of the Secretary in fiscal year 1987 under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Law 99-500 and Public Law 99-591, shall be increased only to the extent necessary for pay adjustments pursuant to Executive Order 12578 of December 31, 1986;

100 Stat. 1783-243, 3341-243. 3 CFR, 1986 Comp., p. 244.

"Office of the Solicitor", $200,000;
"Office of the Inspector General", $245,000;

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

"Salaries and expenses", $575,000;

UNITED STATES PAROLE COMMISSION

"Salaries and expenses", $84,000;

LEGAL ACTIVITIES

"Salaries and expenses, general legal activities", $1,646,000;
"Salaries and expenses, Antitrust Division", $315,000, to remain available until September 30, 1988;
"Salaries and expenses, United States Attorneys", $2,818,000;
"Salaries and expenses, Oversight of Bankruptcy Cases", $93,000;
"Salaries and expenses, United States Marshals Service", $2,234,000;
"Salaries and expenses, Community Relations Service", $64,000 of which $16,000 shall remain available until expended;

FEDERAL BUREAU OF INVESTIGATION

"Salaries and expenses", $9,309,000 of which $5,686,000 shall remain available until September 30, 1988;

DRUG ENFORCEMENT ADMINISTRATION

"Salaries and expenses", $2,593,000;

IMMIGRATION AND NATURALIZATION SERVICE

"Salaries and expenses", $5,588,000;

FEDERAL PRISON SYSTEM

"Salaries and expenses", $3,932,000;
"National Institute of Corrections", $20,000;
"Buildings and facilities", $30,000;
"Limitation on administrative and vocational training expenses, Federal Prison Industries, Incorporated" (increase of $27,000 in the limitation on Administrative expenses, and $106,000 on Vocational Training expenses);

OFFICE OF JUSTICE PROGRAMS

"Salaries and expenses", $172,000;

DEPARTMENT OF LABOR

(INCLUDING TRANSFER OF FUNDS)

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

"Salaries and expenses", $1,583,000, to be derived from the unobligated balances of Employment Standards Administration, "Salaries and expenses";

EMPLOYMENT STANDARDS ADMINISTRATION

"Black Lung Disability Trust Fund", $708,000, of which $296,000 shall be available for transfer to Employment Standards Administration, "Salaries and expenses" and of which $412,000 shall be available for transfer to Departmental Management, "Salaries and expenses";

DEPARTMENTAL MANAGEMENT

"Salaries and expenses", $1,476,000, to be derived from the unobligated balances of Employment Standards Administration, "Salaries and expenses";
"Office of the Inspector General", $460,000, to be derived from the unobligated balances of Employment Standards Administration, "Salaries and expenses";

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

"Salaries and expenses", $6,900,000;

DEPARTMENT OF TRANSPORTATION

(INCLUDING TRANSFERS OF FUNDS)

OFFICE OF THE SECRETARY

"Salaries and expenses", $563,000, to be derived by transfer from the unobligated balances of "Payments to air carriers";

COAST GUARD

"Operating expenses", $16,100,000, of which $3,000,000 shall be expended from the Boat Safety Account, $3,000,000 shall be derived from "Retired pay", $3,945,000 shall be derived from the unobligated balances of "Deepwater Port Liability Fund", $5,000,000 from the unobligated balances of "Research, development, test, and evaluation", and $1,155,000, to be derived by transfer from "United States Railway Association, Administrative expenses";

"Reserve training", $1,200,000 to be derived by transfer from the unobligated balances of the "Deepwater Port Liability Fund";

FEDERAL AVIATION ADMINISTRATION

"Headquarters administration", $271,000, to be derived by transfer from "Operation and maintenance, Metropolitan Washington airports";

"Operations", $33,000,000;

FEDERAL HIGHWAY ADMINISTRATION

"Limitation on general operating expenses" (increase of $1,200,000 in the limitation on general operating expenses);

"Motor carrier safety", $140,000, to be derived from unobligated balances of funds made available by section 311 of Public Law 96-131 for replacement of facilities associated with Interstate Route 170 and to be merged with this account, notwithstanding any limitation on obligations on Federal-aid highways;

93 Stat. 1038.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

"Operations and research", $317,000;

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

45 USC 801 note.

For an additional amount for "Grants to the National Railroad Passenger Corporation", $5,000,000, to be derived from unobligated balances of "Redeemable preference shares" acquired by the Secretary of Transportation under the Railroad Revitalization and Regulatory Reform Act of 1976, to be available only for construction, rehabilitation, renewal, replacement, or other improvements deemed by the National Railroad Passenger Corporation to be needed to enable it to restore railroad passenger service between Springfield, Massachusetts and Montreal, Canada through Vermont: *Provided*, That any agreements entered into by the National Railroad Passenger Corporation for the performance of such improvements shall provide that the owners of any railroad lines so improved not construe the terms of any existing trackage rights agreement or any existing or future operating agreement between the National Railroad Passenger Corporation and the owners of any such railroad lines in a manner that would result in an increase in the rental or other payments made thereunder because of the expenditures made under this appropriation: *Provided further*, That any agreements entered into by the National Railroad Passenger Corporation for the performance of such improvements shall provide that the owners of any railroad lines so improved not seek to include the value of any expenditures made under this appropriation in the transfer price of any of the lines so improved: *Provided*

45 USC 562 note. *further*, That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall hereafter seek immediate and appropriate legal remedies to enforce its contractual rights whenever track maintenance on any route over which the National Railroad Passenger Corporation operates becomes inadequate or otherwise falls below the contractual standard;

FEDERAL RAILROAD ADMINISTRATION

"Office of the administrator", $100,000, to be derived from the unobligated balances of "Conrail labor protection";

"Railroad safety", $400,000, to be derived from the unobligated balances of "Conrail labor protection";

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

"Limitation on administrative expenses, Saint Lawrence Seaway Development Corporation" (increase of $30,000 in the limitation on administrative expenses);

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

"Research and special programs", $150,000, to be derived from the unobligated balances of "Payments to air carriers";

OFFICE OF THE INSPECTOR GENERAL

"Salaries and expenses", $400,000, to be derived from the unobligated balances of "Payments to air carriers";

RELATED AGENCIES

NATIONAL TRANSPORTATION SAFETY BOARD

(TRANSFER OF FUNDS)

"Salaries and expenses", $165,000, to be derived by transfer from the unobligated balances of "Payments to air carriers";

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $9,000,000, of which $5,000,000 shall be derived by transfer from "Research and development";

CONSUMER INFORMATION CENTER

"Consumer Information Center", $8,000 (and an increase of $8,000 in the limitation on administrative expenses);

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

"Research and program management", $25,000,000, to be derived by transfer from "Research and development", and "Space flight, control and data communications";

SMALL BUSINESS ADMINISTRATION

SMALL BUSINESS ADMINISTRATION

(TRANSFER OF FUNDS)

"Salaries and expenses", $2,400,000, to be derived by transfer from the "Business Loan and Investment Fund", to remain available until September 30, 1988;

VETERANS ADMINISTRATION

"Medical care", $149,391,000;

"Medical and prosthetic research", $1,859,000;

"Medical administration and miscellaneous operating expenses", $400,000;

"General operating expenses", $5,500,000;

"Construction, minor projects" (increase of $350,000 in the limitation on the expenses of the Office of Facilities);

OTHER INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

"Salaries and expenses", $140,000;

ARMS CONTROL AND DISARMAMENT AGENCY

"Arms control and disarmament activities", $124,000;

CONSUMER PRODUCT SAFETY COMMISSION

"Salaries and expenses", $250,000;

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"Salaries and expenses", $2,640,000;

EXPORT-IMPORT BANK

"Limitation on administrative expenses" (increase of $157,000 in the limitation on administrative expenses);

FEDERAL COMMUNICATIONS COMMISSION

"Salaries and expenses", $755,000;

FEDERAL HOME LOAN BANK BOARD

"Limitation on administrative expenses, Federal Home Loan Bank Board" (increase of $200,000);

FEDERAL MARITIME COMMISSION

"Salaries and expenses", $200,000;

FEDERAL MEDIATION AND CONCILIATION SERVICE

"Salaries and expenses", $181,000;

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

"Salaries and expenses", $6,000;

NATIONAL ENDOWMENT FOR THE ARTS

"Grants and administration", $200,000;

NATIONAL ENDOWMENT FOR THE HUMANITIES

"Grants and administration", $200,000;

NATIONAL LABOR RELATIONS BOARD

"Salaries and expenses", $628,000;

NATIONAL MEDIATION BOARD

"Salaries and expenses", $60,000;

NATIONAL SCIENCE FOUNDATION

"Research and related activities" (increase of $1,300,000 in the limitation on program development and management);

SECURITIES AND EXCHANGE COMMISSION

"Salaries and expenses", $1,837,000;

SMITHSONIAN INSTITUTION

"Salaries and expenses", $2,654,000;

NATIONAL GALLERY OF ART

"Salaries and expenses", $490,000;

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

"Salaries and expenses", $21,000;

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

"Holocaust memorial council", $19,000;

UNITED STATES INFORMATION AGENCY

"Salaries and expenses", $2,691,000.

TITLE III—INCREASED COSTS FOR RETIREMENT CONTRIBUTIONS (PUBLIC LAW 99-335)

For additional amounts for appropriations for the fiscal year 1987, for Federal Employees Retirement System costs authorized by or pursuant to law as follows:

LEGISLATIVE BRANCH

SENATE

"Salaries, officers and employees", $6,986,000;
"Office of the Legislative Counsel of the Senate", $53,000;
"Office of the Senate Legal Counsel", $18,000;
"Senate policy committees", $133,000;
"Inquiries and investigations", $1,848,000;

HOUSE OF REPRESENTATIVES

"Allowances and expenses", $35,880,000;

JOINT ITEMS

"Joint Economic Committee", $155,000;
"Joint Committee on Printing", $34,000;
Capitol Guide Service: "Salaries and expenses", $32,000;

OFFICE OF TECHNOLOGY ASSESSMENT

"Salaries and expenses", $545,000;

CONGRESSIONAL BUDGET OFFICE

"Salaries and expenses", $452,000;

ARCHITECT OF THE CAPITOL

Office of the Architect of the Capitol: "Salaries", $166,000;
"Capitol buildings", $187,000;
"Capitol grounds", $68,000;
"Senate office buildings", $456,000;
"House office buildings", $611,000;
"Capitol power plant", $109,000;
Library buildings and grounds: "Structural and mechanical care", $130,000;

BOTANIC GARDEN

"Salaries and expenses", $48,000;

LIBRARY OF CONGRESS

"Salaries and expenses", $1,906,000;

Copyright Office: "Salaries and expenses", $287,000, of which not more than $12,000 shall be derived from collections during fiscal year 1987 under 17 U.S.C. 111(d)(3) and 116(c)(1);

Congressional Research Service: "Salaries and expenses", $617,000;

Books for the blind and physically handicapped: "Salaries and expenses", $103,000;

COPYRIGHT ROYALTY TRIBUNAL

"Salaries and expenses", $7,000, of which $6,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807;

GOVERNMENT PRINTING OFFICE

Office of the Superintendent of Documents: "Salaries and expenses", $83,000;

GENERAL ACCOUNTING OFFICE

"Salaries and expenses", $3,563,000;

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

"Salaries and expenses", $409,000;
"Care of the building and grounds", $33,000;

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

"Salaries and expenses", $23,000;

UNITED STATES COURT OF INTERNATIONAL TRADE

"Salaries and expenses", $49,000;

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

"Salaries and expenses", $9,688,000;
"Defender services", $887,000;

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

"Salaries and expenses", $80,000;

FEDERAL JUDICIAL CENTER

"Salaries and expenses", $108,000;

EXECUTIVE OFFICE OF THE PRESIDENT

WHITE HOUSE OFFICE

"Salaries and expenses", $374,000;

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

"Operating expenses", $53,000;

SPECIAL ASSISTANCE TO THE PRESIDENT

"Salaries and expenses", $107,000;

COUNCIL OF ECONOMIC ADVISERS

"Salaries and expenses", $95,000;

OFFICE OF POLICY DEVELOPMENT

"Salaries and expenses", $89,000;

NATIONAL SECURITY COUNCIL

"Salaries and expenses", $62,000;

OFFICE OF ADMINISTRATION

"Salaries and expenses", $214,000;

OFFICE OF MANAGEMENT AND BUDGET

"Salaries and expenses", $413,000;

OFFICE OF FEDERAL PROCUREMENT POLICY

"Salaries and expenses", $20,000;

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

"Office of Science and Technology Policy", $20,000;

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

"Salaries and expenses", $168,000;

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

"Operating expenses of the Agency for International Development", $5,488,000;

"Operating expenses of the Agency for International Development, Office of the Inspector General", $218,000;

PEACE CORPS

"Peace Corps, operating expenses", $436,000;

AFRICAN DEVELOPMENT FOUNDATION

"African Development Foundation", $99,000;

DEPARTMENT OF AGRICULTURE

(INCLUDING TRANSFER OF FUNDS)

"Office of the Secretary", $29,000;

"Office of the Assistant Secretary for Administration", $8,000;

"Office of the Assistant Secretary for Governmental and Public Affairs", $6,000;

"Office of the Assistant Secretary for Economics", $6,000;

"Office of the Assistant Secretary for Science and Education", $6,000;

"Office of the Assistant Secretary for Marketing and Inspection Service", $6,000;

"Office of the Under Secretary for International Affairs and Commodity Programs", $8,000;

"Office of the Under Secretary for Small Community and Rural Development", $8,000;

"Office of the Assistant Secretary for Natural Resources and Environment", $6,000;

"Office of the Assistant Secretary for Food and Consumer Services", $6,000;

"Departmental Administration", for budget and program analysis, $73,000; for personnel, finance and management, operations, information resources management, equal opportunity, small and disadvantaged business utilization, and administrative law judges and judicial officer, $385,000; making a total of $458,000;

"Building operations and maintenance", $165,000;

"Office of Governmental and Public Affairs", for public affairs, $111,000; for congressional relations, $6,000; and for intergovernmental affairs, $9,000;

"Office of the Inspector General", $622,000;

"Office of the General Counsel", $239,000;

"Agricultural Research Service", $4,747,000;

"Extension Service", including extension agents, $6,500,000;

"National Agricultural Library", $97,000;

"Economic Research Service", $580,000;

"National Agricultural Statistics Service", $612,000;

"World Agricultural Outlook Board", $21,000;

"Foreign Agricultural Service", $607,000;

"General Sales Manager", an additional $107,000 to be derived by transfer from the Commodity Credit Corporation fund;

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

"Salaries and expenses", an additional $9,920,000 to be derived by transfer from the Commodity Credit Corporation fund;

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

"Salaries and expenses", $114,000;

SOIL CONSERVATION SERVICE

"Conservation operations", $5,331,000;

"River basin surveys and investigations", $130,000;

"Watershed planning", $97,000;

FARMERS HOME ADMINISTRATION

"Salaries and expenses", $4,678,000;

FEDERAL GRAIN INSPECTION SERVICE

"Salaries and expenses", $76,000;

AGRICULTURAL MARKETING SERVICE

"Marketing Services", $490,000;

"Limitation on administrative expenses" (increase of $213,000 in limitation);

"Funds for strengthening markets, income and supply" (section 32), (increase of $84,000 in the limitation "marketing agreements and orders");

"Packers and Stockyards Administration", $58,000;

"Agricultural Cooperative Service", $46,000;

"Office of Transportation", $34,000;

"Food Safety Inspection Service", $4,573,000;

FOOD AND NUTRITION SERVICE

"Food program administration", $1,503,000;

"Human Nutrition Information Service", $75,000;

FOREST SERVICE

"Forest research", $1,000,000;

"State and private forestry", $190,000;

"National forest system", $9,300,000;

"Construction", $1,600,000;

DEPARTMENT OF COMMERCE

(INCLUDING TRANSFER OF FUNDS)

GENERAL ADMINISTRATION

"Salaries and expenses", $464,000;

BUREAU OF THE CENSUS

"Salaries and expenses", $1,433,000;

"Periodic censuses and programs", $2,806,000, to remain available until expended;

ECONOMIC AND STATISTICAL ANALYSIS

"Salaries and expenses", $408,000;

ECONOMIC DEVELOPMENT ADMINISTRATION

"Salaries and expenses", $400,000, to be derived by transfer from "Economic Development Revolving Fund";

INTERNATIONAL TRADE ADMINISTRATION

"Operations and Administration", $2,237,000, to remain available until expended;

MINORITY BUSINESS DEVELOPMENT AGENCY

"Minority business development", $180,000;

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

"Salaries and expenses", $49,000;

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

"Operations, research, and facilities", $5,972,000, to remain available until expended;

NATIONAL BUREAU OF STANDARDS

"Scientific and technical research and services", $1,368,000, to remain available until expended;

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

"Salaries and expenses", $213,000;

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

"Operation and Maintenance, Army", $119,047,000;

"Operation and Maintenance, Navy", $148,880,000;

"Operation and Maintenance, Marine Corps", $8,117,000;

"Operation and Maintenance, Air Force", $85,564,000;

"Operation and Maintenance, Defense Agencies", $102,453,000;

"Operation and Maintenance, Army Reserve", $4,858,000;

"Operation and Maintenance, Navy Reserve", $1,306,000;

"Operation and Maintenance, Marine Corps Reserve", $135,000;

"Operation and Maintenance, Air Force Reserve", $12,471,000;

"Operation and Maintenance, Army National Guard", $12,666,000;

"Operation and Maintenance, Air National Guard", $27,479,000;

"National Board for the Promotion of Rifle Practice, Army", $7,000;

"Court of Military Appeals, Defense", $36,000;

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

"Research, Development, Test, and Evaluation, Army", $14,955,000;

"Research, Development, Test, and Evaluation, Navy", $1,477,000;

"Research, Development, Test, and Evaluation, Air Force", $13,609,000;

"Research, Development, Test, and Evaluation, Defense Agencies", $5,165,000;

MILITARY CONSTRUCTION

"Military Construction, Army", $4,136,000;

"Military Construction, Navy", $1,736,000;

"Military Construction, Army Reserve", $53,000;

FAMILY HOUSING

"Family Housing, Army", $435,000;

DEPARTMENT OF DEFENSE—CIVIL

(INCLUDING TRANSFER OF FUNDS)

CEMETERIAL EXPENSES—ARMY

"Salaries and expenses", $40,000;

CORPS OF ENGINEERS—CIVIL

"General expenses", $1,400,000, to be derived by transfer from "Construction, General";

SOLDIERS' AND AIRMEN'S HOME

"Operation and maintenance", not to exceed $578,000, to be derived by transfer from "Capital outlay";

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(INCLUDING TRANSFER OF FUNDS)

FOOD AND DRUG ADMINISTRATION

"Salaries and expenses", $4,108,000;

HEALTH RESOURCES AND SERVICES ADMINISTRATION

"Health resources and services", $1,400,000, which shall be derived by transfer from unobligated balances from the Health teaching facilities activity, "Health resources and services";

"Indian health services", $4,000,000;

CENTERS FOR DISEASE CONTROL

"Disease control, research, and training", $1,237,000;

NATIONAL INSTITUTES OF HEALTH

"Office of the Director", $350,000;

SAINT ELIZABETHS HOSPITAL

"Federal Subsidy for Saint Elizabeths Hospital", $1,941,000;

DEPARTMENTAL MANAGEMENT

"Office of the Inspector General", $500,000, to be derived by transfer from "Grants to States for Medicaid" in the Health Care Financing Administration;

"Office of Consumer Affairs", $8,000;

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

"Management of lands and resources", $3,780,000;

"Oregon and California grant lands", $479,000;

UNITED STATES FISH AND WILDLIFE SERVICE

"Resource management", $2,800,000;

NATIONAL PARK SERVICE

"Operation of the national park system", $4,000,000;
"National recreation and preservation", $100,000;

GEOLOGICAL SURVEY

"Surveys, investigations, and research", $4,206,000;

BUREAU OF MINES

"Mines and minerals", $1,350,000;

BUREAU OF RECLAMATION

"Construction Program", $2,350,000;
"Operation and Maintenance", $1,567,000;

BUREAU OF INDIAN AFFAIRS

"Operation of Indian programs", $4,500,000;

DEPARTMENTAL OFFICES

100 Stat. 1783-243, 3341-243. 5 USC 8301 *et seq.* 5 USC 8401 note.

"Office of the Secretary", $200,000: *Provided,* That the limitation on expenses for the immediate Office of the Secretary in fiscal year 1987 under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Law 99-500 and Public Law 99-591, shall be increased only to the extent necessary for agency contributions for retirement costs prescribed by the Civil Service Retirement System (5 U.S.C. ch. 83) and the Federal Employees Retirement System Act of 1986 (Public Law 99-335);
"Office of the Solicitor", $200,000;
"Office of Inspector General", $180,000;

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

"Salaries and expenses", $778,000;

UNITED STATES PAROLE COMMISSION

"Salaries and expenses", $155,000;

LEGAL ACTIVITIES

"Salaries and expenses, general legal activities", $2,213,000;
"Salaries and expenses, Antitrust Division", $430,000, to remain available until September 30, 1988;
"Salaries and expenses, United States Attorneys", $3,510,000;
"Salaries and expenses, Oversight of Bankruptcy Cases", $150,000;
"Salaries and expenses, United States Marshals Service", $3,211,000;

"Salaries and expenses, Community Relations Service", $85,000 of which $22,000 shall remain available until expended;

FEDERAL BUREAU OF INVESTIGATION

"Salaries and expenses", $23,005,000;

DRUG ENFORCEMENT ADMINISTRATION

"Salaries and expenses", $7,324,000;

IMMIGRATION AND NATURALIZATION SERVICE

"Salaries and expenses", $10,186,000;

FEDERAL PRISON SYSTEM

"Salaries and expenses", $17,053,000;

"National Institute of Corrections", $129,000;

"Buildings and Facilities", $208,000;

"Limitation on administrative and vocational training expenses, Federal Prison Industries, Incorporated" (increase of $25,000 in the limitation on Administrative expenses, and of $30,000 in Vocational Training expenses);

OFFICE OF JUSTICE PROGRAMS

"Salaries and expenses", $210,000;

DEPARTMENT OF LABOR

(INCLUDING TRANSFER OF FUNDS)

EMPLOYMENT AND TRAINING ADMINISTRATION

"Program administration", $808,000 to be derived from the unobligated balances of Employment Standards Administration, "Salaries and expenses";

EMPLOYMENT STANDARDS ADMINISTRATION

"Black Lung Disability Trust Fund", $494,000, of which $224,000 shall be available for transfer to Employment Standards Administration, "Salaries and expenses" and of which $270,000 shall be available for transfer to Departmental Management, "Salaries and expenses";

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

"Salaries and expenses", $1,533,000 to be derived from the unobligated balances of Employment Standards Administration, "Salaries and expenses";

MINE SAFETY AND HEALTH ADMINISTRATION

"Salaries and expenses", $1,941,000 to be derived from the unobligated balances of Employment Standards Administration, "Salaries and expenses";

DEPARTMENTAL MANAGEMENT

"Salaries and expenses", $1,302,000 of which $199,000 shall be derived from unobligated balances of the Employment Standards Administration, "Salaries and expenses", and $1,103,000 shall be derived by transfer from Employment Standards Administration, "Salaries and expenses";

"Office of the Inspector General", $556,000 to be derived by transfer from Employment Standards Administration, "Salaries and expenses";

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

"Salaries and expenses", $16,734,000;

DEPARTMENT OF TRANSPORTATION

(INCLUDING TRANSFERS OF FUNDS)

OFFICE OF THE SECRETARY

"Salaries and expenses", $450,000, to be derived from the unobligated balances of "Payments to air carriers";

COAST GUARD

"Operating expenses", $1,723,200, to be derived from the unobligated balances of the "Offshore Oil Pollution Compensation Fund";

FEDERAL AVIATION ADMINISTRATION

"Headquarters administration", $350,000, to be derived by transfer from "Operation and maintenance, Metropolitan Washington airports";

"Operations", $46,000,000, of which $5,000,000 shall be derived by transfer from "Retired pay": *Provided*, That, notwithstanding section 511 of this Act or any other provision of law, such funds shall remain available until expended;

Post, p. 471.

FEDERAL HIGHWAY ADMINISTRATION

"Limitation on general operating expenses" (increase of $1,600,000 in the limitation on general operating expenses);

"Motor carrier safety", $660,000, to be derived from unobligated balances of funds made available by section 311 of Public Law 96-131 for replacement of facilities associated with Interstate Route 170 and to be merged with this account notwithstanding any limitation on obligations for Federal-aid highways;

93 Stat. 1038.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

"Operations and research", $400,000;

FEDERAL RAILROAD ADMINISTRATION

"Office of the Administrator", $100,000, to be derived from the unobligated balances of "Conrail labor protection";

"Railroad safety", $250,000, of which $135,000 shall be derived from the unobligated balances of "Conrail labor protection";

URBAN MASS TRANSPORTATION ADMINISTRATION

"Administrative expenses", $300,000, to be derived from the unobligated balances of "Research, training, and human resources";

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

"Limitation on administrative expenses, Saint Lawrence Seaway Development Corporation" (increase of $30,000 in the limitation on administrative expenses);

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

"Research and special programs", $100,000, to be derived from the unobligated balances of "Payments to air carriers";

OFFICE OF THE INSPECTOR GENERAL

"Salaries and expenses", $354,400, to be derived from the unobligated balances of "Payments to air carriers";

RELATED AGENCIES

NATIONAL TRANSPORTATION SAFETY BOARD

(TRANSFER OF FUNDS)

"Salaries and expenses", $150,000, to be derived by transfer from the unobligated balances of "Payments to air carriers";

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

"Salaries and expenses", $863,000;

FEDERAL LAW ENFORCEMENT TRAINING CENTER

"Salaries and expenses", $167,000;

FINANCIAL MANAGEMENT SERVICE

"Salaries and expenses", $1,164,000;

UNITED STATES CUSTOMS SERVICE

"Salaries and expenses", $10,066,000;

UNITED STATES MINT

"Salaries and expenses", $422,000;

BUREAU OF THE PUBLIC DEBT

"Salaries and expenses", $1,058,000;

INTERNAL REVENUE SERVICE

"Processing Tax Returns", $81,854,000;
"Examination and Appeals", $23,325,000;
"Investigation, Collection, and Taxpayer Service", $11,711,000;

UNITED STATES SECRET SERVICE

"Salaries and expenses", $5,387,000;

ENVIRONMENTAL PROTECTION AGENCY

"Salaries and expenses", $5,000,000;

GENERAL SERVICES ADMINISTRATION

FEDERAL SUPPLY SERVICE

"Operating expenses", $1,611,000: *Provided*, That in addition to this appropriation, the annual limitation for expenses of transportation audit contracts and contract administration payable from overcharges collected is increased by $6,000 to $10,510,000;

INFORMATION RESOURCES MANAGEMENT SERVICE

"Operating expenses", $328,000;

FEDERAL PROPERTY RESOURCES SERVICE

"Operating expenses", $290,000;

GENERAL MANAGEMENT AND ADMINISTRATION

"Salaries and expenses", $1,214,000;

OFFICE OF INSPECTOR GENERAL

"Office of Inspector General", $373,000;

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

"Allowances and Office Staff for Former Presidents", $5,000;

FEDERAL BUILDINGS FUND

"Limitations on availability of revenue", in addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1987, $5,762,000 shall be available for such purposes and the limitation on the amount available for real property operations is increased to $758,284,000 and the limitation on the amount available for program direction and centralized services is increased to $57,315,000 and the limitation on the amount available for design and construction services is increased to $63,807,000: *Provided*, That any revenues and collections and any other sums accruing to this fund during fiscal year 1987, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)), in excess of $2,453,518,700 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts;

"Consumer Information Center", $6,000 (and an increase of $6,000 in the limitation on administrative expenses);

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

(TRANSFER OF FUNDS)

"Research and program management", $10,500,000, of which $7,000,000 shall be derived by transfer from "Research and development" and $3,500,000 shall be derived by transfer from "Space flight, control and data communications";

SMALL BUSINESS ADMINISTRATION

(TRANSFER OF FUNDS)

"Salaries and expenses", $2,400,000, to be derived by transfer from the "Business Loan and Investment Fund";

VETERANS ADMINISTRATION

"Medical care", $131,600,000;

"Medical and prosthetic research", $1,024,000;

"Medical administration and miscellaneous operating expenses", $175,000;

"General operating expenses", $5,000,000;

"Construction, minor projects" (an increase of $275,000 in the limitation on the expenses of the Office of Facilities);

OTHER INDEPENDENT AGENCIES

Administrative Conference of the United States

"Salaries and expenses", $14,000;

Advisory Committee on Federal Pay

"Salaries and expenses", $2,000;

Arms Control and Disarmament Agency

"Arms control and disarmament activities", $176,000;

Commission on Civil Rights

"Salaries and expenses", $19,000;

Consumer Product Safety Commission

"Salaries and expenses", $250,000;

Equal Employment Opportunity Commission

"Salaries and expenses", $1,889,000;

Export-Import Bank

"Limitation on administrative expenses" (increase of $227,000 in the limitation on administrative expenses);

FEDERAL COMMUNICATIONS COMMISSION

"Salaries and expenses", $1,199,000;

FEDERAL ELECTION COMMISSION

"Salaries and expenses", $83,000;

FEDERAL HOME LOAN BANK BOARD

"Limitation on administrative expenses, Federal Home Loan Bank Board", (increase of $200,000);

FEDERAL LABOR RELATIONS AUTHORITY

"Salaries and expenses", $220,000;

FEDERAL MARITIME COMMISSION

"Salaries and expenses", $147,000;

FEDERAL MEDIATION AND CONCILIATION SERVICE

"Salaries and expenses", $188,000;

INTELLIGENCE COMMUNITY STAFF

"Intelligence Community Staff", $155,000;

MARINE MAMMAL COMMISSION

"Salaries and expenses", $10,000;

MERIT SYSTEMS PROTECTION BOARD

"Salaries and expenses", $272,000;
"Office of Special Counsel", $79,000;

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

"Operating expenses", $863,000;

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

"Salaries and expenses", $17,000;

NATIONAL COUNCIL ON THE HANDICAPPED

"Salaries and expenses", $10,000;

NATIONAL ENDOWMENT FOR THE HUMANITIES

"Grants and administration", $200,000;

NATIONAL LABOR RELATIONS BOARD

"Salaries and expenses", $1,659,000;

NATIONAL MEDIATION BOARD

"Salaries and expenses", $44,000;

OFFICE OF PERSONNEL MANAGEMENT

"Salaries and expenses", $1,129,000 together with an additional amount of $682,000 for current fiscal year administration expenses for the retirement and insurance program to be transferred from the appropriate trust funds of the Office of Personnel Management in amounts to be determined by the Office of Personnel Management without regard to other statutes;

RAILROAD RETIREMENT BOARD

"Limitation on administration" increase of $764,000 in the limitation on administration in fiscal year 1987, which shall be available only after maximum absorption within the existing limitation and only to the extent necessary for agency contributions prescribed by the Federal Employees Retirement System Act of 1986, to be derived from the railroad retirement accounts; 5 USC 8401 note.

"Limitation on railroad unemployment insurance administration fund" increase of $214,000 in the limitation on railroad unemployment insurance administration fund in fiscal year 1987, which shall be available only after maximum absorption within the existing limitation and only to the extent necessary for agency contributions prescribed by the Federal Employees Retirement System Act of 1986, to be derived as authorized by section 11(a)(iv) of the Railroad Unemployment Insurance Act; 45 USC 351.

"Limitation on review activity" increase of $22,000 in the limitation on review activity in fiscal year 1987, which shall be available only after maximum absorption within the existing limitation and only to the extent necessary for agency contributions prescribed by the Federal Employees Retirement System Act of 1986, to be derived from the railroad retirement accounts and the railroad unemployment insurance account;

SECURITIES AND EXCHANGE COMMISSION

"Salaries and expenses", $2,163,000;

SMITHSONIAN INSTITUTION

"Salaries and expenses", $1,700,000;

NATIONAL GALLERY OF ART

"Salaries and expenses", $330,000;

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

"Salaries and expenses", $19,000;

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

"Holocaust memorial council", $16,000;

UNITED STATES INFORMATION AGENCY

"Salaries and expenses", $5,443,000;
"Radio Broadcasting to Cuba", $516,000;

UNITED STATES TAX COURT

"Salaries and expenses", $75,000.

Urgent Relief for the Homeless Supplemental Appropriations Act of 1987.

TITLE IV

URGENT RELIEF FOR THE HOMELESS

SUPPLEMENTAL APPROPRIATIONS ACT OF 1987

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For an additional amount for "Health resources and services", for carrying out the activities authorized by H.R. 558, the Stewart B. McKinney Homeless Assistance Act, as provided for in House Report 100-174, $46,000,000 to remain available through September 30, 1988.

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH

For an additional amount for "Alcohol, drug abuse and mental health", for carrying out the activities authorized by H.R. 558, the Stewart B. McKinney Homeless Assistance Act, as provided for in House Report 100-174, $50,700,000 to remain available through September 30, 1988.

FAMILY SUPPORT ADMINISTRATION

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

For an additional amount for "Community services block grant", for carrying out the activities authorized by H.R. 558, the Stewart B. McKinney Homeless Assistance Act, as provided for in House Report 100-174, $36,800,000 to remain available through September 30, 1988.

DEPARTMENT OF EDUCATION

SPECIAL PROGRAMS

For an additional amount for "Special programs", for carrying out the activities authorized by H.R. 558, the Stewart B. McKinney Homeless Assistance Act, as provided for in House Report 100-174, $4,600,000 to remain available through September 30, 1988.

VOCATIONAL AND ADULT EDUCATION

For an additional amount for "Vocational and adult education", for carrying out the activities authorized by H.R. 558, the Stewart B. McKinney Homeless Assistance Act, as provided for in House Report 100-174, $6,900,000 to remain available through September 30, 1988.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

EMERGENCY SHELTER GRANTS PROGRAM

For an additional amount for the emergency shelter grants program carried out by the Department of Housing and Urban Development as authorized in the Homeless Housing Act of 1986 under section 101(g) of Public Law 99-500 and Public Law 99-591, subject to the requirements for such program in the Stewart B. McKinney Homeless Assistance Act (H.R. 558), as provided for in House Report 100-174, $50,000,000, to remain available until expended.

100 Stat. 1783-242, 3341-242.

SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

For an additional amount for the transitional housing demonstration program carried out by the Department of Housing and Urban Development as authorized in the Homeless Housing Act of 1986 under section 101(g) of Public Law 99-500 and Public Law 99-591, subject to the requirements of the supportive housing demonstration program in the Stewart B. McKinney Homeless Assistance Act (H.R. 558), as provided for in House Report 100-174, $80,000,000, to remain available until expended.

SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

For grants for supplemental assistance for facilities to assist the homeless pursuant to the Stewart B. McKinney Homeless Assistance Act (H.R. 558), as provided for in House Report 100-174, $15,000,000, to remain available until expended.

SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is increased by $35,000,000, to remain available until expended: *Provided*, That such amount of budget authority is to be used only to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (H.R. 558), as provided for in House Report 100-174.

42 USC 1437c.
42 USC 1437f.

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY FOOD AND SHELTER PROGRAM

For an additional amount for the "Emergency food and shelter program", as authorized by section 101(g) of Public Law 99-500 and Public Law 99-591, and H.R. 558, the Stewart B. McKinney Homeless Assistance Act, as provided for in House Report 100-174, $10,000,000.

VETERANS ADMINISTRATION

MEDICAL CARE

For an additional amount for "Medical care", $20,000,000, to remain available through September 30, 1988, of which $15,000,000 shall be available for converting to domiciliary-care beds underutilized space located in facilities (in urban areas in which there are significant numbers of homeless veterans) under the jurisdiction of the Administrator of Veterans' Affairs and for furnishing domiciliary care in such beds to eligible veterans, primarily homeless veterans, who are in need of such care, and of which $5,000,000 shall be available, notwithstanding section 2(c) of Public Law 100-6, for furnishing care under section 620C of title 38, United States Code, to homeless veterans who have a chronic mental illness disability: *Provided,* That not more than $500,000 of the amount available in connection with furnishing care under such section 620C shall be used for the purpose of monitoring the furnishing of such care and, in furtherance of such purpose, to maintain an additional 10 full-time-employee equivalents: *Provided further,* That nothing in this paragraph shall result in the diminution of the conversion of hospital-care beds to nursing-home-care beds by the Veterans Administration.

Ante, p. 92.

SHORT TITLE

This title may be cited as the "Urgent Relief for the Homeless Supplemental Appropriations Act of 1987".

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during fiscal year 1987, limiting the amount which may be expended for personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

Drugs and drug abuse.
Government organization and employees.
5 USC 7301 note.
3 CFR, 1986 Comp., p. 224.

SEC. 503. (a)(1) Except as provided in subsection (b) or (c), none of the funds appropriated or made available by this Act, or any other Act, with respect to any fiscal year, shall be available to administer or implement any drug testing pursuant to Executive Order Numbered 12564 (dated September 15, 1986), or any subsequent order, unless and until—

(A) the Secretary of Health and Human Services certifies in writing to the Committees on Appropriations of the House of Representatives and the Senate, and other appropriate committees of the Congress, that—

(i) each agency has developed a plan for achieving a drug-free workplace in accordance with Executive Order Numbered 12564 and applicable provisions of law (including applicable provisions of this section); 3 CFR, 1986 Comp., p. 224.

(ii) the Department of Health and Human Services, in addition to the scientific and technical guidelines dated February 13, 1987, and any subsequent amendments thereto, has, in accordance with paragraph (3), published mandatory guidelines which—

(I) establish comprehensive standards for all aspects of laboratory drug testing and laboratory procedures to be applied in carrying out Executive Order Numbered 12564, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of drug tests and strict procedures governing the chain of custody of specimens collected for drug testing;

(II) specify the drugs for which Federal employees may be tested; and

(III) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform drug testing in carrying out Executive Order Numbered 12564; and

(iii) all agency drug-testing programs and plans established pursuant to Executive Order Numbered 12564 comply with applicable provisions of law, including applicable provisions of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), title 5 of the United States Code, and the mandatory guidelines under clause (ii);

(B) the Secretary of Health and Human Services has submitted to the Congress, in writing, a detailed, agency-by-agency analysis relating to—

(i) the criteria and procedures to be applied in designating employees or positions for drug testing, including the justification for such criteria and procedures;

(ii) the position titles designated for random drug testing; and

(iii) the nature, frequency, and type of drug testing proposed to be instituted; and

(C) the Director of the Office of Management and Budget has submitted in writing to the Committees on Appropriations of the House of Representatives and the Senate a detailed, agency-by-agency analysis (as of the time of certification under subparagraph (A)) of the anticipated annual costs associated with carrying out Executive Order Numbered 12564 and all other requirements under this section during the 5-year period beginning on the date of the enactment of this Act.

(2) Notwithstanding subsection (g), for purposes of this subsection, the term "agency" means—

(A) the Executive Office of the President;

(B) an Executive department under section 101 of title 5, United States Code;

(C) the Environmental Protection Agency;

(D) the General Services Administration;

(E) the National Aeronautics and Space Administration;

(F) the Office of Personnel Management;

(G) the Small Business Administration;

(H) the United States Information Agency; and

(I) the Veterans' Administration;

except that such term does not include the Department of Transportation or any other entity (or component thereof) covered by subsection (b).

Federal Register, publication.
5 USC 500 *et seq.*

(3) Notwithstanding any provision of chapter 5 of title 5, United States Code, the mandatory guidelines to be published pursuant to subsection (a)(1)(A)(ii) shall be published and made effective exclusively according to the provisions of this paragraph. Notice of the mandatory guidelines proposed by the Secretary of Health and Human Services shall be published in the Federal Register, and interested persons shall be given not less than 60 days to submit written comments on the proposed mandatory guidelines. Following review and consideration of written comments, final mandatory guidelines shall be published in the Federal Register and shall become effective upon publication.

(b)(1) Nothing in subsection (a) shall limit or otherwise affect the availability of funds for drug testing by—

(A) the Department of Transportation;

(B) Department of Energy, for employees specifically involved in the handling of nuclear weapons or nuclear materials;

(C) any agency with an agency-wide drug-testing program in existence as of September 15, 1986; or

(D) any component of an agency if such component had a drug-testing program in existence as of September 15, 1986.

(2) The Departments of Transportation and Energy and any agency or component thereof with a drug-testing program in existence as of September 15, 1986—

3 CFR, 1986 Comp., p. 224.

(A) shall be brought into full compliance with Executive Order Numbered 12564 no later than the end of the 6-month period beginning on the date of the enactment of this Act; and

(B) shall take such actions as may be necessary to ensure that their respective drug-testing programs or plans are brought into full compliance with the mandatory guidelines published under subsection (a)(1)(A)(ii) no later than 90 days after such mandatory guidelines take effect, except that any judicial challenge that affects such guidelines should not affect drug-testing programs or plans subject to this paragraph.

(c) In the case of an agency (or component thereof) other than an agency as defined by subsection (a)(2) or an agency (or component thereof) covered by subsection (b), none of the funds appropriated or made available by this Act, or any other Act, with respect to any fiscal year, shall be available to administer or implement any drug testing pursuant to Executive Order Numbered 12564, or any subsequent order, unless and until—

(1) the Secretary of Health and Human Services provides written certification with respect to that agency (or component) in accordance with clauses (i) and (iii) of subsection (a)(1)(A);

(2) the Secretary of Health and Human Services has submitted a written, detailed analysis with respect to that agency (or component) in accordance with subsection (a)(1)(B); and

(3) the Director of the Office of Management and Budget has submitted a written, detailed analysis with respect to that agency (or component) in accordance with subsection (a)(1)(C).

(d) Any Federal employee who is the subject of a drug test under any program or plan shall, upon written request, have access to—

(1) any records relating to such employee's drug test; and

(2) any records relating to the results of any relevant certification, review, or revocation-of-certification proceedings, as referred to in subsection (a)(1)(A)(ii)(III).

(e) The results of a drug test of a Federal employee may not be disclosed without the prior written consent of such employee, unless the disclosure would be—

Classified information.

(1) to the employee's medical review official (as defined in the scientific and technical guidelines referred to in subsection (a)(1)(A)(ii));

(2) to the administrator of any Employee Assistance Program in which the employee is receiving counseling or treatment or is otherwise participating;

(3) to any supervisory or management official within the employee's agency having authority to take the adverse personnel action against such employee; or

(4) pursuant to the order of a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.

(f) Each agency covered by Executive Order Numbered 12564 shall submit to the Committees on Appropriations of the House of Representatives and the Senate, and other appropriate committees of the Congress, an annual report relating to drug-testing activities conducted by such agency pursuant to such executive order. Each such annual report shall be submitted at the time of the President's budget submission to the Congress under section 1105(a) of title 31, United States Code.

Reports.
3 CFR, 1986 Comp., p. 224.

(g) For purposes of this section, the terms "agency" and "Employee Assistance Program" each has the meaning given such term under section 7(b) of Executive Order Numbered 12564, as in effect on September 15, 1986.

SEC. 504. None of the funds appropriated by this Act may be obligated for the centralization, consolidation, or redeployment of the Customs Service Air Operations unless the Secretary of the Treasury submits a report to the Committees on Appropriations which sets forth specific details for the use of such funds thirty days in advance of such implementation.

SEC. 505. None of the funds appropriated or made available by this or any other Act or otherwise appropriated or made available to the Secretary of Transportation or the Maritime Administrator for purposes of administering the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101 et seq.), shall be used by the United States Department of Transportation or the United States Maritime Administration to propose, promulgate, or implement any rule or regulation, or, with regard to vessels which repaid subsidy pursuant to the rule promulgated by the Secretary May 3, 1985 and vacated by Order of the U.S. Court of Appeals for the D.C. Circuit January 16, 1987, conduct any adjudicatory or other regulatory proceeding, execute or perform any contract, or participate in any judicial action with respect to the repayment of construction differential subsidy for the permanent release of vessels from the restrictions in section 506 of the Merchant Marine Act, 1936, as amended: *Provided*, That such funds may be used to the extent such expenditure relates to a rule which conforms to statutory standards hereafter enacted by Congress.

Vessels.

46 USC 1156.

SEC. 506. Notwithstanding any other provision of this Act, appropriations made by title I of this Act for the following account shall be as follows:

Immigration and Naturalization Service, Salaries and Expenses, $137,216,000.

100 Stat. 1783-56, 3341-56.

SEC. 507. Section 208(a) of the Department of Justice Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591) is hereby repealed.

Arms and munitions.

SEC. 508. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than:

(1) countries which are members of NATO, or

(2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987.

22 USC 2767a.

Energy. Washington.

SEC. 509. None of the funds made available by this or any other Act may be used for the purpose of restarting the N-Reactor at the Hanford Reservation, Washington during fiscal year 1987. For the purposes of this paragraph the term "restarting" shall mean any activity related to the operation of the N-Reactor that would achieve criticality, generate fission products within the reactor or discharge cooling water from nuclear operations: *Provided*, That this provision does not require a change in the current fuel status of the reactor.

SEC. 510. None of the funds appropriated by this or any other Act shall be available for the purpose of relocating the headquarters of the Peace Corps to office space outside of the District of Columbia.

SEC. 511. None of the funds appropriated or otherwise made available in title III of this Act may be used for purposes other than for Federal Employees Retirement System costs authorized by or pursuant to the Federal Employees Retirement System Act of 1986 (Public Law 99-335). Notwithstanding any other provision of this Act, any funds provided in title III of this Act not utilized by September 30, 1987, for agency contributions prescribed by the Federal Employees Retirement System Act of 1986 (Public Law 99-335) shall lapse.

5 USC 8401 note.

Angola.

SEC. 512. (a) The Congress finds that—

(1) the people of Angola have suffered under colonial domination for centuries;

(2) the Portuguese promise of independence and free elections for Angola embodied in the Alvor Accord of 1975 was nullified when the Marxist Popular Movement for the Liberation of Angola (hereafter in this resolution referred to as the "MPLA") illegally and militarily seized power with the support of Soviet and Cuban troops;

(3) the Marxist regime in Angola has continually denied the most basic human rights to the people of Angola since 1975 culminating in one of the worst human rights records reported by the Department of State, as described in the report entitled "Country Reports on Human Rights Practices for 1986";

(4) the Marxist regime in Angola has allowed the country of Angola to become a Soviet base for aggression and subversion in southern Africa, including the expansion of a Soviet naval port, the presence of 35,000 Cuban troops, and the influx of $4,000,000,000 in Soviet weaponry;

(5) the naval port facilities in Angola pose serious potential threats to United States naval interests in the Atlantic and around the Cape of Good Hope;

(6) the Soviets and Cubans have engaged in the most blatant foreign intervention in post-colonial history of Africa, and the MPLA is hostage to these foreign forces as evidenced by the fact that the MPLA had the worst anti-United States voting record in the United Nations last year;

(7) the MPLA government of Angola in 1986 obtained 90 percent of its foreign exchange from the extraction and production of oil with the assistance of American companies;

(8) most Angola's oil is extracted in Cabinda Province, where 65 percent of it is extracted by an American oil company;

(9) United States business interests are in direct conflict with overall United States foreign policy and national security objectives in aiding the MPLA government;

(10) the United States currently refuses to recognize the Marxist government of the MPLA;

(11) representatives of the Government of Portugal's three main political parties have recently visited the liberated territory and will soon announce a commission to promote national reconciliation in Angola;

(12) the United States has an obligation to encourage peace, freedom, and democracy and to condemn tyranny where it may exist; and

(13) the growing intensity of war, the mounting suffering of the Angolan people, the growing presence of communist forces in Angola, and the failure of the MPLA to respond to diplomatic initiatives gives new urgency to efforts to reach a peaceful settlement.

(b) It is the sense of the Congress that the United States, so long as Soviet and Cuban military forces occupy Angola, should encourage peace and national reconciliation in Angola through a negotiated settlement to the eleven-year military conflict and stress the holding of free and fair elections as outlined in the 1975 Alvor Agreement through—

(1) continued multilateral initiatives designed to support Soviet and Cuban withdrawal and a negotiated peaceful settlement acceptable to the people of Angola; and

(2) consistent efforts by the President and the Secretary of State to convey to the Soviet leadership that continued military build-up and presence in Angola directly hinders future positive relationships with the American people and the United States Congress.

(c) The Congress hereby requests the President to use his special authorities under the Export Administration Act to block United States business transactions which conflict with United States security interests in Angola.

(d) It is further the sense of the Congress that the Secretary of State should—

(1) review the United States policy with respect to the United States refusal to recognize the Marxist MPLA government, the abysmal human rights record of the MPLA government (as reported by the Department of State), and the worst 1985 voting record supporting United States interests in the United Nations; and

(2) prepare and transmit to the Congress a report containing the findings of the review required by paragraph (1), together with a determination as to whether it is in the United States Reports.

interest to continue under the current trade and business policy with respect to Angola.

Medicare.

SEC. 513. None of the funds made available by this or any other Act for fiscal year 1987 for Health Care Financing Administration Program Management activities shall be used to promulgate or enforce any rule, regulation, instruction, or other policy having the effect of establishing a mandatory holding of Medicare claims processing or payments.

SEC. 514. It is the sense of the Congress that no funds provided under this Act may be used for the payment of severance pay to any employee of the International Bank for Reconstruction and Development (World Bank).

SEC. 515. (a) In addition to amounts appropriated in this Act, there are appropriated to the Centers for Disease Control for "Disease control, research, and training", $27,000,000.

5 USC 5701 *et seq.*

(b)(1) In the cases of all appropriations accounts from which expenses for travel, transportation, and subsistence (including per diem allowances) are paid under chapter 57 of title 5, United States Code, there are hereby prohibited to be obligated under such accounts in fiscal year 1987 a uniform percentage of such amounts, as determined by the President in accordance with the provisions of paragraph (2), as, but for this subsection, would—

(A) be available for obligation in such accounts as of June 1, 1987,

(B) be planned to be obligated for such expenses after such date during fiscal year 1987, and

(C) result in total outlays of $18 million in fiscal year 1987.

(2) Before making determinations under paragraph (1), the President shall obtain from the Director of the Office of Management and Budget and the Comptroller General of the United States recommendations for determinations with respect to (A) the identification of the accounts affected, (B) the amount in each such account available as of such date for obligation, (C) the amounts planned to be obligated for such expenses after such date in fiscal year 1987, and (D) the uniform percentage by which such amounts need to be reduced in order to comply with paragraph (1).

President of U.S.
Reports.

(c) Within 30 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report specifying the determinations of the President under subsection (b).

(d) Sections 1341(a) and 1517 of title 31, United States Code, apply to each account for which a determination is made by the President under subsection (b).

Schools and colleges.
District of Columbia.

SEC. 516. The matter under the heading "Public Education System" in title I of the District of Columbia Appropriations Act, 1987 (Public Law 99-591; 100 Stat. 3341-184) is amended by striking out "*Provided further*, That of the amount made available to the University of the District of Columbia, $1,146,000 shall be used solely for the operation of the Antioch School of Law: *Provided further*, That acquisition or merger of the Antioch School of Law shall have been previously approved by both the Board of Trustees of the University of the District of Columbia and the Council of the District of Columbia, and that the Council shall have issued its approval by resolution: *Provided further*, That if the Council of the District of Columbia or the Board of Trustees of the University of the District of Columbia fails to approve the acquisition or merger of the Antioch School of Law, the $1,146,000 shall be used solely for the repayment of the general fund deficit." and inserting in lieu thereof

"*Provided further,* That $1,146,000 shall be used solely for the operation of the District of Columbia School of Law and which shall remain available until expended: *Provided further,* That acquisition or merger of the Antioch School of Law shall have been previously approved by the Council of the District of Columbia: *Provided further,* That the interim Board of Governors of the District of Columbia School of Law shall report, by October 1, 1987 to the Mayor of the District of Columbia, the Council of the District of Columbia, and the Appropriations Committees of the Senate and House of Representatives on the anticipated operating and capital expenses of the District of Columbia School of Law as created by District of Columbia Law 6-177, for the next five years: *Provided further,* That the aforementioned report shall also include a statement from the American Bar Association on the current status of the accreditation proposal for the District of Columbia School of Law, as created by District of Columbia Law 6-177, as amended: *Provided further,* That if the Council of the District of Columbia fails to approve the acquisition or merger of the Antioch School of Law, the $1,146,000 shall be used solely for the repayment of the general fund deficit.".

Reports.

SEC. 517. It is the sense of the Congress that the Commodity Credit Corporation in implementing regulations to establish the percentage share or metric tonnage of commodities under subparagraph (B) of section 901b(c)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1241f(c)(2)(B)) should respect the intent as well as the letter of the agreement entered into by and between the representatives of Great Lakes ports and Gulf ports, and that so far as practicable, Great Lakes ports be accorded the full proportion of tonnage contemplated thereby.

President of U.S.
Diseases.
8 USC 1182.

SEC. 518. On or before August 31, 1987, the President, pursuant to his existing power under section 212(a)(6) of the Immigration and Nationality Act, shall add human immunodeficiency virus infection to the list of dangerous contagious diseases contained in title 42 of the Code of Federal Regulations.

SEC. 519. (a) Subtitle C of title XVII of the Food Security Act of 1985 (7 U.S.C. 5001 et seq.) is amended—

7 USC 5001 note.

(1) by striking out "National Agricultural Policy Commission Act of 1985" each place it appears in the subtitle heading and section 1721 (7 U.S.C. 5001) and inserting in lieu thereof "National Commission on Agriculture and Rural Development Policy Act of 1985"; and

(2) by striking out "National Commission on Agricultural Policy" each place it appears in sections 1722(1) and 1723(a) (7 U.S.C. 5001(1) and 5002(a)) and inserting in lieu thereof "National Commission on Agriculture and Rural Development Policy".

(b) Notwithstanding section 501(e) of the Farm Credit Amendments Act of 1985 (12 U.S.C. 2001 note), there is authorized and appropriated—

(1) for the National Commission on Agricultural Finance established under such section, $100,000, to remain available until expended; and

(2) for the National Commission on Agriculture and Rural Development established under section 1723 of the Food Security Act of 1985 (7 U.S.C. 5002), $100,000, to remain available until expended.

This Act may be cited as the "Supplemental Appropriations Act, 1987".

Approved July 11, 1987.

LEGISLATIVE HISTORY—H.R. 1827:

HOUSE REPORTS: No. 100-28 (Comm. on Appropriations) and No. 100-195 (Comm. of Conference).
SENATE REPORTS: No. 100-48 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Apr. 23, considered and passed House.
  May 7, 8, 12, 20, 21, 27-29, June 2, considered and passed Senate, amended.
  June 30, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
  July 1, Senate agreed to conference report; concurred in certain House amendments; receded and concurred in another.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
  July 11, Presidential statement.

○

Public Law 100-72
100th Congress

An Act

To amend the Small Business Act and the Small Business Investment Act of 1958. July 11, 1987 [H.R. 2166]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20 of the Small Business Act is hereby amended as follows: 15 USC 631 note.

(a) by striking from paragraph (4) of subsection (y) "$1,142,000,000" and by inserting in lieu thereof "$1,250,000,000";

(b) by striking from subsection (z) "$409,000,000" and inserting in lieu thereof "$393,000,000"; and

(c) by inserting after "1958;" in subsection (z) the following: "$16,000,000 shall be available to carry out the provisions of sections 404 and 405 of the Small Business Investment Act of 1958;". 15 USC 694-1, 694-2.

SEC. 2. Section 504 of the Small Business Investment Act of 1958 is amended as follows: 15 USC 697a.

(a) by striking "and" at the end of subsection (a)(1);

(b) by striking "$295,000,000." and by inserting in lieu thereof "$425,000,000; and"; and

(c) by adding the following new paragraph at the end of subsection (a):

"(3) of the program levels otherwise authorized by law for fiscal year 1988, an amount not to exceed $425,000,000.".

Approved July 11, 1987.

LEGISLATIVE HISTORY—H.R. 2166:

HOUSE REPORTS: No. 100-94 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 133 (1987):
May 27, considered and passed House.
June 25, considered and passed Senate.

○

91-139 O - 87 (72)

Public Law 100-73
100th Congress

Joint Resolution

July 15, 1987
[S.J. Res. 138]

To designate the period commencing on July 13, 1987, and ending on July 26, 1987, as "U.S. Olympic Festival-'87 Celebration", and to designate July 17, 1987, as "U.S. Olympic Festival-'87 Day".

Whereas thousands of American athletes participate annually in the Olympic movement all over the world;

Whereas United States Olympic Festival competitions enable each American athlete to promote amateur athletics, refine athletic skills in Olympic-type competitions, and generate camaraderie among potential Olympic athletes;

Whereas the past eight years have marked monumental strides in the development of the Olympic Festival movement;

Whereas the International Olympic Games are held every four years and are the culmination of athletic skill and prowess after countless hours of work and preparation;

Whereas U.S. Olympic Festival-'87 will take place beginning July 13, 1987, and ending on July 26, 1987, in Raleigh, Durham, Chapel-Hill, Cary, and Greensboro, North Carolina, and will host 4,000 athletes, trainers and coaches, 7,000 volunteers, and over 300,000 spectators;

Whereas U.S. Olympic Festival-'87 is the premier event of the United States Olympic Committee; and

Whereas American athletes will compete in over 34 sports in a display of skill and unity which signifies American unity and exemplifies the spirit of the Olympic movement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on July 13, 1987, and ending on July 26, 1987, is designated as "U.S. Olympic Festival-'87 Celebration", and July 17, 1987, is designated as "U.S. Olympic Festival-'87 Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such period and day with appropriate programs, ceremonies, and activities.

Approved July 15, 1987.

LEGISLATIVE HISTORY—S.J. Res. 138:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
July 9, considered and passed House.

○

91-139 O - 87 (73)

Public Law 100-74
100th Congress

An Act

To designate the Federal Building and United States Courthouse at 316 North Robert Street, St. Paul, Minnesota, as the "Warren E. Burger Federal Building and United States Courthouse".

July 17, 1987
[H.R. 436]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building and United States Courthouse located at 316 North Robert Street, St. Paul, Minnesota, shall be known and designated as the "Warren E. Burger Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Each reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Warren E. Burger Federal Building and United States Courthouse".

Approved July 17, 1987.

LEGISLATIVE HISTORY—H.R. 436 (S. 1337):

HOUSE REPORTS: No. 100-129 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 15, considered and passed House.
July 1, considered and passed Senate.

○

91-139 O - 87 (74)

Public Law 100-75
100th Congress

Joint Resolution

July 20, 1987
[S.J. Res. 85]

To designate the period commencing on August 2, 1987, and ending on August 8, 1987, as "International Special Olympics Week", and to designate August 3, 1987, as "International Special Olympics Day".

Whereas nearly one million mentally handicapped individuals participate annually in Special Olympics events all over the world;

Whereas Special Olympics competition enables each athlete to form a healthy self-image with which to build a positive working environment for the home and job;

Whereas the past two decades have marked monumental milestones in the care, training, and skills of Special Olympians;

Whereas the International Summer Special Olympic Games, held every four years, are the culmination of 20,000 communities competing in Special Olympics around the world;

Whereas the 1987 VII International Summer Special Olympic Games from July 31, to August 8, in South Bend, Indiana, will host 6,000 athletes, 15,000 volunteers, and thousands of guests from 65 countries and the United States and its territories and possessions;

Whereas these International Games will be the largest worldwide amateur sporting event of 1987; and

Whereas both mentally handicapped children and adults will compete in over 13 official and demonstration sports in a true display of unity which signifies the spirit of the International Summer Special Olympic Games: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on August 2, 1987, and ending on August 8, 1987, is designated as "International Special Olympics Week", and August 3, 1987, is designated as "International Special Olympics Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such period and day with appropriate programs, ceremonies, and activities.

Approved July 20, 1987.

LEGISLATIVE HISTORY—S.J. Res. 85:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 20, considered and passed Senate.
July 9, considered and passed House.

○

Public Law 100-76
100th Congress

Joint Resolution

To designate the week beginning July 16, 1987, as "Snow White Week".

July 21, 1987
[H.J. Res. 122]

Whereas a classic film "Snow White and the Seven Dwarfs" was released 50 years ago;

Whereas "Snow White and the Seven Dwarfs" marked a milestone in motion picture history as the first full-length animated feature film;

Whereas the art of animation reached exciting new heights with "Snow White and the Seven Dwarfs";

Whereas "Snow White and the Seven Dwarfs" was the first original soundtrack recording ever released;

Whereas "Snow White and the Seven Dwarfs" set a new standard for the integration of musical numbers with action scenes in a movie musical;

Whereas "Snow White and the Seven Dwarfs" won a special Academy Award as a "significant screen innovation which has charmed millions and pioneered a great new entertainment field for the motion picture cartoon": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 16, 1987, is designated as "Snow White Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to celebrate the week with appropriate ceremonies and activities.

Approved July 21, 1987.

LEGISLATIVE HISTORY—H.J. Res. 122 (S.J. Res. 140):

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 24, considered and passed House.
July 15, considered and passed Senate, amended. House concurred in Senate amendments.

○

PUBLIC LAW 100-77—JULY 22, 1987

STEWART B. McKINNEY HOMELESS ASSISTANCE ACT

Public Law 100-77
100th Congress

An Act

July 22, 1987
[H.R. 558]

To provide urgently needed assistance to protect and improve the lives and safety of the homeless, with special emphasis on elderly persons, handicapped persons, and families with children.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Stewart B. McKinney Homeless Assistance Act.
Disadvantaged persons.
42 USC 11301 note.

TITLE I—GENERAL PROVISIONS

SECTION 101. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Stewart B. McKinney Homeless Assistance Act".

(b) Table Of Contents.—

TITLE I—GENERAL PROVISIONS

Sec. 101. Short title and table of contents.
Sec. 102. Findings and purpose.
Sec. 103. General definition of homeless individual.
Sec. 104. Funding availability and limitations.
Sec. 105. Audits by Comptroller General.

TITLE II—INTERAGENCY COUNCIL ON THE HOMELESS

Sec. 201. Establishment.
Sec. 202. Membership.
Sec. 203. Functions.
Sec. 204. Director and staff.
Sec. 205. Powers.
Sec. 206. Transfer of functions.
Sec. 207. Definitions.
Sec. 208. Authorization of appropriations.
Sec. 209. Termination.

TITLE III—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

Subtitle A—Administrative Provisions

Sec. 301. Emergency Food and Shelter Program National Board.
Sec. 302. Local boards.
Sec. 303. Role of Federal Emergency Management Agency.
Sec. 304. Records and audit of National Board and recipients of assistance.
Sec. 305. Annual report.

Subtitle B—Emergency Food and Shelter Grants

Sec. 311. Grants by the Director.
Sec. 312. Retention of interest earned.
Sec. 313. Purposes of grants.
Sec. 314. Limitation on certain costs.
Sec. 315. Disbursement of funds.
Sec. 316. Program guidelines.

Subtitle C—General Provisions

Sec. 321. Definitions.
Sec. 322. Authorization of appropriations.

TITLE IV—HOUSING ASSISTANCE

Subtitle A—Comprehensive Homeless Assistance Plan

Sec. 401. Requirement for comprehensive homeless assistance plan.

Subtitle B—Emergency Shelter Grants Program

Sec. 411. Definitions.
Sec. 412. Grant assistance.
Sec. 413. Allocation and distribution of assistance.
Sec. 414. Eligible activities.
Sec. 415. Responsibilities of recipients.
Sec. 416. Administrative provisions.
Sec. 417. Authorization of appropriations.

Subtitle C—Supportive Housing Demonstration Program

Sec. 421. Establishment of demonstration program.
Sec. 422. Definitions.
Sec. 423. Types of assistance.
Sec. 424. Program requirements.
Sec. 425. Matching funds requirements.
Sec. 426. Guidelines.
Sec. 427. Report to Congress.
Sec. 428. Authorization of appropriations.

Subtitle D—Supplemental Assistance for Facilities To Assist the Homeless

Sec. 431. Definitions.
Sec. 432. Supplemental assistance.
Sec. 433. Regulations.
Sec. 434. Authorization of appropriations.

Subtitle E—Miscellaneous Provisions

Sec. 441. Section 8 assistance for single room occupancy dwellings.
Sec. 442. Community development block grant amendment.

TITLE V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY

Sec. 501. Use of underutilized public buildings and property for facilities to assist the homeless.
Sec. 502. Making surplus personal property available to nonprofit agencies.

TITLE VI—HEALTH CARE FOR THE HOMELESS

Subtitle A—Primary Health Services and Substance Abuse Services

Sec. 601. Establishment of grant program.
Sec. 602. Provision of health services to the homeless by national health service corps.
Sec. 603. Requirement of certain study with respect to homelessness.

Subtitle B—Community Mental Health Services

Sec. 611. Establishment of block grant program for services to homeless individuals who are chronically mentally ill.
Sec. 612. Community mental health services demonstration projects for homeless individuals who are chronically mentally ill.
Sec. 613. Community demonstration projects for alcohol and drug abuse treatment of homeless individuals.

TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

Subtitle A—Adult Education for the Homeless

Sec. 701. Amendment to Adult Education Act.
Sec. 702. Statewide literacy initiatives.

Subtitle B—Education for Homeless Children and Youth

Sec. 721. Statement of policy.
Sec. 722. Grants for State activities for the education of homeless children and youth.
Sec. 723. Exemplary grants and dissemination of information activities authorized.
Sec. 724. National responsibilities.
Sec. 725. Definitions.

Subtitle C—Job Training for the Homeless

Sec. 731. Demonstration program authorized.
Sec. 732. State coordination with demonstration grant recipients.
Sec. 733. Application.
Sec. 734. Authorized activities.
Sec. 735. Payments; Federal share; limitation.
Sec. 736. Evaluation.
Sec. 737. Definitions.
Sec. 738. Homeless veterans' reintegration projects.
Sec. 739. Authorization of appropriations; availability of funds.
Sec. 740. Amendments to the Job Training Partnership Act.
Sec. 741. Termination.

Subtitle D—Emergency Community Services Homeless Grant Program

Sec. 751. Establishment of program.
Sec. 752. Allocation of grants.
Sec. 753. Program requirements.
Sec. 754. Authorization of appropriations.

Subtitle E—Miscellaneous Provisions

Sec. 761. Study of youth homelessness.
Sec. 762. Set-asides for Native Americans.

TITLE VIII—FOOD ASSISTANCE FOR THE HOMELESS

Subtitle A—Food Stamp Program

Sec. 801. Definition of homeless individual.
Sec. 802. Definition of household.
Sec. 803. Annual adjustment of income eligibility standards.
Sec. 804. Annual adjustments to the standard deduction.
Sec. 805. Ineligibility for earned income deduction.
Sec. 806. Excess shelter expense.
Sec. 807. Third party payments for certain housing.
Sec. 808. Food stamp information for the homeless.
Sec. 809. Expedited food stamp service.

Subtitle B—Temporary Emergency Food Assistance Program (TEFAP)

Sec. 811. Variety of commodities under TEFAP.
Sec. 812. Distribution of surplus flour, cornmeal, and cheese.
Sec. 813. Authorization of appropriations for food storage and distribution costs under TEFAP.
Sec. 814. Continuation of TEFAP.

TITLE IX—VETERANS' PROVISIONS

Sec. 901. Extension of Veterans' Job Training Act.

42 USC 11301.

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Nation faces an immediate and unprecedented crisis due to the lack of shelter for a growing number of individuals and families, including elderly persons, handicapped persons, families with children, Native Americans, and veterans;

(2) the problem of homelessness has become more severe and, in the absence of more effective efforts, is expected to become dramatically worse, endangering the lives and safety of the homeless;

(3) the causes of homelessness are many and complex, and homeless individuals have diverse needs;

(4) there is no single, simple solution to the problem of homelessness because of the different subpopulations of the homeless, the different causes of and reasons for homelessness, and the different needs of homeless individuals;

(5) due to the record increase in homelessness, States, units of local government, and private voluntary organizations have been unable to meet the basic human needs of all the homeless

and, in the absence of greater Federal assistance, will be unable to protect the lives and safety of all the homeless in need of assistance; and

(6) the Federal Government has a clear responsibility and an existing capacity to fulfill a more effective and responsible role to meet the basic human needs and to engender respect for the human dignity of the homeless.

(b) PURPOSE.—It is the purpose of this Act—

(1) to establish an Interagency Council on the Homeless;

(2) to use public resources and programs in a more coordinated manner to meet the critically urgent needs of the homeless of the Nation; and

(3) to provide funds for programs to assist the homeless, with special emphasis on elderly persons, handicapped persons, families with children, Native Americans, and veterans.

SEC. 103. GENERAL DEFINITION OF HOMELESS INDIVIDUAL.

42 USC 11302.

(a) IN GENERAL.—For purposes of this Act, the term "homeless" or "homeless individual" includes—

(1) an individual who lacks a fixed, regular, and adequate nighttime residence; and

(2) an individual who has a primary nighttime residence that is—

(A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(B) an institution that provides a temporary residence for individuals intended to be institutionalized; or

(C) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(b) INCOME ELIGIBILITY.—A homeless individual shall be eligible for assistance under any program provided by this Act, or by the amendments made by this Act, only if the individual complies with the income eligibility requirements otherwise applicable to such program.

(c) EXCLUSION.—For purposes of this Act, the term "homeless" or "homeless individual" does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

SEC. 104. FUNDING AVAILABILITY AND LIMITATIONS.

42 USC 11303.

(a) CALCULATION.—The amounts authorized in this Act shall be in addition to any amount appropriated for the programs involved before the date of the enactment of this Act.

(b) AVAILABILITY UNTIL EXPENDED.—Any amount appropriated under an authorization in this Act shall remain available until expended.

(c) LIMITATION.—Appropriations pursuant to the authorizations in this Act shall be made in accordance with the provisions of the Congressional Budget and Impoundment Control Act of 1974, which prohibits the consideration of any bill that would cause the deficit to exceed the levels established by the Balanced Budget and Emergency Deficit Control Act of 1985, such that it shall not increase the deficit of the Federal Government for fiscal year 1987.

2 USC 621 note.

2 USC 901 note.

Reports.
42 USC 11304.

SEC. 105. AUDITS BY COMPTROLLER GENERAL.

The Comptroller General of the United States shall evaluate the disbursement and use of the amounts made available by appropriation Acts under the authorizations in titles III and IV, and submit a report to the Congress setting forth the findings of such evaluation, upon the expiration of the 4-month and 12-month periods beginning on the date of the enactment of this Act.

TITLE II—INTERAGENCY COUNCIL ON THE HOMELESS

42 USC 11311.

SEC. 201. ESTABLISHMENT.

There is established in the executive branch an independent establishment to be known as the Interagency Council on the Homeless.

42 USC 11312.

SEC. 202. MEMBERSHIP.

(a) MEMBERS.—The Council shall be composed of the following members:

(1) The Secretary of Agriculture, or the designee of the Secretary.

(2) The Secretary of Commerce, or the designee of the Secretary.

(3) The Secretary of Defense, or the designee of the Secretary.

(4) The Secretary of Education, or the designee of the Secretary.

(5) The Secretary of Energy, or the designee of the Secretary.

(6) The Secretary of Health and Human Services, or the designee of the Secretary.

(7) The Secretary of Housing and Urban Development, or the designee of the Secretary.

(8) The Secretary of the Interior, or the designee of the Secretary.

(9) The Secretary of Labor, or the designee of the Secretary.

(10) The Secretary of Transportation, or the designee of the Secretary.

(11) The Director of the ACTION Agency, or the designee of the Director.

(12) The Director of the Federal Emergency Management Agency, or the designee of the Director.

(13) The Administrator of General Services, or the designee of the Administrator.

(14) The Postmaster General of the United States, or the designee of the Postmaster General.

(15) The Administrator of Veterans' Affairs, or the designee of the Administrator.

(16) The heads of such other Federal agencies as the Council considers appropriate, or their designees.

(b) CHAIRPERSON.—The Council shall elect a Chairperson and a Vice Chairperson from among its members.

(c) MEETINGS.—The Council shall meet at the call of its Chairperson or a majority of its members. The first meeting of the Council shall be held not later than 30 days after the date of the enactment of this Act.

(d) PROHIBITION OF ADDITIONAL PAY.—Members of the Council shall receive no additional pay, allowances, or benefits by reason of their service on the Council.

SEC. 203. FUNCTIONS.

42 USC 11313.

(a) DUTIES.—The Council shall—

(1) review all Federal activities and programs to assist homeless individuals;

(2) take such actions as may be necessary to reduce duplication among programs and activities by Federal agencies to assist homeless individuals;

State and local governments.

(3) monitor, evaluate, and recommend improvements in programs and activities to assist homeless individuals conducted by Federal agencies, State and local governments, and private voluntary organizations;

State and local governments.

(4) provide professional and technical assistance, through personnel employed by the Council in each of the 10 standard Federal regions, to States, local governments, and other public and private nonprofit organizations, in order to enable such governments and organizations to—

(A) effectively coordinate and maximize resources of existing programs and activities to assist homeless individuals; and

(B) develop new and innovative programs and activities to assist homeless individuals;

Public information.

(5) collect and disseminate information relating to homeless individuals; and

Reports.

(6) prepare the annual reports required in subsection (c)(2).

(b) AUTHORITY.—In carrying out subsection (a), the Council may—

(1) arrange Federal, regional, State, and local conferences for the purpose of developing and coordinating effective programs and activities to assist homeless individuals; and

(2) publish a newsletter concerning Federal, State, and local programs that are effectively meeting the needs of homeless individuals.

(c) REPORTS.—

(1) Within 90 days after the date of the enactment of this Act, and annually thereafter, the head of each Federal agency that is a member of the Council shall prepare and transmit to the Congress and the Council a report that describes—

(A) each program to assist homeless individuals administered by such agency and the number of homeless individuals served by such program;

(B) impediments, including any statutory and regulatory restrictions, to the use by homeless individuals of each such program and to obtaining services or benefits under each such program; and

(C) efforts made by such agency to increase the opportunities for homeless individuals to obtain shelter, food, and supportive services.

(2) The Council shall prepare and transmit to the President and the Congress an annual report that—

(A) assesses the nature and extent of the problems relating to homelessness and the needs of homeless individuals;

(B) provides a comprehensive and detailed description of the activities and accomplishments of the Federal Government in resolving the problems and meeting the needs assessed pursuant to subparagraph (A);

State and local governments.

(C) describes the accomplishments and activities of the Council, in working with Federal, State, and local agencies and public and private organizations in order to provide assistance to homeless individuals;

(D) assesses the level of Federal assistance necessary to adequately resolve the problems and meet the needs assessed pursuant to subparagraph (A); and

(E) specifies any recommendations of the Council for appropriate and necessary legislative and administrative actions to resolve such problems and meet such needs.

(d) NOTIFICATION OF OTHER FEDERAL AGENCIES.—If, in monitoring and evaluating programs and activities to assist homeless individuals conducted by other Federal agencies, the Council determines that any significant problem, abuse, or deficiency exists in the administration of the program or activity of any Federal agency, the Council shall submit a notice of the determination of the Council to the Inspector General of the Federal agency (or the head of the Federal agency, in the case of a Federal agency that has no Inspector General).

42 USC 11314.

SEC. 204. DIRECTOR AND STAFF.

Wages.

(a) DIRECTOR.—The Council shall appoint an Executive Director, who shall be compensated at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code. The Council shall appoint an Executive Director at the first meeting of the Council held under section 202(c).

(b) ADDITIONAL PERSONNEL.—With the approval of the Council, the Executive Director of the Council may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Council.

(c) DETAILS FROM OTHER AGENCIES.—Upon request of the Council, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title. Upon request of the Council, the Secretary of Health and Human Services shall detail, on a reimbursable basis, any of the personnel of the Department of Health and Human Services who have served the Federal Task Force on the Homeless of the Department to assist the Council in carrying out its duties under this title.

(d) ADMINISTRATIVE SUPPORT.—The Secretary of Housing and Urban Development shall provide the Council with such administrative and support services as are necessary to ensure that the Council carries out its functions under this title in an efficient and expeditious manner.

(e) EXPERTS AND CONSULTANTS.—With the approval of the Council, the Executive Director of the Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

42 USC 11315.

SEC. 205. POWERS.

(a) MEETINGS.—For the purpose of carrying out this title, the Council may hold such meetings, and sit and act at such times and places, as the Council considers appropriate.

(b) DELEGATION.—Any member or employee of the Council may, if authorized by the Council, take any action that the Council is authorized to take in this title.

(c) INFORMATION.—The Council may secure directly from any Federal agency such information as may be necessary to enable the Council to carry out this title. Upon request of the Chairperson of the Council, the head of such agency shall furnish such information to the Council.

Gifts and property.

(d) DONATIONS.—The Council may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 206. TRANSFER OF FUNCTIONS.

42 USC 11316.

(a) TRANSFERS FROM HHS TASK FORCE.—The Council shall be the successor to the Federal Task Force on the Homeless of the Department of Health and Human Services. The property, records, and undistributed program funds of the Task Force shall be transferred to the Council.

(b) TERMINATION OF HHS TASK FORCE.—The Secretary of Health and Human Services shall terminate the Federal Task Force on the Homeless of the Department of Health and Human Services as soon as practicable following the first meeting of the Council.

SEC. 207. DEFINITIONS.

42 USC 11317.

For purposes of this title:

(1) The term "Council" means the Interagency Council on the Homeless established in section 201.

(2) The term "Federal agency" has the meaning given the term "agency" in section 551(1) of title 5, United States Code.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

42 USC 11318.

There are authorized to be appropriated to carry out this title $200,000 for fiscal year 1987 and $2,500,000 for fiscal year 1988.

SEC. 209. TERMINATION.

42 USC 11319.

The Council shall cease to exist, and the requirements of this title shall terminate, upon the expiration of the 3-year period beginning on the date of the enactment of this Act.

TITLE III—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

Subtitle A—Administrative Provisions

SEC. 301. EMERGENCY FOOD AND SHELTER PROGRAM NATIONAL BOARD.

42 USC 11331.

(a) ESTABLISHMENT.—There is established to carry out the provisions of this title the Emergency Food and Shelter Program National Board. The Director of the Federal Emergency Management Agency shall constitute the National Board in accordance with subsection (b) in administering the program under this title.

(b) MEMBERS.—The National Board shall consist of the Director and 6 members appointed by the Director. The initial members of the National Board shall be appointed by the Director not later than 30 days after the date of the enactment of this Act. Each such member shall be appointed from among individuals nominated by 1 of the following organizations:

(1) The United Way of America.
(2) The Salvation Army.
(3) The National Council of Churches of Christ in the U.S.A.
(4) Catholic Charities U.S.A.
(5) The Council of Jewish Federations, Inc.
(6) The American Red Cross.

(c) CHAIRPERSON.—The Director shall be the Chairperson of the National Board.

(d) OTHER ACTIVITIES.—Except as otherwise specifically provided in this title, the National Board shall establish its own procedures and policies for the conduct of its affairs.

(e) TRANSFERS FROM PREVIOUS NATIONAL BOARD.—Upon the appointment of members to the National Board under subsection (b)—

100 Stat. 1783-242, 3341-242.

(1) the national board constituted under the emergency food and shelter program established pursuant to section 101(g) of Public Law 99-500 or Public Law 99-591 shall cease to exist; and

(2) the personnel, property, records, and undistributed program funds of such national board shall be transferred to the National Board.

State and local governments. 42 USC 11332.

SEC. 302. LOCAL BOARDS.

(a) ESTABLISHMENT.—Each locality designated by the National Board shall constitute a local board for the purpose of determining how program funds allotted to the locality will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the National Board, except that the mayor or other appropriate heads of government will replace the Federal members. The chairperson of the local board shall be elected by a majority of the members of the local board. Local boards are encouraged to expand participation of other private nonprofit organizations on the local board.

(b) RESPONSIBILITIES.—Each local board shall—

(1) determine which private nonprofit organizations or public organizations of the local government in the individual locality shall receive grants to act as service providers;

(2) monitor recipient service providers for program compliance;

(3) reallocate funds among service providers;

(4) ensure proper reporting; and

(5) coordinate with other Federal, State, and local government assistance programs available in the locality.

42 USC 11333.

SEC. 303. ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) IN GENERAL.—The Director shall provide the National Board with administrative support and act as Federal liaison to the National Board.

(b) SPECIFIC SUPPORT ACTIVITIES.—The Director shall—

(1) make available to the National Board, upon request, the services of the legal counsel and Inspector General of the Federal Emergency Management Agency;

(2) assign clerical personnel to the National Board on a temporary basis; and

(3) conduct audits of the National Board annually and at such other times as may be appropriate.

SEC. 304. RECORDS AND AUDIT OF NATIONAL BOARD AND RECIPIENTS OF ASSISTANCE.

42 USC 11334.

(a) ANNUAL INDEPENDENT AUDIT OF NATIONAL BOARD.—

(1) The accounts of the National Board shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the National Board are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the National Board and necessary to facilitate the audits shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

Reports.

(2) The report of each such independent audit shall be included in the annual report required in section 305. Such report shall set forth the scope of the audit and include such statements as are necessary to present fairly the assets and liabilities of the National Board, surplus or deficit, with an analysis of the changes during the year, supplemented in reasonable detail by a statement of the income and expenses of the National Board during the year, and a statement of the application of funds, together with the opinion of the independent auditor of such statements.

(b) ACCESS TO RECORDS OF RECIPIENTS OF ASSISTANCE.—

(1) Each recipient of assistance under this title shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The National Board, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

(c) AUTHORITY OF COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access to any books, documents, papers, and records of the National Board and recipients for such purpose.

SEC. 305. ANNUAL REPORT.

42 USC 11335.

The National Board shall transmit to the Congress an annual report covering each year in which it conducts activities with funds made available under this title.

Subtitle B—Emergency Food and Shelter Grants

State and local governments.
42 USC 11341.

SEC. 311. GRANTS BY THE DIRECTOR.

Not later than 30 days following the date on which appropriations become available to carry out this subtitle, the Director shall award a grant for the full amount that the Congress appropriates for the program under this subtitle to the National Board for the purpose of providing emergency food and shelter to needy individuals through private nonprofit organizations and local governments in accordance with section 313.

42 USC 11342.

SEC. 312. RETENTION OF INTEREST EARNED.

Interest accrued on the balance of any grant to the National Board shall be available to the National Board for reallocation, and total administrative costs shall be determined based on total amount of funds available, including interest and any private contributions that are made to the National Board.

42 USC 11343.

SEC. 313. PURPOSES OF GRANTS.

(a) Eligible Activities.—Grants to the National Board may be used—

(1) to supplement and expand ongoing efforts to provide shelter, food, and supportive services for homeless individuals with sensitivity to the transition from temporary shelter to permanent homes, and attention to the special needs of homeless individuals with mental and physical disabilities and illnesses, and to facilitate access for homeless individuals to other sources of services and benefits;

(2) to strengthen efforts to create more effective and innovative local programs by providing funding for them; and

(3) to conduct minimum rehabilitation of existing mass shelter or mass feeding facilities, but only to the extent necessary to make facilities safe, sanitary, and bring them into compliance with local building codes.

(b) Limitations on Activities.—

(1) The National Board may only provide funding provided under this subtitle for—

(A) programs undertaken by private nonprofit organizations and local governments; and

(B) programs that are consistent with the purposes of this title.

(2) The National Board may not carry out programs directly.

42 USC 11344.

SEC. 314. LIMITATION ON CERTAIN COSTS.

Not more than 5 percent of the total amount appropriated for the emergency food and shelter program for each fiscal year may be expended for the costs of administration.

42 USC 11345.

SEC. 315. DISBURSEMENT OF FUNDS.

Any amount made available by appropriation Acts under this title shall be disbursed by the National Board before the expiration of the 3-month period beginning on the date on which such amount becomes available.

SEC. 316. PROGRAM GUIDELINES. 42 USC 11346.

(a) GUIDELINES.—The National Board shall establish written guidelines for carrying out the program under this subtitle, including—

(1) methods for identifying localities with the highest need for emergency food and shelter assistance;

(2) methods for determining the amount and distribution to such localities;

(3) eligible program costs, including maximum flexibility in meeting currently existing needs; and

(4) guidelines specifying the responsibilities and reporting requirements of the National Board, its recipients, and service providers.

(b) PUBLICATION.—Guidelines established under subsection (a) shall be published annually, and whenever modified, in the Federal Register. The National Board shall not be subject to the procedural rulemaking requirements of subchapter II of chapter 5 of title 5, United States Code. 5 USC 551.

Subtitle C—General Provisions

SEC. 321. DEFINITIONS. 42 USC 11351.

For purposes of this title:

(1) The term "Director" means the Director of the Federal Emergency Management Agency.

(2) The term "emergency shelter" means a facility all or a part of which is used or designed to be used to provide temporary housing.

(3) The term "local government" means a unit of general purpose local government.

(4) The term "locality" means the geographical area within the jurisdiction of a local government.

(5) The term "National Board" means the Emergency Food and Shelter Program National Board.

(6) The term "private nonprofit organization" means an organization—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Director; and

(D) that practices nondiscrimination in the provision of assistance.

(7) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 322. AUTHORIZATION OF APPROPRIATIONS. 42 USC 11352.

There are authorized to be appropriated to carry out this title $15,000,000 for fiscal year 1987 and $124,000,000 for fiscal year 1988.

TITLE IV—HOUSING ASSISTANCE

Subtitle A—Comprehensive Homeless Assistance Plan

42 USC 11361.

SEC. 401. REQUIREMENT FOR COMPREHENSIVE HOMELESS ASSISTANCE PLAN.

State and local governments.
Urban areas.

(a) Plan Required.—Assistance authorized by this title may be provided to, or within the jurisdiction of, a State or a metropolitan city or urban county that is eligible to receive a grant under the emergency shelter grants program in an amount in excess of the minimum allocation requirement applicable under section 413(b) only if—

(1) it submits to the Secretary of Housing and Urban Development (in this subtitle referred to as the "Secretary") a comprehensive homeless assistance plan (in this subtitle referred to as the "comprehensive plan"); and

(2) the comprehensive plan is approved by or in accordance with procedures established by the Secretary;

except that a private nonprofit organization may apply for and receive assistance under subtitle C or D without regard to such comprehensive plan approval if the applicable State comprehensive plan has been approved.

(b) Contents.—A comprehensive plan submitted under this section shall contain—

(1) a statement describing the need for assistance under this title;

(2) a brief inventory of facilities and services that assist the homeless population within that jurisdiction;

(3) a strategy (A) to match the needs of the homeless population with available services within that jurisdiction, and (B) to recognize the special needs of the various types of homeless individuals, particularly families with children, the elderly, the mentally ill, and veterans; and

(4) an explanation of how the Federal assistance provided under this title will complement and enhance the available services.

(c) Review.—

(1) Upon receipt of a comprehensive plan, the Secretary shall review the comprehensive plan. Not later than 30 days after receipt, the comprehensive plan shall be approved unless the Secretary determines that the comprehensive plan plainly does not satisfy the requirements of subsection (b), in which case the Secretary shall, not later than 15 days after the Secretary's determination, inform the State, county, or city of the reasons for disapproval as well as the steps that need to be taken to make the comprehensive plan acceptable. If the Secretary fails to inform the State, county, or city of the reasons for disapproval within such period, the comprehensive plan shall be deemed to have been approved.

(2) The Secretary shall permit amendments to, or the resubmission of, any comprehensive plan that is disapproved.

(d) Performance Reviews.—

(1) Each State, metropolitan city, and urban county described in subsection (a) shall review annually the progress it has made in carrying out its comprehensive plan.

(2) Each State, metropolitan city, and urban county described in subsection (a) shall report annually to the Secretary the results of such review. The Secretary shall review the reports submitted under this paragraph and shall make such recommendations as may be appropriate.

Reports.

(3) Further assistance under this title shall not be made available to, or within the jurisdiction of, any State, metropolitan city, or urban county described in subsection (a) that fails to review and report progress as required by paragraphs (1) and (2).

(e) Publication by Notice.—Not later than 30 days after the date of enactment of this Act, the Secretary shall by notice establish such requirements as may be necessary to carry out this subtitle.

(f) Applications.—Any application for assistance under this title shall contain or be accompanied by a certification by the public official responsible for submitting a comprehensive plan for the jurisdiction to be served by the proposed activities that the proposed activities are consistent with the comprehensive plan.

Subtitle B—Emergency Shelter Grants Program

SEC. 411. DEFINITIONS.

42 USC 11371.

For purposes of this subtitle:

(1) The term "local government" means a unit of general purpose local government.

(2) The term "locality" means the geographical area within the jurisdiction of a local government.

(3) The term "metropolitan city" has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

42 USC 5302.

(4) The term "operating costs" means expenses incurred by a recipient operating a facility assisted under this subtitle with respect to—

(A) the administration, maintenance, repair, and security of such housing; and

(B) utilities, fuels, furnishings, and equipment for such housing.

(5) The term "private nonprofit organization" means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under subtitle A of such Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

100 Stat. 2095; 26 USC 501.
26 USC 1.

(6) The term "recipient" means any governmental or private nonprofit entity that is approved by the Secretary as to financial responsibility.

(7) The term "Secretary" means the Secretary of Housing and Urban Development.

(8) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana

Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(9) The term "urban county" has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

42 USC 5302.

42 USC 11372.

SEC. 412. GRANT ASSISTANCE.

State and local governments.

The Secretary of Housing and Urban Development shall, to the extent of amounts approved in appropriation Acts under section 417, make grants to States and local governments (and to private nonprofit organizations providing assistance to homeless individuals, in the case of grants made with reallocated amounts) in order to carry out activities described in section 414.

42 USC 11373.

SEC. 413. ALLOCATION AND DISTRIBUTION OF ASSISTANCE.

State and local governments.
Urban areas.

(a) In General.—The Secretary shall allocate assistance under this subtitle to metropolitan cities, urban counties, and States (for distribution to local governments in the States) in a manner that ensures that the percentage of the total amount available under this subtitle for any fiscal year that is allocated to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 for such prior fiscal year that is allocated to such State, metropolitan city, or urban county.

42 USC 5306.

(b) Minimum Allocation Requirement.—If, under the allocation provisions applicable under this subtitle, any metropolitan city or urban county would receive a grant of less than 0.05 percent of the amounts appropriated to carry out this subtitle for any fiscal year, such amount shall instead be reallocated to the State, except that any city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of $1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allocated to such city under subsection (a).

(c) Distributions to Nonprofit Organizations.—Any local government receiving assistance under this subtitle may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals.

(d) Reallocation of Funds.—

(1) The Secretary shall, not less than twice during each fiscal year, reallocate any assistance provided under this subtitle that is unused or returned or that becomes available under subsection (b).

(2) If a city or county eligible for a grant under subsection (a) fails to obtain approval of its comprehensive plan during the 90-day period following the date funds authorized by this subtitle first become available for allocation during any fiscal year, the amount that the city or county would have received shall be available to the State in which the city or county is located if the State has obtained approval of its comprehensive plan. Any amounts that cannot be allocated to a State under the preceding sentence shall be reallocated to other States, counties, and cities that demonstrate extraordinary need or large numbers of homeless individuals, as determined by the Secretary.

(3) If a State fails to obtain approval of its comprehensive plan during the 90-day period following the date funds authorized by this subtitle first become available for allocation during any fiscal year, the amount that the State would have received shall be reallocated to other States and to cities and counties that demonstrate extraordinary need or large numbers of homeless individuals, as determined by the Secretary.

(e) ALLOCATIONS TO TERRITORIES.—In addition to the other allocations required in this section, the Secretary shall (for amounts appropriated after the date of enactment of this Act) allocate assistance under this subtitle to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, in accordance with an allocation formula established by the Secretary.

Virgin Islands.
Guam.
American Samoa.
Northern Mariana Islands.
Trust Territory of the Pacific Islands.

SEC. 414. ELIGIBLE ACTIVITIES.

42 USC 11374.

(a) IN GENERAL.—Assistance provided under this subtitle may be used for the following activities relating to emergency shelter for homeless individuals:

(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

Public buildings and grounds.

(2) The provision of essential services, including services concerned with employment, health, drug abuse, or education, if—

Employment and unemployment.
Health and medical care.
Drugs and drug abuse.
Education.

(A) such services have not been provided by the local government during any part of the immediately preceding 12-month period; and

(B) not more than 15 percent of the amount of any assistance to a local government under this subtitle is used for activities under this paragraph.

(3) Maintenance, operation (other than staff), insurance, utilities, and furnishings.

(b) WAIVER AUTHORITY.—The Secretary may waive the 15 percent limitation on the use of assistance for essential services contained in subsection (a)(2)(B), if the local government receiving the assistance demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources.

SEC. 415. RESPONSIBILITIES OF RECIPIENTS.

42 USC 11375.

(a) MATCHING AMOUNTS.—

(1) Each recipient under this subtitle shall be required to supplement the assistance provided under this subtitle with an equal amount of funds from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with such certification a description of the sources and amounts of such supplemental funds.

(2) In calculating the amount of supplemental funds provided by a recipient under this subtitle, a recipient may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

(b) ADMINISTRATION OF ASSISTANCE.—Each recipient shall act as the fiscal agent of the Secretary with respect to assistance provided to such recipient.

(c) CERTIFICATIONS ON USE OF ASSISTANCE.—Each recipient shall certify to the Secretary that—

(1) it will maintain any building for which assistance is used under this subtitle as a shelter for homeless individuals for not less than a 3-year period or for not less than a 10-year period if such assistance is used for the major rehabilitation or conversion of such building;

(2) any renovation carried out with assistance under this subtitle shall be sufficient to ensure that the building involved is safe and sanitary; and

(3) it will assist homeless individuals in obtaining—

Health and medical care.

(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

(B) other Federal, State, local, and private assistance available for such individuals.

42 USC 11376.

SEC. 416. ADMINISTRATIVE PROVISIONS.

(a) REGULATIONS.—Not later than 60 days after the date of enactment of this Act, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue requirements based on the initial notice before the expiration of the 12-month period following the date of enactment of this Act. Prior to the issuance of such requirements in final form, the requirements established by the Secretary implementing the provisions of the emergency shelter grants program under the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591 shall govern the emergency shelter grants program under this subtitle.

100 Stat. 1783-242, 3341-242.

(b) INITIAL ALLOCATION OF ASSISTANCE.—Not later than the expiration of the 60-day period following the date of enactment of a law providing appropriations to carry out this subtitle, the Secretary shall notify each State, metropolitan city, and urban county that is to receive a direct grant of its allocation of assistance under this subtitle. Such assistance shall be allocated and may be used notwithstanding any failure of the Secretary to issue requirements under subsection (a).

42 USC 11377.

SEC. 417. AUTHORIZATION OF APPROPRIATIONS.

In addition to other amounts authorized by law, there are authorized to be appropriated for the emergency shelter grants program $100,000,000 for fiscal year 1987 and $120,000,000 for fiscal year 1988.

Subtitle C—Supportive Housing Demonstration Program

42 USC 11381.

SEC. 421. ESTABLISHMENT OF DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program in accordance with the provisions of this subtitle to develop innovative approaches for providing supportive housing, especially to deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities and other handicapped homeless persons.

(b) PURPOSES.—The demonstration program carried out under this subtitle shall be designed to determine—

(1) the cost of acquisition, rehabilitation, acquisition and rehabilitation, or leasing of existing structures for the provision of supportive housing;

(2) the cost of operating such housing and providing supportive services to the residents of such housing;

(3) the social, financial, and other advantages of such housing as a means of assisting homeless individuals; and

(4) the lessons that the provision of such housing might have for the design and implementation of housing programs that serve homeless individuals and families with special needs, particularly deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities and other handicapped homeless persons.

The Secretary shall administer the program under this subtitle and award assistance to applicants in a manner that clearly demonstrates that a central purpose and major funding priority of the program is to provide supportive housing for deinstitutionalized homeless individuals and other homeless individuals with mental disabilities.

SEC. 422. DEFINITIONS.

42 USC 11382.

For purposes of this subtitle:

(1) The term "applicant" means a State, metropolitan city, urban county, tribe, or private nonprofit organization that is eligible to be a recipient under this subtitle, except that, in the case of permanent housing for handicapped homeless persons, such term means the State in which the project is to be located.

(2) The term "handicapped" means an individual who is handicapped within the meaning of section 202 of the Housing Act of 1959.

12 USC 1701q.

(3) The term "handicapped homeless person" means a handicapped individual who is a homeless individual within the meaning of section 103, is at risk of becoming a homeless individual, or is a handicapped individual who has been a resident of transitional housing carried out pursuant to the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591.

100 Stat. 1783-242, 3341-242.

(4) The term "metropolitan city" has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

42 USC 5302.

(5) The term "operating costs" means expenses incurred by a recipient operating transitional housing under this subtitle with respect to—

(A) the administration, maintenance, repair, and security of such housing;

(B) utilities, fuel, furnishings, and equipment for such housing;

(C) the conducting of the assessment required in section 424(c)(2); and

(D) the provision of supportive services to the residents of such housing.

(6) The term "private nonprofit organization" means an organization—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

(7) The term "project" means a structure or a portion of a structure that is acquired or rehabilitated with assistance provided under this subtitle.

(8) The term "project sponsor" means a private nonprofit organization that operates a project for permanent housing for handicapped homeless persons, and that is approved by the Governor or other chief executive official of a State as to financial responsibility.

(9) The term "recipient" means any governmental or nonprofit entity that is approved by the Secretary as to financial responsibility.

(10) The term "Secretary" means the Secretary of Housing and Urban Development.

(11) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(12) The term "supportive housing" means a project assisted under this subtitle that provides housing and supportive services for homeless individuals. Such housing shall be safe and sanitary and when appropriate meet all applicable State and local housing codes and licensing requirements in the jurisdiction in which the housing is located. All or part of the supportive services may be provided directly by the recipient or by arrangements with other public or private service providers. The term includes the following:

(A) Transitional housing, which means a project assisted under this subtitle that has as its purpose facilitating the movement of homeless individuals to independent living within a reasonable amount of time, as determined by the Secretary. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental disabilities, and homeless families with children.

(B) Permanent housing for handicapped homeless persons, which means a project assisted under this subtitle that provides community-based long-term housing and supportive services for not more than 8 handicapped homeless persons and that is carried out by a project sponsor. Each project shall be either a home designed solely for housing handicapped persons or dwelling units in a multifamily housing project, condominium project, or cooperative project. Not more than 1 home may be located on any 1 site and no such home may be located on a site contiguous to another site containing such a home. All projects shall be integrated into the neighborhoods in which they are located.

(13) The term "supportive services" means assistance designed by the recipient that the Secretary determines (A) addresses the special needs of persons, such as deinstitutionalized homeless individuals, homeless families with children, and homeless individuals with mental disabilities and other handicapped homeless persons, intended to be served by a project; and (B) assists in accomplishing the purposes of the different types of supportive housing made eligible under this subtitle.

(14) The term "urban county" has the meaning given such term in section 102 of the Housing and Community Development Act of 1974. 42 USC 5302.

SEC. 423. TYPES OF ASSISTANCE. 42 USC 11383.

(a) In General.—The Secretary may provide the following assistance to a project under this subtitle:

(1) An advance, in an amount not to exceed $200,000, of the aggregate cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use in the provision of supportive housing.

(2) A grant for moderate rehabilitation of an existing structure for use in the provision of supportive housing.

(3) Annual payments for operating costs of transitional housing, not to exceed 75 percent of the annual operating costs of such housing.

(4) Technical assistance in establishing and operating such housing and providing supportive services to the residents of such housing.

(b) Repayment of Advance.—Subject to the foregoing, any advance provided under subsection (a)(1) shall be repaid on such terms as may be prescribed by the Secretary when the project ceases to be used as supportive housing in accordance with the provisions of this subtitle. Recipients and project sponsors shall be required to repay 100 percent of the advance if the project is used as supportive housing for fewer than 10 years following initial occupancy. If the project is used as supportive housing for more than 10 years, the percentage of the amount that shall be required to be repaid shall be reduced by 10 percentage points for each year in excess of 10 that the property is used as supportive housing. A project may continue to be treated as supportive housing for purposes of this subsection if the Secretary determines that such project is no longer needed for use as supportive housing and approves the use of such project for the direct benefit of lower income persons.

(c) Prevention of Undue Benefits.—Upon any sale or other disposition of a project acquired or rehabilitated with assistance under this subtitle prior to the close of 20 years after the project is placed in service, other than a sale or other disposition resulting in the use of the project for the direct benefit of lower income persons or where all of the proceeds are used to provide supportive housing, the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from the sale or other disposition of the project.

SEC. 424. PROGRAM REQUIREMENTS. 42 USC 11384.

(a) Applications.—

(1) Applications for assistance under this subtitle shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) The Secretary shall require that applications contain at a minimum—

(A) a description of the proposed project;

(B) a description of the size and characteristics of the population that would occupy supportive housing;

(C) a description of the public and private resources that are expected to be made available in compliance with section 425;

(D) assurances satisfactory to the Secretary that the project assisted will be operated for not less than 10 years for the purpose specified in the application;

State and local governments.

(E) a certification from the public official responsible for submitting a comprehensive plan for the jurisdiction to be served by the proposed project (by the State in the case of a project for permanent housing for the handicapped homeless) that the proposed project is consistent with the applicable comprehensive plan; and

State and local governments.

(F) in the case of permanent housing for handicapped homeless persons—

(i) a letter of participation from the Governor or other chief executive official of the State assuring that the State will promptly transmit assistance to the project sponsor and will facilitate the provision of necessary supportive services to the residents of the project;

(ii) a designation of the State agency, the primary responsibility of which is the provision of services to handicapped persons and that will assist the State housing finance agency in fulfilling the State responsibilities under this subtitle; and

(iii) an assessment of how the proposed project would meet the needs of handicapped homeless persons in the State.

(b) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

(1) the ability of the applicant or the project sponsor to develop and operate supportive housing;

(2) the innovative quality of the proposal in providing supportive housing;

(3) the need for such supportive housing in the area to be served;

(4) the extent to which the amount of assistance to be provided under this subtitle will be matched with more than an equal amount of funds from other sources;

(5) the cost effectiveness of the proposed project;

State and local governments.

(6) the extent to which the project would meet the needs of handicapped homeless persons in the State as described pursuant to subsection (a)(2)(F)(iii); and

(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the demonstration program established by this subtitle in an effective and efficient manner.

(c) REQUIRED AGREEMENTS.—The Secretary may not approve assistance for any project under this subtitle unless the applicant agrees or certifies that each project sponsor has agreed—

(1) to operate the proposed project as supportive housing in accordance with the provisions of this subtitle;

(2) to conduct an ongoing assessment of the supportive services required by the residents of the project;

(3) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project;

(4) to monitor and report to the Secretary on the progress of the project; and

(5) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the demonstration program established in this subtitle in an effective and efficient manner.

(d) Occupant Rent.—Each homeless individual residing in a facility assisted under this subtitle shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

42 USC 1437a.

SEC. 425. MATCHING FUNDS REQUIREMENTS.

42 USC 11385.

(a) Transitional Housing.—Each recipient shall be required to supplement the amount of assistance provided under paragraphs (1) and (2) of section 423(a) with an equal amount of funds from sources other than this subtitle. In calculating the amount of supplemental funds provided by a recipient under this subsection, a recipient may include the value of any donated material or building and the value of any lease on a building.

(b) Permanent Housing for Handicapped Homeless Persons.—

State and local governments.

(1) Each State submitting an application for assistance for permanent housing for handicapped homeless persons shall certify that it will supplement the assistance provided under this subtitle with at least an equal amount of State or local government funds—

(A) that are to be used solely for acquisition or rehabilitation; and

(B) not more than 50 percent of which may be local government funds.

(2) The Secretary may waive all or part of the requirement established in paragraph (1) if the State demonstrates to the satisfaction of the Secretary that—

(A) the State is experiencing a severe financial hardship that makes it unable to provide an equal amount of funds; and

(B) the local governments of the areas to be served by the project will contribute funds from other non-Federal sources in an aggregate amount equal to the amount of such contribution waived for the State under this paragraph.

SEC. 426. GUIDELINES.

42 USC 11386.

(a) Regulations.—Not later than 90 days following the date of enactment of this Act, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Until final regulations are issued under this subtitle, the regulations established by the Secretary implementing the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591 shall govern the transitional housing provisions of this subtitle.

100 Stat. 1783-242, 3341-242.

(b) LIMITATION ON USE OF FUNDS.—No assistance received under this subtitle (or any State or local government funds used to supplement such assistance) may be used to replace other public funds previously used, or designated for use, to assist handicapped persons, homeless individuals, or handicapped homeless persons.

(c) LIMITATION ON ADMINISTRATIVE EXPENSES.—No recipient may use more than 5 percent of an advance or grant received under this subtitle for administrative purposes.

42 USC 11387.

SEC. 427. REPORT TO CONGRESS.

The Secretary shall submit to the Congress—

(1) not later than 3 months after the end of fiscal year 1987, an interim report summarizing the activities carried out under this subtitle during such fiscal year and setting forth any preliminary findings or conclusions of the Secretary as a result of such activities; and

(2) not later than 6 months after the end of fiscal year 1988, a final report summarizing all activities carried out under this subtitle and setting forth any findings, conclusions, or recommendations of the Secretary as a result of such activities.

42 USC 11388.

SEC. 428. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to other amounts authorized by law, there are authorized to be appropriated to carry out this subtitle $80,000,000 for fiscal year 1987 and $100,000,000 for fiscal year 1988.

(b) SET ASIDE.—Of the funds provided under this subtitle for any fiscal year—

(1) not less than $20,000,000 shall be allocated to transitional housing projects that serve homeless families with children; and

(2) not less than $15,000,000 shall be allocated to projects that provide permanent housing for handicapped homeless persons.

(c) FUNDING CONSIDERATIONS.—The Secretary shall provide additional consideration to projects designed especially to meet the needs of deinstitutionalized homeless individuals and other homeless individuals with mental disabilities, so that such projects will receive a significant share of the funds provided under this subtitle.

Subtitle D—Supplemental Assistance for Facilities to Assist the Homeless

42 USC 11391.

SEC. 431. DEFINITIONS.

For purposes of this subtitle:

(1) The term "applicant" means a State, metropolitan city, urban county, tribe, or private nonprofit organization that is eligible to be a recipient under this subtitle.

(2) The term "assistance" means non-interest bearing advances to assist the acquisition, lease, renovation, substantial rehabilitation, or conversion of facilities to assist the homeless, grants for moderate rehabilitation, and grants for other purposes.

(3) The term "metropolitan city" has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

42 USC 5302.

(4) The term "outpatient health services" means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management services.

(5) The term "private nonprofit organization" means an organization—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

(6) The term "recipient" means any governmental or nonprofit entity that is approved by the Secretary as to financial responsibility.

(7) The term "Secretary" means the Secretary of Housing and Urban Development.

(8) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(9) The term "supportive services" means food, child care, assistance in obtaining permanent housing, outpatient health services, employment counseling, nutritional counseling, security arrangements necessary for the protection of residents of facilities to assist the homeless, and such other services essential for maintaining independent living as the Secretary determines to be appropriate. Such term includes the provision of assistance to homeless individuals in obtaining other Federal, State, and local assistance available for such individuals, including mental health benefits, employment counseling, and medical assistance. Such term does not include major medical equipment.

(10) The term "urban county" has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

42 USC 5302.

SEC. 432. SUPPLEMENTAL ASSISTANCE.

42 USC 11392.

(a) In General.—The Secretary of Housing and Urban Development is authorized in accordance with the provisions of this subtitle—

(1) to provide assistance to cover the costs in excess of assistance provided under the emergency shelter grant program or the supportive housing demonstration program that are required—

(A) to meet the special needs of homeless families with children, elderly homeless individuals, or the handicapped; or

(B) to facilitate the transfer and utilization of public buildings to assist homeless individuals and families; or

Public buildings and grounds.

(2) to provide comprehensive assistance for particularly innovative programs for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families by assisting—

State and local governments.

(A) the purchase, lease, renovation, or conversion of facilities to assist the homeless, which facilities shall be safe and sanitary and, when appropriate, meet all applicable State and local housing and building codes and licensing requirements in the jurisdiction in which the facility is located; or

(B) the provision of supportive services for homeless individuals.

(b) LIMITATIONS.—

(1) The Secretary may not provide assistance under this subtitle unless the Secretary determines that—

(A) the applicant has made reasonable efforts to utilize all available local resources and resources available under the other provisions of this title; and

(B) that other resources are not sufficient or are not available to carry out the purpose for which the assistance is being sought.

No assistance provided under this subtitle may be used to supplant any non-Federal resources provided with respect to any project.

(2) Any advance provided under this subtitle shall be repaid on such terms as may be prescribed by the Secretary when the project ceases to be used to assist homeless individuals in accordance with the provisions of this subtitle. A recipient shall be required to repay 100 percent of the advance if the recipient uses the project to assist homeless individuals for fewer than 10 years following initial occupancy. If the recipient uses the project to assist homeless individuals for more than 10 years, the percentage of the amount that the recipient shall be required to repay shall be reduced by 10 percentage points for each year in excess of 10 that the property is used to assist homeless individuals. A project may continue to be treated as a project to assist homeless individuals for purposes of this paragraph if the Secretary determines that such project is no longer needed to assist homeless individuals and approves the use of such project for the direct benefit of lower income persons.

(3) Upon any sale or other disposition of a project acquired, leased, renovated, rehabilitated, or converted with assistance under this subtitle prior to the close of 20 years after the project is placed in service, other than a sale or other disposition resulting in the use of the project for the direct benefit of lower income persons, the recipient shall comply with such terms and conditions as the Secretary shall have prescribed to prevent the recipient from unduly benefiting from the sale or other disposition of the project.

Health and medical care.

(4) Not more than $10,000 of any grant or advance under this subtitle may be used for outpatient health services (excluding the cost of any rehabilitation or conversion).

(c) ELIGIBILITY.—To receive assistance under this subtitle, a State, metropolitan city, urban county, tribe, or private nonprofit organization shall submit an application to the Secretary in such form and containing such information as the Secretary shall prescribe.

(d) SELECTION.—Assistance may be provided under this subtitle only to an applicant that—

(1) has shown a demonstrated commitment to alleviating poverty;

(2) has furnished assurances satisfactory to the Secretary that any property purchased, leased, renovated, or converted with assistance under this subtitle will be operated to assist homeless individuals for not less than 10 years;

(3) has the continuing capacity to effectively provide assistance to homeless individuals; and

(4) complies with such other requirements for assistance under this section as the Secretary may establish.

To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this section for the support of facilities designed primarily to benefit homeless elderly individuals and homeless families with children (and a portion of such funds shall be used for child care facilities). To the extent practicable, the Secretary shall distribute the funds available to carry out this subtitle equitably across geographic areas.

(e) COORDINATION WITH SECRETARY OF HEALTH AND HUMAN SERVICES.—

Health and medical care.

(1) Promptly upon receipt of any application for assistance under this subtitle that includes the provision of outpatient health services, the Secretary of Housing and Urban Development shall consult with the Secretary of Health and Human Services with respect to the proposed outpatient health services. If the Secretary of Health and Human Services determines that the proposal for delivery of outpatient health services does not meet the guidelines described in paragraph (2), the Secretary of Housing and Urban Development may require resubmission of the application. The Secretary of Housing and Urban Development may not approve such portion of the application unless and until it has been resubmitted in a form that the Secretary of Health and Human Services determines meets the guidelines.

(2) The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining under this section the appropriateness of proposed outpatient health services. Such guidelines shall include such provisions as are necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this subtitle for the final selection of applications for assistance.

(f) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 5 percent of a grant or advance made under this section may be expended for administrative expenses.

SEC. 433. REGULATIONS.

42 USC 11393.

Not later than the expiration of the 30-day period beginning on the date of enactment of this Act, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall not be subject to section 553 of title 5, United States Code, or section 7(o) of the Department of Housing and Urban Development Act. Such notice shall—

Federal Register, publication.
42 USC 3535.

(1) provide that a notice of funding availability shall be published in the Federal Register not later than the expiration of the 30-day period beginning on the date on which amounts become available to carry out this subtitle;

(2) require all applications for assistance under this subtitle to be submitted not later than the expiration of the 60-day period

beginning on the date on which the notice of funding availability is published in the Federal Register; and

(3) provide that the final selection of applications for assistance under this subtitle shall be completed not later than the expiration of the 90-day period beginning on the date on which the notice of funding availability is published in the Federal Register.

42 USC 11394.

SEC. 434. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $25,000,000 for each of the fiscal years 1987 and 1988. Any amounts that are appropriated to carry out this subtitle and that are not reserved prior to the 30-day period preceding the close of a fiscal year shall be made available prior to the close of such fiscal year.

Subtitle E—Miscellaneous Provisions

42 USC 11401.

SEC. 441. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

42 USC 1437c.
42 USC 1437f.

(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $35,000,000 on or after October 1, 1986, and by $35,000,000 on or after October 1, 1987.

42 USC 1437f.

(b) USE OF FUNDS.—The amounts made available under this section shall be used only in connection with the moderate rehabilitation of housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless individuals.

(c) ALLOCATION.—The amounts made available under this section shall be allocated by the Secretary of Housing and Urban Development on the basis of a national competition to the applicants that best demonstrate a need for the assistance under this section and the ability to undertake and carry out a program to be assisted under this section. To be considered for assistance under this section, an applicant shall submit to the Secretary of Housing and Urban Development a written proposal containing—

(1) a description of the size and characteristics of the population within the applicant's jurisdiction that would occupy single room occupancy dwellings;

(2) a listing of additional commitments from public and private sources that the applicant might be able to provide in connection with the program;

(3) an inventory of suitable housing stock to be rehabilitated with such assistance; and

(4) a description of the interest that has been expressed by builders, developers, and others (including profit and nonprofit organizations) in participating in the program.

Urban areas.

No single city or urban county shall be eligible to receive more than 10 percent of the assistance made available under this section.

Contracts.
State and local governments.

(d) FIRE AND SAFETY IMPROVEMENTS.—Each contract for housing assistance payments entered into with the authority provided under this section shall require the installation of a sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as may be required by State or local law.

(e) COST LIMITATION.—

(1) The total cost of rehabilitation that may be compensated for in a contract for housing assistance payments entered into with the authority provided under this section shall not exceed $14,000 per unit, plus the expenditures required by subsection (d).

(2) The Secretary of Housing and Urban Development shall increase the limitation contained in paragraph (1) by an amount the Secretary determines is reasonable and necessary to accommodate special local conditions, including—

(A) high construction costs; or

(B) stringent fire or building codes.

(f) CONTRACT REQUIREMENTS.—Each contract for annual contributions entered into with a public housing agency to obligate the authority made available under this section shall—

(1) commit the Secretary of Housing and Urban Development to make such authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing such authority shall be available for the remainder of such 10-year period;

(2) provide the Secretary of Housing and Urban Development with the option to renew the contract for an additional period of 10 years, subject to the availability of appropriations; and

(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this section shall be given to homeless individuals.

SEC. 442. COMMUNITY DEVELOPMENT BLOCK GRANT AMENDMENT.

Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended in the second sentence by inserting "or 1984" after "fiscal year 1983". 42 USC 5302.

TITLE V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY

SEC. 501. USE OF UNDERUTILIZED PUBLIC BUILDINGS AND PROPERTY FOR FACILITIES TO ASSIST THE HOMELESS.

42 USC 11411.

(a) IDENTIFICATION OF UNDERUTILIZED SUITABLE BUILDINGS AND PROPERTY.—The Secretary of Housing and Urban Development shall collect information about Federal public buildings and other Federal real properties (including fixtures) that are described in surveys by the heads of controlling agencies as underutilized and shall identify which of those buildings and properties are suitable for use for facilities to assist the homeless. The Secretary, in consultation with the Secretary of Health and Human Services and the Administrator of General Services, shall develop criteria with respect to suitability of such property for use as facilities to assist the homeless.

(b) AGENCY RESPONSES.—The Secretary of Housing and Urban Development shall notify each Federal agency with respect to any property of that agency that the Secretary has identified under subsection (a) of this section. The head of such agency shall, within 30 days after receipt of such a notice, transmit to the Secretary and the Administrator of General Services the agency's response, which shall include—

(1) a statement of the agency's intention to declare the property excess to the agency's need, in accordance with applicable law; or

(2) a statement of the reasons that the property cannot be declared excess.

State and local governments.

(c) Availability for Facilities To Assist the Homeless.—The Administrator of General Services and the Secretary of Health and Human Services shall, in accordance with other applicable Federal law, take such actions as may be necessary to make buildings and property identified under subsection (a) available for use for facilities to assist the homeless operated by private nonprofit organizations, units of local government, and States.

(d) Availability of Federal Buildings or Property by Lease.—

(1) Federal buildings or property may be made available under this section only through the use of leases for at least 1 year. Ownership of the buildings and property shall not be transferred from the Federal Government.

40 USC 484.

(2) To permit leases of surplus Federal buildings and other real property under this section, the Secretary of Health and Human Services and the Administrator of General Services shall include, as a permissible use in the protection of public health within the meaning of section 203(k) of the Federal Property and Administrative Services Act of 1949, the furnishing of real property for use for facilities to assist the homeless and shall issue regulations permitting leases for such public-health purposes.

(e) Quarterly Reports.—Within 90 days after the enactment of this Act and quarterly thereafter, the Administrator of General Services shall submit to the Congress and to the Interagency Council on the Homeless quarterly reports on the implementation of this section. Such reports shall include—

(1) a list of the properties identified by the Secretary of Housing and Urban Development under subsection (a);

(2) a statement of the agency responses under subsection (b) to such identifications; and

State and local governments.

(3) a description of the actions taken by the Administrator and the Secretary of Health and Human Services under applicable law to make such property available for use for facilities to assist the homeless operated by private nonprofit organizations, units of local government, and States.

State and local governments.
42 USC 11412.

SEC. 502. MAKING SURPLUS PERSONAL PROPERTY AVAILABLE TO NONPROFIT AGENCIES.

(a) Eligibility.—Section 203(j)(3)(B) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(j)(3)(B)) is amended by inserting "providers of assistance to homeless individuals" after "health centers,".

Public information.

40 USC 484.

(b) Requirement for Notification.—Within 90 days after the enactment of this Act, the Administrator of General Services shall require each State agency administering a State plan under section 203(j) of the Federal Property and Administrative Services Act of 1949 to make generally available information about surplus personal property which may be used in the provision of food, shelter, or other services to homeless individuals.

(c) Costs.—Surplus personal property identified pursuant to this section shall be made available to providers of assistance to homeless individuals by a State agency distributing such property at (1) a nominal cost to such organization or (2) at no cost when the Administrator agrees to reimburse the State agency for the costs of care and handling of such property.

TITLE VI—HEALTH CARE FOR THE HOMELESS

Subtitle A—Primary Health Services and Substance Abuse Services

SEC. 601. ESTABLISHMENT OF GRANT PROGRAM.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by striking subpart IV and inserting the following new subpart: 42 USC 256a.

"Subpart IV—Health Services for the Homeless

"GRANT PROGRAM FOR CERTAIN HEALTH SERVICES FOR THE HOMELESS

"SEC. 340. (a) ESTABLISHMENT.—(1) The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants for the purpose of enabling grantees, directly or through contracts, to provide for the delivery of health services to homeless individuals. 42 USC 256.

"(2) In carrying out the program established in paragraph (1), the Administrator shall consult with the Director of the National Institute on Alcohol Abuse and Alcoholism and with the Director of the National Institute of Mental Health.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—The Secretary may not make a grant under subsection (a) to an applicant unless—

"(1) the applicant is a public or nonprofit private entity;

"(2) the applicant has the capacity to effectively administer a grant under subsection (a); and

"(3) with respect to health services that are covered in the appropriate State plan approved under title XIX of the Social Security Act— State and local governments. 42 USC 1396.

"(A) if the applicant will provide under the grant any such health services directly—

"(i) the applicant has entered into a participation agreement under the appropriate State plan; and

"(ii) the applicant is qualified to receive payments under the appropriate State plan; and

"(B) if the applicant will provide under the grant any such health services through a contract with an organization—

"(i) the organization has entered into a participation agreement under the appropriate State plan; and

"(ii) the organization is qualified to receive payments under the appropriate State plan.

"(c) PREFERENCES IN MAKING GRANTS.—The Secretary shall, in making grants under subsection (a), give preference to qualified applicants that—

"(1)(A) are experienced in the direct delivery of primary health services to homeless individuals or medically underserved populations; or

"(B) are experienced in the treatment of substance abuse in homeless individuals or medically underserved populations; and

"(2) agree to provide for health services to homeless individuals through both public entities and private organizations.

"(d) REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS.—(1) The Secretary may not make a grant under subsection (a) to an applicant unless the applicant has submitted to the Secretary an application for the grant containing agreements in accordance with—

"(A) subsection (e)(1)(A)(ii), relating to the provision of matching funds;

"(B) subsection (f), relating to the provision of certain health services;

"(C) subsection (h), relating to restrictions on the use of funds;

"(D) subsection (i), relating to a limitation on charges for services;

"(E) subsection (j), relating to the administration of grants; and

"(F) subsection (k), relating to a limitation on administrative expenses.

"(2) An application required in paragraph (1) shall, with respect to agreements required to be contained in the application, provide assurances of compliance satisfactory to the Secretary and shall otherwise be in such form, be made in such manner, and contain such information in addition to information required in paragraph (1) as the Secretary determines to be necessary to carry out this section.

"(e) REQUIREMENT OF PROVISION OF MATCHING FUNDS.—(1)(A) The Secretary may not make a grant under subsection (a) to an applicant—

"(i) in an amount exceeding 75 percent of the costs of providing health services under the grant; and

"(ii) unless the applicant agrees that the applicant will make available, directly or through donations to the applicant, non-Federal contributions toward such costs in an amount equal to not less than $1 (in cash or in kind under subparagraph (B)) for each $3 of Federal funds provided in such grant.

"(B)(i) Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(ii) Such determination may not include any cash or in-kind contributions that, prior to February 26, 1987, were made available by any public or private entity for the purpose of assisting homeless individuals (including assistance other than the provision of health services).

"(2) The Secretary may waive the requirement established in paragraph (1)(A) if—

"(A) the applicant involved is a nonprofit private grantee under section 330; and

"(B) the Secretary determines that it is not feasible for the applicant to comply with such requirement.

"(f) REQUIREMENT OF PROVISION OF CERTAIN HEALTH SERVICES.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that the applicant will, directly or through contract—

"(1) provide health services at locations accessible to homeless individuals;

"(2) provide to homeless individuals, at all hours, emergency health services;

"(3) refer homeless individuals as appropriate to medical facilities for necessary hospital services;

"(4) refer for mental health services homeless individuals who are mentally ill to entities that provide such services, unless the applicant will provide such services pursuant to subsection (g);

"(5) provide outreach services to inform homeless individuals of the availability of health services; and

"(6) aid homeless individuals in establishing eligibility for assistance, and in obtaining services, under entitlement programs.

"(g) OPTIONAL PROVISION OF MENTAL HEALTH SERVICES.—A grantee under subsection (a) may expend amounts received pursuant to such subsection for the purpose of providing mental health services to homeless individuals.

"(h) RESTRICTIONS ON USE OF GRANT FUNDS.—(1) The Secretary may not, except as provided in paragraph (2), make a grant under subsection (a) to an applicant unless the applicant agrees that amounts received pursuant to such subsection will not, directly or through contract, be expended—

"(A) for any purpose other than the purposes described in subsections (a) and (g);

Drugs and drug abuse.

"(B) to provide inpatient services, except with respect to residential treatment for substance abuse provided in settings other than hospitals;

"(C) to make cash payments to intended recipients of health services or mental health services; or

Real property.

"(D) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment.

"(2) If the Secretary finds that the purpose described in subsection (a) cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified applicant, waive the restriction established in paragraph (1)(D).

"(i) LIMITATION ON CHARGES FOR SERVICES.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that, whether health services are provided directly or through contract—

"(1) health services under the grant will be provided without regard to ability to pay for the health services; and

"(2) if a charge is imposed for the delivery of health services, such charge—

"(A) will be made according to a schedule of charges that is made available to the public;

"(B) will not be imposed on any homeless individual with an income less than the official poverty level; and

"(C) will be adjusted to reflect the income and resources of the homeless individual involved.

"(j) REQUIREMENTS WITH RESPECT TO ADMINISTRATION.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant—

"(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant;

"(2) agrees to establish an ongoing program of quality assurance with respect to the health services provided under the grant;

Classified information.

"(3) agrees to ensure the confidentiality of records maintained on homeless individuals receiving health services under the grant;

Bilingual services.

"(4) with respect to providing health services to any population of homeless individuals a substantial portion of which has a limited ability to speak the English language—

"(A) has developed and has the ability to carry out a reasonable plan to provide health services under the grant through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

"(B) has designated at least one individual, fluent in both English and the appropriate language, to assist in carrying out the plan; and

Reports.

"(5) agrees to submit to the Secretary an annual report that describes the utilization and costs of health services provided under the grant and that provides such other information as the Secretary determines to be appropriate.

"(k) LIMITATION ON ADMINISTRATIVE EXPENSES OF GRANTEE.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that the applicant will not expend more than 10 percent of amounts received pursuant to such subsection for the purpose of administering the grant.

"(l) USE OF GRANT FUNDS FOR REFERRALS TO CERTAIN ADVOCACY SYSTEMS.—A grantee under subsection (a) may, with respect to title I of the Protection and Advocacy for Mentally Ill Individuals Act of 1986, expend amounts received under subsection (a) for the purpose of referring homeless individuals who are chronically mentally ill, and who are eligible under such Act, to systems that provide advocacy services under such Act.

42 USC 10801.

"(m) USE OF SELF-HELP ORGANIZATIONS.—Any grantee under subsection (a) may provide health services through contracts with nonprofit self-help organizations that—

"(1) are established and managed by current and former recipients of mental health services, or substance abuse services, who have been homeless individuals; and

"(2) with respect to the provision of health services described in subsection (b)(3), are organizations qualified under subparagraph (B) of such subsection.

"(n) TECHNICAL ASSISTANCE.—(1) The Secretary may, without charge to any grantee under subsection (a), provide technical assistance to any such grantee with respect to the planning, development, and operation of programs to carry out the purpose described in such subsection. The Secretary may provide such technical assistance directly, through contract, or through grants.

"(2) Of the amounts appropriated pursuant to subsection (p)(1), the Secretary may expend not more than $2,000,000 for the purpose of carrying out paragraph (1).

"(o) ANNUAL REPORTS BY SECRETARY.—Not later than January 10 of each year, the Secretary shall submit to the Congress a report describing the utilization and costs of health services provided under subsection (a) during the immediately preceding fiscal year.

Appropriation authorization.

"(p) FUNDING.—(1) There are authorized to be appropriated to carry out this section $50,000,000 for fiscal year 1987 and $30,000,000 for fiscal year 1988.

"(2) Amounts received by a grantee pursuant to subsection (a) remaining unobligated at the end of the fiscal year in which the amounts were received shall remain available to the grantee during the succeeding fiscal year for the purpose described in such subsection.

"(q) DEFINITIONS.—For purposes of this section:

"(1) The term 'health services' means primary health services and substance abuse services.

"(2) The term 'homeless individual' means an individual who lacks housing (without regard to whether the individual is a member of a family), including an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations.

"(3) The term 'medically underserved population' has the meaning given such term in section 330(b)(3).

"(4) The term 'official poverty level' means the nonfarm income official poverty line defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981. 42 USC 9902.

"(5) The term 'organization' includes individuals, corporations, partnerships, companies, and associations.

"(6) The term 'primary health services' has the meaning given such term in section 330(b)(1).

"(7) The term 'substance abuse' has the meaning given such term in section 536(4).

"(8) The term 'substance abuse services' includes detoxification and residential treatment for substance abuse provided in settings other than hospitals.".

SEC. 602. PROVISION OF HEALTH SERVICES TO THE HOMELESS BY NATIONAL HEALTH SERVICE CORPS.

Section 332(a) of the Public Health Service Act (42 U.S.C. 254e(a)) is amended by adding at the end the following new paragraph:

"(3) Homeless individuals (as defined in section 340(q)(2)) may be a population group under paragraph (1).".

SEC. 603. REQUIREMENT OF CERTAIN STUDY WITH RESPECT TO HOMELESSNESS.

42 USC 11301 note.

The Secretary of Health and Human Services shall, not later than 18 months after the date of the enactment of this Act—

(1) complete a study with respect to determining the extent to which the mental health deinstitutionalization policies of the States are contributing to the problem of homelessness; and

(2) submit to the Congress the findings made as a result of such study, including any recommendations of the Secretary with respect to administrative and legislative initiatives that can reduce the number of chronically mentally ill individuals who are homeless.

Subtitle B—Community Mental Health Services

State and local governments.

SEC. 611. ESTABLISHMENT OF BLOCK GRANT PROGRAM FOR SERVICES TO HOMELESS INDIVIDUALS WHO ARE CHRONICALLY MENTALLY ILL.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

42 USC 290dd *et seq.*

(1) by redesignating part C as part D;

42 USC 290dd—290dd-3, 290ee—290ee-3.

(2) by redesignating sections 520 through 527 as sections 541 through 548, respectively; and

(3) by inserting after part B the following new part:

"Part C—Community Mental Health Services for the Homeless

"ESTABLISHMENT OF BLOCK GRANT PROGRAM FOR SERVICES TO HOMELESS INDIVIDUALS WHO ARE CHRONICALLY MENTALLY ILL

42 USC 290cc-21.

"Sec. 521. (a) Requirement of Allotments for States.—The Secretary shall for fiscal years 1987 and 1988 allot to each State an amount determined in accordance with sections 528 and 529. The Secretary shall, in accordance with section 530, make payments each such fiscal year to each State from the allotment for the State if the Secretary approves for each such fiscal year an application submitted by the State pursuant to section 522.

"(b) Purpose of Allotments.—The Secretary may not make payments under subsection (a) to a State for a fiscal year unless the State agrees that amounts received by the State pursuant to such subsection will be expended only for the purpose of providing, in accordance with section 524, community mental health services to homeless individuals who are chronically mentally ill.

"REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS

42 USC 290cc-22.

"Sec. 522. (a) In General.—The Secretary may not make payments under section 521(a) to a State for a fiscal year unless the State has submitted to the Secretary an application for the payments containing agreements in accordance with—

"(1) section 521(b), relating to the purpose of allotments;

"(2) section 523(a)(2), relating to the provision of matching funds;

"(3) section 524, relating to the provision of certain mental health services;

"(4) section 525, relating to restrictions on the use of payments;

"(5) section 526, relating to the submission of a description of the intended use of a block grant; and

"(6) section 527, relating to reports by the States.

"(b) Certifications.—Agreements required under subsection (a) to be submitted to the Secretary shall be made through certification from the chief executive officer of the State involved.

"(c) Submission of Certain Documents Relating to Use of Payments.—

"(1) The Secretary may not make payments under section 521(a) to a State for a fiscal year unless the application submitted pursuant to subsection (a) contains the description required in section 526.

"(2) For fiscal years subsequent to fiscal year 1987, the Secretary may not make payments under section 521(a) to a State unless such application contains the report required in section 527.

"(d) Additional Required Information.—An application required in subsection (a) shall, with respect to agreements required to be contained in the application, provide assurances of compliance satisfactory to the Secretary and shall otherwise be in such form, be made in such manner, and contain such information in addition to information required in subsections (a) and (c) as the Secretary determines to be necessary to carry out this part.

"REQUIREMENT OF PROVISION OF MATCHING FUNDS

42 USC 290cc-23.

"Sec. 523. (a) In General.—The Secretary may not make payments under section 521(a) to a State—

"(1) in an amount exceeding 75 percent of the costs of providing services described in section 521(b); and

"(2) unless the State agrees that the State will make available, directly or through donations from public or private entities, non-Federal contributions toward such costs in an amount equal to not less than $1 (in cash or in kind under subsection (b)) for each $3 of Federal funds provided in such grant.

"(b) Determination of Amount of Non-Federal Contribution.—

"(1) Non-Federal contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(2) A determination under paragraph (1) may not include any cash or in-kind contributions that, prior to February 26, 1987, were made available by any public or private entity for the purpose of assisting homeless individuals (including assistance other than the provision of community mental health services).

"REQUIREMENT OF PROVISION OF CERTAIN MENTAL HEALTH SERVICES

42 USC 290cc-24.

"Sec. 524. (a) In General.—The Secretary may not make payments under section 521(a) to a State for a fiscal year unless the State agrees that projects receiving amounts pursuant to such section will—

"(1) provide outreach services to chronically mentally ill individuals who are homeless or who are subject to a significant probability of becoming homeless;

"(2) provide community mental health services, diagnostic services, crisis intervention services, and habilitation and rehabilitation services to individuals described in paragraph (1);

Drugs and drug abuse.

"(3) refer such individuals as appropriate to medical facilities for necessary hospital services and to entities that provide primary health services and substance abuse services;

"(4) provide, in accordance with subsection (b), appropriate training to individuals who provide services to individuals described in paragraph (1), including the training of individuals who work in shelters, mental health clinics, and other sites where homeless individuals receive services;

"(5) provide appropriate case management services to homeless individuals, including—

"(A) preparing a plan for the provision of community mental health services to the homeless individual involved and reviewing such plan not less than once every 3 months;

"(B) providing assistance in obtaining and coordinating social and maintenance services for the individual, including services relating to daily living activities, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;

"(C) providing assistance to the individual in obtaining income support services, including housing assistance, food stamps, and supplemental security income benefits;

"(D) referring the individual for such other services as may be appropriate; and

42 USC 1383.
42 USC 1381.

"(E) providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act if the individual is receiving aid under title XVI of such Act and if the applicant is designated by the Secretary to provide such services; and

"(6) provide supportive and supervisory services to homeless individuals in residential settings not supported under—

"(A) the transitional housing demonstration program carried out by the Secretary of Housing and Urban Development pursuant to section 101(g) of Public Law 99-500 or Public Law 99-591; or

100 Stat. 1783-242, 3341-242.

"(B) the supportive housing demonstration program established in subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act.

"(b) CERTAIN REQUIREMENTS WITH RESPECT TO TRAINING OF STAFF.—The Secretary may not make payments under section 521(a) to a State for a fiscal year unless the State agrees that training required in subsection (a)(4) will include training with respect to—

"(1) identifying individuals who are chronically mentally ill;

"(2) referring individuals to services available to such individuals, including job training services, literacy education, community health centers, community mental health centers, and substance abuse treatment programs; and

"(3) identifying programs that provide benefits to homeless individuals and referring such individuals to the programs.

"RESTRICTIONS ON USE OF PAYMENTS

42 USC 290cc-25.

"SEC. 525. (a) IN GENERAL.—The Secretary may not make payments under section 521(a) to a State unless the applicant agrees that amounts received pursuant to such section will not be expended—

"(1) to provide inpatient services;

"(2) to make cash payments to intended recipients of mental health services;

"(3) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment; or

Real property.

"(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(b) LIMITATION WITH RESPECT TO ADMINISTRATIVE EXPENSES.—The Secretary may not make payments under section 521(a) to a State for a fiscal year unless the State agrees that the State will not expend more than 4 percent of the payments for the purpose of administering the payments and that the State will pay from non-Federal sources the remaining costs of administering the payments.

"REQUIREMENT OF SUBMISSION OF DESCRIPTION OF INTENDED USE OF BLOCK GRANT

42 USC 290cc-26.

"SEC. 526. (a) IN GENERAL.—The Secretary may not make payments under section 521(a) to a State for a fiscal year unless—

"(1) the State submits to the Secretary a description of the intended use for the fiscal year of the amounts for which the State is applying pursuant to such section;

"(2) such description identifies the geographic areas within the State in which the greatest numbers of homeless individuals with a need for mental health services are located;

"(3) such description provides information relating to the programs and activities to be supported and services to be provided, including information relating to coordinating such programs and activities with any similar programs and activities of public and private entities; and

"(4) the State agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State pursuant to section 521.

"(b) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make payments under section 521(a) to a State for a fiscal year unless the State agrees that, in developing and carrying out the description required in subsection (a), the State will provide public notice with respect to the description (including any revisions) and such opportunities as may be necessary to provide interested persons an opportunity to present comments and recommendations with respect to the description.

"(c) RELATIONSHIP TO STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN.—

"(1) For fiscal year 1987, the Secretary may not make payments under section 521(a) to a State unless the services to be provided pursuant to the description required in subsection (a) are consistent with the State comprehensive mental health services plan required in subpart 2 of part B of title XIX.

42 USC 300x.

"(2) For fiscal years subsequent to fiscal year 1987, the Secretary may not make payments under section 521(a) to a State unless the services to be provided pursuant to the description required in subsection (a) have been considered in the preparation of, have been included in, and are consistent with, the State comprehensive mental health services plan referred to in paragraph (1).

"REQUIREMENT OF REPORTS BY STATES

42 USC 290cc-27.

"SEC. 527. (a) IN GENERAL.—For fiscal years subsequent to fiscal year 1987, the Secretary may not make payments under section 521(a) to a State unless the State agrees that the State will prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the States and the Comptroller General of the United States) to be necessary for—

"(1) securing a record and a description of the purposes for which amounts received under section 521(a) were expended and of the recipients of such amounts;

"(2) determining whether such amounts were expended in accordance with the needs within the State identified pursuant to section 526(a)(2); and

"(3) determining whether such amounts were expended in accordance with the purpose described in section 521(b).

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary may not make payments under section 521(a) to a State unless the State agrees that the State will make copies of the reports described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this part in order to ensure that expenditures are consistent with the provisions of this part.

"DETERMINATION OF AMOUNT OF ALLOTMENTS

42 USC 290cc-28.

"SEC. 528. (a) IN GENERAL.—The allotment for a State under section 521(a) for a fiscal year shall be the greater of—

"(1) $275,000; and

"(2) an amount determined in accordance with subsection (b).

"(b) DETERMINATION OF TENTATIVE AMOUNT OF ALLOTMENT.—

"(1) The amount referred to in subsection (a)(2) is the product of—

"(A) an amount equal to the amounts appropriated for the fiscal year pursuant to section 535; and

"(B) the percentage described in paragraph (2).

Urban areas.

"(2) The percentage referred to in paragraph (1)(B) is a percentage equal to the quotient of—

"(A) an amount equal to the population living in urbanized areas of the State involved, as indicated by the most recent data collected by the Bureau of the Census; divided by

"(B) an amount equal to the population living in urbanized areas of the United States, as indicated by the sum of the respective amounts determined for each State under subparagraph (A).

"DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS

42 USC 290cc-29.

"SEC. 529. (a) ADDITIONAL ALLOTMENTS FOR CERTAIN STATES.—Amounts described in subsection (b) shall be allotted each fiscal year by the Secretary to States receiving allotments under section 521(a) for the fiscal year (other than any State described in subsection (b)(3)). The amount of an allotment for a State shall be determined in accordance with subsection (c).

"(b) Description of Funds.—The amounts referred to in subsection (a) are any amounts made available in appropriations Acts for allotments under section 521(a) that are not allotted under such section as a result of—

"(1) the failure of any State to submit an application under section 522;

"(2) the failure of any State to prepare, within a reasonable period of time in the determination of the Secretary, such application in compliance with such section; or

"(3) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"(c) Determination of Amount of Allotment.—The allotment under subsection (a) for a State shall be an amount equal to the product of—

"(1) an amount equal to the amount described in subsection (b) for the fiscal year; and

"(2) the percentage determined under section 528(b)(2) for the State involved.

"DISBURSEMENT AND AVAILABILITY OF FUNDS

"Sec. 530. (a) Disbursement.—Payments under section 521(a) shall be made in accordance with section 6503(a) of title 31, United States Code. 42 USC 290cc-30.

"(b) Availability.—Amounts received by a State under section 521(a) remaining unobligated at the end of the fiscal year in which the amounts were received shall remain available to the State during the succeeding fiscal year for the purpose described in section 521(b).

"TECHNICAL ASSISTANCE

"Sec. 531. The Secretary may, without charge to a State receiving amounts under section 521(a), provide technical assistance to the State with respect to the planning, development, and operation of programs to carry out the purpose described in section 521(b). The Secretary may provide such technical assistance directly, through contract, or through grants. 42 USC 290cc-31.

"FAILURE TO COMPLY WITH AGREEMENTS

"Sec. 532. (a) Repayment of Payments.— 42 USC 290cc-32.

"(1) The Secretary may, in accordance with subsection (c), require a State to repay any amounts received under section 521(a) that, in the determination of the Secretary, were not expended by the State in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 522.

"(2) If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under section 521(a).

"(b) Withholding of Payments.—

"(1) The Secretary may, in accordance with subsection (c), withhold payments due under section 521(a) if the Secretary determines that the State involved is not expending amounts received under such section in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 522.

"(2) The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that the State is expending amounts received under section 521(a) in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 522.

"(c) OPPORTUNITY FOR A HEARING.—Before requiring repayment of payments under subsection (a)(1), or withholding payments under subsection (b)(1), the Secretary shall provide to the State involved an opportunity for a hearing.

"(d) CONSTRUCTION OF PURPOSE OF ALLOTMENTS.—Notwithstanding any other provision of this part, a State receiving amounts under section 521(a) may not, with respect to the agreements required to be contained in the application submitted by the State pursuant to section 522, be considered to be in violation of any such agreements by reason of the fact that the State, in the regular course of providing mental health services to homeless individuals who are chronically mentally ill, incidentally provides mental health services to homeless individuals who are not chronically mentally ill.

"ESTABLISHMENT OF PROHIBITION AGAINST MAKING CERTAIN FALSE STATEMENTS

Fraud.
42 USC 290cc-33.

"SEC. 533. (a) IN GENERAL.—

"(1) A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from amounts paid to the State under section 521(a).

"(2) A person with knowledge of the occurrence of any event affecting the right of the person to receive any payments by a State from such amounts may not conceal or fail to disclose any such event with the intent of securing such a payment that the person is not authorized to receive or securing such a payment in an amount greater than the amount that the person is authorized to receive.

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates the prohibition established in subsection (a) may for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

"NONDISCRIMINATION

42 USC 290cc-34.

"SEC. 534. (a) IN GENERAL.—

42 USC 6101 note.
29 USC 794.
20 USC 1681.

"(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this part shall be considered to be programs and activities receiving Federal financial assistance.

"(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.

"(b) ENFORCEMENT.—

"(1) Whenever the Secretary finds that a State, or an entity that has received a payment pursuant to section 521(a), has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and request the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(B) exercise the powers and functions provided by the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, or title VI of the Civil Rights Act of 1964, as may be applicable; or

42 USC 6101 note.
29 USC 794.
42 USC 2000d.

"(C) take such other actions as may be authorized by law.

"(2) When a matter is referred to the Attorney General pursuant to paragraph (1)(A), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 535. There are authorized to be appropriated to carry out this part $35,000,000 for fiscal year 1987 and such sums as may be necessary for fiscal year 1988.

42 USC 290cc-35.

"DEFINITIONS

"SEC. 536. For purposes of this part:

42 USC 290cc-36.

"(1) The term 'homeless individual' has the meaning given such term in section 340(q)(2).

"(2) The term 'primary health services' has the meaning given such term in section 330(b)(1).

"(3) The term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(4) The term 'substance abuse' means the abuse of alcohol or other drugs.".

SEC. 612. COMMUNITY MENTAL HEALTH SERVICES DEMONSTRATION PROJECTS FOR HOMELESS INDIVIDUALS WHO ARE CHRONICALLY MENTALLY ILL.

42 USC 290aa-3 note.

(a) IN GENERAL.—There is authorized to be appropriated for payments pursuant to section 504(f) of the Public Health Service Act $10,000,000 for fiscal year 1987, in addition to any other amounts appropriated for such payments for such fiscal year. Such additional amounts shall be available only for the provision of community-based mental health services to homeless individuals who are chronically mentally ill.

42 USC 290aa-3.

(b) AVAILABILITY.—Amounts paid to a grantee under section 504(f) pursuant to subsection (a) remaining unobligated at the end of the fiscal year in which the amounts were received shall remain available to the grantee during the succeeding fiscal year for the purposes for which the payments were made.

SEC. 613. COMMUNITY DEMONSTRATION PROJECTS FOR ALCOHOL AND DRUG ABUSE TREATMENT OF HOMELESS INDIVIDUALS.

(a) IN GENERAL.—Section 512 of the Public Health Service Act (42 U.S.C. 290bb-1a) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

Contracts.

"(c)(1) The Secretary, acting through the Director of the Institute, may make grants to, and enter into contracts and cooperative agreements with, community-based public and private nonprofit entities for the purpose of developing and expanding alcohol and drug abuse treatment services for homeless individuals. In carrying out this subsection, the Director shall consult with the Director of the National Institute on Drug Abuse.

"(2) Amounts paid to a grantee pursuant to paragraph (1) remaining unobligated at the end of the fiscal year in which the amounts were received shall remain available to the grantee during the succeeding fiscal year for the purposes for which the grants were made.".

(b) LIMITATION ON AUTHORITY TO MAKE GRANTS.—Section 512(d) of the Public Health Service Act (as redesignated in subsection (a) of this section) is amended by striking "subsection (a)" and inserting "subsection (a) or (c)".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 513 of the Public Health Service Act (42 U.S.C. 290bb-2) is amended—

(1) by inserting "(a)" after "513."; and

(2) by adding at the end the following new subsection:

"(b) There is authorized to be appropriated to carry out section 512(c) $10,000,000 for fiscal year 1987.".

TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

Subtitle A—Adult Education for the Homeless

SEC. 701. AMENDMENT TO ADULT EDUCATION ACT.

(a) STATE PLANS.—Section 306(b) of the Adult Education Act (20 U.S.C. 1205(b)) is amended—

(1) in paragraph (1), by inserting "homeless adults," after "English language skills,";

(2) in paragraph (7), by inserting "organizations providing assistance to the homeless," after "antipoverty programs,"; and

(3) in paragraph (8), by inserting "homeless adults," after "English language skills,".

(b) RESEARCH AND DEMONSTRATION.—Section 309(a)(1)(A) of the Adult Education Act (20 U.S.C. 1207a(a)(1)(A)) is amended—

(1) by inserting "homeless adults," before "elderly"; and

(2) by inserting a comma after "individuals".

SEC. 702. STATEWIDE LITERACY INITIATIVES.

42 USC 11421.

Grants.

(a) General Authority.—The Secretary of Education shall make grants to State educational agencies to enable each such agency to develop a plan and implement a program of literacy training and basic skills remediation for adult homeless individuals within the State, which shall—

(1) include a program of outreach activities; and

(2) be coordinated with existing resources such as community-based organizations, VISTA recipients, adult basic education program recipients, and nonprofit literacy-action organizations.

(b) Application.—Each State educational agency desiring to receive its allocation under this section shall submit to the Secretary of Education an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) Authorization of Appropriations; Allocation.—

(1) There are authorized to be appropriated $7,500,000 for fiscal year 1987 and $10,000,000 for fiscal year 1988, for the adult literacy and basic skills remediation programs authorized by this section.

(2) The Secretary of Education shall distribute funds to States on the basis of the assessments of the homeless population in the States made in the comprehensive plans submitted under this Act, except that no State shall receive less than $75,000 under this section.

(d) Definition.—As used in this section, the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

Subtitle B—Education for Homeless Children and Youth

SEC. 721. STATEMENT OF POLICY.

42 USC 11431.

It is the policy of the Congress that—

(1) each State educational agency shall assure that each child of a homeless individual and each homeless youth have access to a free, appropriate public education which would be provided to the children of a resident of a State and is consistent with the State school attendance laws; and

(2) in any State that has a residency requirement as a component of its compulsory school attendance laws, the State will review and undertake steps to revise such laws to assure that the children of homeless individuals and homeless youth are afforded a free and appropriate public education.

SEC. 722. GRANTS FOR STATE ACTIVITIES FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

42 USC 11432.

(a) General Authority.—The Secretary of Education is, in accordance with the provisions of this section, authorized to make grants to States to carry out the activities described in subsections (c), (d), and (e).

(b) Allocation.—From the amounts appropriated for each fiscal year pursuant to subsection (g), the Secretary shall allot to each State an amount which bears the same ratio to the amount appropriated in each such year as the amount allocated under section 111 of the Elementary and Secondary Education Act of 1965 (as incorporated by reference in chapter 1 of the Education Consolidation and Improvement Act of 1981) to the local educational agencies in the State in that year bears to the total amount allocated to such agencies in all States, except that no State shall receive less than $50,000 in any fiscal year.

20 USC 3801 note.

(c) AUTHORIZED ACTIVITIES.—Grants under this section shall be used—

(1) to carry out the policies set forth in section 721 in the State;

Office of Coordinator of Education of Homeless Children and Youth, establishment.

(2) to establish or designate an Office of Coordinator of Education of Homeless Children and Youth in accordance with subsection (d); and

(3) to prepare and carry out the State plan described in subsection (e).

(d) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—

Schools and colleges.

(1) gather data on the number and location of homeless children and youth in the State, and such data gathering shall include the nature and extent of problems of access to, and placement of, homeless children and homeless youth in elementary and secondary schools, and the difficulties in identifying the special needs of such children;

(2) develop and carry out the State plan described in subsection (e); and

Reports.

(3) prepare and submit to the Secretary an interim report not later than December 31, 1987, and a final report not later than December 31, 1988, on the data gathered pursuant to paragraph (1).

To the extent that reliable current data is available in the State, each coordinator described in this subsection may use such data to fulfill the requirements of paragraph (1).

(e) STATE PLAN.—

(1) Each State shall adopt a plan to provide for the education of each homeless child or homeless youth within the State which will contain provisions designed to—

(A) authorize the State educational agency, the local educational agency, the parent or guardian of the homeless child, the homeless youth, or the applicable social worker to make the determinations required under this section; and

(B) provide procedures for the resolution of disputes regarding the educational placement of homeless children and youth.

(2) Each plan adopted under this subsection shall assure, to the extent practicable under requirements relating to education established by State law, that local educational agencies within the State will comply with the requirements of paragraphs (3) through (6).

(3) The local educational agency of each homeless child or youth shall either—

(A) continue the child's or youth's education in the school district of origin for the remainder of the school year; or

(B) enroll the child or youth in the school district where the child or youth is actually living;

whichever is in the child's best interest or the youth's best interest.

(4) The choice regarding placement shall be made regardless of whether the child or youth is living with the homeless parents or has been temporarily placed elsewhere by the parents.

(5) Each homeless child shall be provided services comparable to services offered to other students in the school selected according to the provisions of paragraph (3), including educational services for which the child meets the eligibility criteria, such as compensatory educational programs for the disadvantaged, and educational programs for the handicapped and for students with limited English proficiency; programs in vocational education; programs for the gifted and talented; and school meals programs.

(6) The school records of each homeless child or youth shall be maintained— Records.

(A) so that the records are available, in a timely fashion, when a child or youth enters a new school district; and

(B) in a manner consistent with section 438 of the General Education Provisions Act. 20 USC 1232g.

(f) Application.—No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(g) Authorization of Appropriations.—

(1) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1987 and 1988 to carry out the provisions of this section.

(2) Sums appropriated in each fiscal year shall remain available for the succeeding fiscal year.

SEC. 723. EXEMPLARY GRANTS AND DISSEMINATION OF INFORMATION ACTIVITIES AUTHORIZED.

42 USC 11433.

(a) General Authority.—

(1) The Secretary shall, from funds appropriated pursuant to subsection (f), make grants for exemplary programs that successfully address the needs of homeless students in elementary and secondary schools of the applicant.

(2) The Secretary shall, in accordance with subsection (e), conduct dissemination activities of exemplary programs designed to meet the educational needs of homeless elementary and secondary school students.

(b) Applicants.—The Secretary shall make grants to State and local educational agencies for the purpose described in paragraph (1) of subsection (a).

(c) Eligibility for Grants.—No applicant may receive an exemplary grant under this section unless the applicant is located in a State which has submitted a State plan in accordance with the provisions of section 722.

(d) Application.—Each applicant which desires to receive a demonstration grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall include—

(1) a description of the exemplary program for which assistance is sought;

(2) assurances that the applicant will transmit information with respect to the conduct of the program for which assistance is sought; and

(3) such additional assurances that the Secretary determines are necessary.

(e) DISSEMINATION OF INFORMATION ACTIVITIES.—The Secretary shall, from funds appropriated pursuant to subsection (f), conduct, directly or indirectly by way of grant, contract, or other arrangement, dissemination activities designed to inform State and local educational agencies of exemplary programs which successfully address the special needs of homeless students.

(f) APPROPRIATIONS AUTHORIZED.—There is authorized to be appropriated $2,500,000 for fiscal year 1988 to carry out the provisions of this section.

Reports.
42 USC 11434.

SEC. 724. NATIONAL RESPONSIBILITIES.

(a) GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall prepare and submit to the Congress not later than June 30, 1988, a report on the number of homeless children and youth in all States.

(b) SECRETARIAL RESPONSIBILITIES.—

(1) The Secretary shall monitor and review compliance with the provisions of this subtitle in accordance with the provisions of the General Education Provisions Act.

(2) The Secretary shall prepare and submit a report to the Congress on the programs and activities authorized by this subtitle at the end of each fiscal year.

(3) The Secretary shall compile and submit a report to the Congress containing the information received from the States pursuant to section 722(d)(3) within 45 days of its receipt.

42 USC 11435.

SEC. 725. DEFINITIONS.

As used in this subtitle—

(1) the term "Secretary" means the Secretary of Education; and

(2) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

Employment and unemployment.
42 USC 11441.

Subtitle C—Job Training for the Homeless

SEC. 731. DEMONSTRATION PROGRAM AUTHORIZED.

Grants.

(a) GENERAL AUTHORITY.—The Secretary of Labor shall, from funds appropriated pursuant to section 739, make grants for the Federal share of job training demonstration projects for homeless individuals in accordance with the provisions of this subtitle.

(b) CONTRACT AUTHORITY.—The Secretary is authorized to enter into such contracts with State and local public agencies, private nonprofit organizations, private businesses, and other appropriate entities as may be necessary to carry out the provisions of this subtitle.

42 USC 11442.

SEC. 732. STATE COORDINATION WITH DEMONSTRATION GRANT RECIPIENTS.

A State shall describe in the comprehensive plan required under section 401 how the State will coordinate projects conducted within a State under this subtitle with other services for homeless individuals assisted under this Act.

SEC. 733. APPLICATION.

42 USC 11443.

Each applicant which desires to receive a demonstration grant under this subtitle shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall include—

(1) a description of the activities for which assistance is sought;

(2) plans for the coordination and outreach activities, particularly with case managers and care providers, designed to achieve referral of homeless individuals to the demonstration projects authorized by this subtitle;

(3) plans to offer in-shelter outreach and assessment activities and where practicable, pre-employment services, so as to increase the participation of homeless individuals in the demonstration project and to contract for, or provide, training services and activities;

(4) a description of the standards by which performance may be measured under the demonstration project, together with assurances that a preliminary evaluation of the project will be completed not later than the end of the first year for which assistance is sought;

(5) assurances that the recipient of demonstration grants under this subtitle will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources; and

(6) such additional assurances as the Secretary determines are necessary to insure compliance with the requirements of this subtitle.

SEC. 734. AUTHORIZED ACTIVITIES.

42 USC 11444.

Demonstration grants under this subtitle may be used for—

(1) basic skills instruction;

(2) remedial education activities;

(3) basic literacy instruction;

(4) job search activities;

(5) job counseling;

(6) job preparatory training, including resume writing and interviewing skills; and

(7) any other activities described in section 204 of the Job Training Partnership Act which the grant recipient determines will contribute to carrying out the objectives of this subtitle; 29 USC 1604.

for homeless individuals.

SEC. 735. PAYMENTS; FEDERAL SHARE; LIMITATION.

42 USC 11445.

(a) PAYMENTS.—The Secretary shall pay to each applicant having an application approved under section 733 the Federal share of the cost of activities described in the application.

(b) FEDERAL SHARE.—

(1)(A) The Federal share for each fiscal year shall be not less than 50 percent nor more than 90 percent.

(B) The Federal share shall be determined by the Secretary for each recipient under this subtitle based upon the ability of the recipient to meet the non-Federal share of the cost of the program for which assistance is sought.

(2) The non-Federal share of payments under this subtitle may be in cash or in kind fairly evaluated, including plant equipment or services.

Grants.

(c) LIMITATION.—The Secretary may not make grants in any State in an aggregate in excess of 15 percent of the amount appropriated to carry out this subtitle in each fiscal year.

42 USC 11446.

SEC. 736. EVALUATION.

(a) DEMONSTRATION PROJECT RESPONSIBILITY.—The Secretary shall evaluate each project assisted under this subtitle at the end of the first fiscal year for which funds are appropriated under this subtitle. The Secretary shall submit the findings of the evaluations to the Interagency Council. Not later than 6 months before the termination date specified in section 741, the Secretary shall prepare and submit a final report of the evaluations required by this subsection to the President, to the Congress, and to the Interagency Council.

Reports.

(b) CONTENTS OF EVALUATIONS.—Each evaluation required by this section shall include—

(1) the number of homeless individuals served;

(2) the number of homeless individuals placed in jobs;

(3) the average length of training time under the project;

(4) the average training cost under the project; and

(5) the average retention rate of placements of homeless individuals after training with assistance made under this subtitle.

(c) EVALUATION BY INTERAGENCY COUNCIL.—

(1) The Interagency Council shall evaluate each project receiving assistance under this subtitle.

Reports.

(2) The Interagency Council shall prepare and publish a report of its findings in the annual report of the Council. The evaluation of the demonstration projects authorized by this subtitle shall include a determination of the relative effectiveness of programs assisted under this subtitle together with recommendations, including recommendations for legislation, to the Congress on job training programs for homeless individuals to be established on a national basis.

42 USC 11447.

SEC. 737. DEFINITIONS.

As used in this subtitle—

(1) the term "applicant" means public agencies, private nonprofit organizations, private businesses, and other appropriate entities;

(2) the term "Interagency Council" means the Interagency Council on the Homeless;

(3) the term "local public agency" means any public agency of a general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers;

(4) the term "Secretary" means the Secretary of Labor; and

(5) the term "State" means each of the several States and the District of Columbia.

42 USC 11448.

SEC. 738. HOMELESS VETERANS' REINTEGRATION PROJECTS.

(a) GENERAL AUTHORITY.—The Secretary, using funds appropriated and made available for the purpose of carrying out this section, shall conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to expedite the reintegration of homeless veterans into the labor force. Notwithstanding any other provision of law, the amount so appropriated shall be available for distribution in such manner as the Assistant Secretary of Labor for Veterans' Employment and Training considers appropriate and shall remain available until expended.

(b) AUTHORITY TO MONITOR THE EXPENDITURE OF FUNDS.—The Secretary is authorized to obtain such information as the Secretary considers appropriate to enable the Secretary to monitor and evaluate the distribution and expenditure of funds appropriated pursuant to the authorization contained in subsection (a). Such information shall be furnished to the Secretary in such form as the Secretary considers appropriate for the purpose of this subsection.

(c) ADMINISTRATION THROUGH THE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—The Secretary shall administer the program provided for by this section through the Assistant Secretary of Labor for Veterans' Employment and Training.

(d) DEFINITION.—As used in this section, the term "homeless veteran" means a homeless individual who is a veteran within the meaning of section 101(2) of title 38, United States Code.

SEC. 739. AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY OF FUNDS.

42 USC 11449.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated $12,000,000 for fiscal year 1988 to carry out the provisions of this subtitle, of which $2,000,000 shall be available only for the purpose of carrying out section 738.

(2) If in fiscal year 1988 the appropriation is less than $12,000,000 to carry out the provisions of this subtitle, the amount available in such fiscal year for the programs under this subtitle other than section 738 and for the program under section 738 shall be ratably reduced.

(3) Nothing in this subtitle shall be construed to require the Secretary to carry out the provisions of this subtitle from funds appropriated for programs other than funds appropriated for this subtitle.

(b) AVAILABILITY OF FUNDS.—Funds obligated for any fiscal year may be expended by each recipient during that fiscal year and the succeeding fiscal year.

SEC. 740. AMENDMENTS TO THE JOB TRAINING PARTNERSHIP ACT.

(a) DEFINITION.—Section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)) is amended—

(1) by redesignating clauses (D) and (E) as clauses (E) and (F), respectively; and

(2) by inserting after clause (C) the following:

"(D) qualifies as a homeless individual under section 103 of the Stewart B. McKinney Homeless Assistance Act;".

(b) SERVICE REQUIREMENT.—Section 141(e) of the Job Training Partnership Act (29 U.S.C. 1551(e)) is amended by inserting before the period at the end the following: ", including exceptions necessary to permit services to homeless individuals who cannot prove residence within the service delivery area".

42 USC 11450.

SEC. 741. TERMINATION.

The provisions of this subtitle other than section 740 shall terminate on October 1, 1990.

Subtitle D—Emergency Community Services Homeless Grant Program

42 USC 11461.

SEC. 751. ESTABLISHMENT OF PROGRAM.

The Secretary of Health and Human Services (in this subtitle referred to as the "Secretary") shall carry out an emergency community services homeless grant program through the Office of Community Services of the Department of Health and Human Services.

State and local governments.
42 USC 11462.

SEC. 752. ALLOCATION OF GRANTS.

(a) General Allocation Procedure.—From the amounts made available under this subtitle, the Secretary shall make grants to States that administer programs under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.). Such grants shall be allocated to the States in accordance with the formula set forth in section 674(a)(1) of such Act (42 U.S.C. 9903(a)(1)).

(b) Alternate Allocation Procedure.—If a State does not apply for a grant or does not submit an approvable application for a grant under this subtitle, the Secretary shall use the amounts made available under this subtitle to make grants directly to agencies and organizations in such State in accordance with the criteria set forth in section 753(b)(1).

Grants.
State and local governments.
42 USC 11463.

SEC. 753. PROGRAM REQUIREMENTS.

(a) Application.—In order to receive a grant under this subtitle, a State shall submit an application to the Secretary in such form and at such time as the Secretary may require. Such application shall describe the agencies, organizations, and activities that the State intends to support with the amounts received.

(b) Assurances.—In order to receive a grant under this subtitle, a State shall ensure that—

(1)(A) it will award all of the amounts it receives to—

(i) community action agencies that are eligible to receive amounts under section 675(c)(2)(A) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(2)(A));

(ii) organizations serving migrant and seasonal farmworkers; and

(iii) any organization to which a State, that applied for and received a waiver from the Secretary under Public Law 98-139, made a grant under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.) for fiscal year 1984; and

(B) not less than 90 percent of the amounts received shall be awarded to such agencies and organizations that, as of January 1, 1987, are providing services to meet the critically urgent needs of homeless individuals;

(2) no amount received under this subtitle will be used to supplant other programs for homeless individuals administered by the State; and

(3) no amount received under this subtitle will be used to defray State administrative costs.

(c) Eligible Use of Funds.—Amounts awarded under this subtitle may be used only for the following purposes:

(1) Expansion of comprehensive services to homeless individuals to provide follow-up and long-term services to enable homeless individuals to make the transition out of poverty.

(2) Provision of assistance in obtaining social and maintenance services and income support services for homeless individuals.

(3) Promotion of private sector and other assistance to homeless individuals.

SEC. 754. AUTHORIZATION OF APPROPRIATIONS.

42 USC 11464.

There are authorized to be appropriated to carry out this subtitle $40,000,000 for each of the fiscal years 1987 and 1988.

Subtitle E—Miscellaneous Provisions

SEC. 761. STUDY OF YOUTH HOMELESSNESS.

42 USC 11471.

Grants.

(a) Authorization.—The Secretary of Health and Human Services may make demonstration grants to a qualified applicant for a special research project to study the underlying causes of youth homelessness.

(b) Funding.—The Secretary of Health and Human Services shall make available not to exceed $50,000 of the funds appropriated under section 426 of the Social Security Act for fiscal year 1987 for the purpose of making a grant under this section.

42 USC 626.

SEC. 762. SET-ASIDES FOR NATIVE AMERICANS.

42 USC 11472.

(a) In General.—Not less than 1.5 percent of the funds provided under this title for each of the following programs shall be allocated to Indian tribes:

(1) The job training demonstration program established in section 731.

(2) The emergency community services homeless grant program established in section 751.

(b) Definition.—For purposes of this section, the term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), that is recognized by the Federal Government as eligible for special programs and services provided to Indians because of their status as Indians.

43 USC 1601 note.

TITLE VIII—FOOD ASSISTANCE FOR THE HOMELESS

Subtitle A—Food Stamp Program

SEC. 801. DEFINITION OF HOMELESS INDIVIDUAL.

Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(s) 'Homeless individual' means—

"(1) an individual who lacks a fixed and regular nighttime residence; or

"(2) an individual who has a primary nighttime residence that is—

"(A) a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

"(B) an institution that provides a temporary residence for individuals intended to be institutionalized;

"(C) a temporary accommodation in the residence of another individual; or

"(D) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.".

SEC. 802. DEFINITION OF HOUSEHOLD.

(a) Revision of Definition.—The first sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended—

(1) by striking out "or (2)" and inserting in lieu thereof "(2)";

(2) by inserting before the semicolon the following: ", or (3) a parent of minor children and that parent's children (notwithstanding the presence in the home of any other persons, including parents and siblings of the parent with minor children) who customarily purchase food and prepare meals for home consumption separate from other persons, except that the certification of a household as a separate household under this clause shall be reexamined no less frequently than once every 6 months"; and

(3) by inserting "(other than as provided in clause (3))" after "except that".

7 USC 2012 note. (b) Effective Date.—The amendments made by this section shall become effective on October 1, 1987.

SEC. 803. ANNUAL ADJUSTMENT OF INCOME ELIGIBILITY STANDARDS.

(a) Date of Annual Adjustment.—Section 5(c) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)) is amended by inserting "shall be adjusted each October 1 and" after "eligibility" the first place it appears.

7 USC 2014 note. (b) Effective Date.—The amendment made by this section shall become effective on July 1, 1988.

SEC. 804. ANNUAL ADJUSTMENTS TO THE STANDARD DEDUCTION.

(a) Revision of Deduction.—The second sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended—

(1) by striking out "and (3)" and inserting in lieu thereof "(3)";

(2) by striking out "each October 1 thereafter" in clause (3) and inserting in lieu thereof "October 1, 1986"; and

(3) by inserting before the period at the end thereof the following: ", and (4) on October 1, 1987, and each October 1 thereafter, to the nearest lower dollar increment to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, for items other than food, for the twelve months ending the preceding June 30".

7 USC 2014 note. (b) Effective Date.—The amendments made by this section shall become effective on October 1, 1987.

SEC. 805. INELIGIBILITY FOR EARNED INCOME DEDUCTION.

(a) Ineligibility for the Deduction.—The third sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by inserting before the period at the end the following: ", except that such additional deduction shall not be allowed with respect to earned income that a household willfully or fraudulently fails (as proven in a proceeding provided for in section 6(b)) to report in a timely manner".

7 USC 2015.

7 USC 2014 note.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) The amendment made by this section shall become effective and shall be implemented 45 days after the date of enactment of this Act.

(2) The amendment made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 to any household for any month beginning before the effective date of the amendment.

SEC. 806. EXCESS SHELTER EXPENSE.

District of Columbia.
Alaska.
Hawaii.
Guam.
Virgin Islands.

(a) REVISION OF DEDUCTION.—The proviso to the fourth sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking out "That the amount of such" and all that follows through the end of the sentence and inserting in lieu thereof the following: "That the amount of such excess shelter expense deduction shall not exceed $164 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States $285, $234, $199, and $121 a month, respectively, adjusted on October 1, 1988, and on each October 1 thereafter, to the nearest lower dollar increment to reflect changes in the shelter, fuel, and utilities components of housing costs in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics, as appropriately adjusted by the Bureau of Labor Statistics after consultation with the Secretary, for the twelve months ending the preceding June 30.".

7 USC 2014 note.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) The amendment made by this section shall become effective on October 1, 1987.

(2) The amendment made by this section shall not apply with respect to an allotment issued under the Food Stamp Act of 1977 to a household for a certification period beginning before October 1, 1987.

7 USC 2011 note.

SEC. 807. THIRD PARTY PAYMENTS FOR CERTAIN HOUSING.

(a) EXCLUSION FROM INCOME.—Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended—

(1) in subparagraph (D), by striking out "or" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) housing assistance payments made to a third party on behalf of a household residing in temporary housing if the temporary housing unit provided for the household as a result of such assistance payments lacks facilities for the preparation and cooking of hot meals or the refrigerated storage of food for home consumption; or".

7 USC 2014 note.

(b) EFFECTIVE DATES AND APPLICATION.—

(1) The amendments made by this section shall be effective and shall be implemented for the period beginning 90 days after

the date of enactment of this Act and ending September 30, 1989.

7 USC 2011 note. (2) The amendments made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 to any household for any month beginning before the effective period of this section begins.

SEC. 808. FOOD STAMP INFORMATION FOR THE HOMELESS.

(a) AUTHORITY TO PROVIDE INFORMATION.—Section 11(e)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(1)(A)) is amended by inserting "except, at the option of the State agency, food stamp informational activities directed at homeless individuals" after "Act".

(b) ADMINISTRATIVE EXPENSES.—The first sentence of section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking out "and (4)" and inserting in lieu thereof "(4) food stamp informational activities permitted under section 11(e)(1)(A), and (5)".

SEC. 809. EXPEDITED FOOD STAMP SERVICE.

(a) ELIGIBILITY.—Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended—

(1) by striking out "and" after the semicolon at the end of clause (ii) of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (D);

(3) by inserting after subparagraph (A) the following new subparagraphs:

"(B) provide coupons no later than five days after the date of application to any household in which all members are homeless individuals and that meets the income and resource criteria for coupons under this Act;

"(C) provide coupons no later than five days after the date of application to any household that has a combined gross income and liquid resources that is less than the monthly rent, or mortgage, and utilities of the household; and"; and

(4) in subparagraph (D) (as redesignated), by striking out "the household" and inserting in lieu thereof "a household referred to in subparagraph (A), (B), or (C)".

7 USC 2020 note. (b) EFFECTIVE DATE.—The amendments made by this section shall become effective and be implemented as soon as the Secretary of Agriculture determines is practicable after the date of enactment of this Act, but not later than 160 days after the date of enactment of this Act.

Subtitle B—Temporary Emergency Food Assistance Program (TEFAP)

SEC. 811. VARIETY OF COMMODITIES UNDER TEFAP.

(a) COMMODITIES FOR ELIGIBLE RECIPIENT AGENCIES.—Section 202(d) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by inserting after "shall include" the following: "a variety of commodities and products thereof that are most useful to eligible recipient agencies, including".

(b) TECHNICAL AMENDMENT.—Section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by inserting the subsection designation "(a)" after "SEC. 202.".

SEC. 812. DISTRIBUTION OF SURPLUS FLOUR, CORNMEAL, AND CHEESE.

The Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by inserting after section 202 the following new section:

"AVAILABILITY OF CCC FLOUR, CORNMEAL, AND CHEESE

"SEC. 202A. Notwithstanding any other provision of law—

"(a)(1) To the extent provided in advance in an appropriation Act, in fiscal year 1988, flour, cornmeal, and cheese acquired by the Commodity Credit Corporation that are in excess of quantities needed to—

"(A) carry out other domestic donation programs,

"(B) meet other domestic obligations (including quantities needed to carry out a payment-in-kind acreage diversion program),

"(C) meet international market development and food aid commitments, and

"(D) carry out the farm price and income stabilization purposes of the Agricultural Adjustment Act of 1938, the Agricultural Act of 1949, and Commodity Credit Corporation Charter Act,

7 USC 1281.
7 USC 1421 note.
15 USC 714.

shall be made available as provided in paragraph (2).

State and local governments.

"(2) The Secretary shall make such excess flour, cornmeal, and cheese available in any State, in addition to the normal allotment of such commodities (adjusted by any reallocation) for fiscal year 1988 under this Act, at the request of the chief executive officer of such State who certifies to the Secretary that—

"(A)(i) individuals in such State who are eligible to receive flour, cornmeal, and cheese under this Act are not receiving such commodities distributed under other provisions of this Act, or

"(ii) the number of unemployed individuals in such State has increased during the most recent 90-day period for which unemployment statistics are available prior to the date the certification is made, and

"(B) the distribution of flour, cornmeal, and cheese under this section in such State will not substantially displace the commercial sale of such commodities in such State.

"(b) Flour, cornmeal, and cheese made available under this section by the Secretary shall be made available without charge or credit in fiscal year 1988, in a usable form, for use by eligible recipient agencies in a State.

"(c) The amount of cheese made available under this section in fiscal year 1988 shall not exceed 14,000,000 pounds.

"(d) Whenever the Secretary receives a request submitted under subsection (a)(2), the Secretary shall immediately notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that such request was received.".

SEC. 813. AUTHORIZATION OF APPROPRIATIONS FOR FOOD STORAGE AND DISTRIBUTION COSTS UNDER TEFAP.

The first sentence of section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out "and September 30, 1987" and inserting in lieu thereof "through September 30, 1988".

SEC. 814. CONTINUATION OF TEFAP.

(a) IN GENERAL.—Section 212 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out "1987" and inserting in lieu thereof "1988".

(b) CONFORMING AMENDMENT.—Section 210(c) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended—

(1) by striking out "beginning October 1, 1983, and ending September 30, 1987" and inserting in lieu thereof "ending on the date specified in section 212"; and

(2) by striking out "fiscal year ending September 30, 1987" and inserting in lieu thereof "fiscal year ending September 30, 1988".

TITLE IX—VETERANS' PROVISIONS

SEC. 901. EXTENSION OF VETERANS' JOB TRAINING ACT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of the Veterans' Job Training Act (29 U.S.C. 1721 note) is amended—

(1) by striking out "$65,000,000 for fiscal year 1986" and inserting in lieu thereof "a total of $65,000,000 for fiscal years 1986, 1987, and 1988"; and

(2) by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1989".

29 USC 1721 note.

(b) EXTENSION OF TERMINATION DATES.—Section 17(a) of such Act is amended—

(1) by striking out "January 31, 1987" in clause (1) and inserting in lieu thereof "December 31, 1987"; and

(2) by striking out "July 31, 1987" in clause (2) and inserting in lieu thereof "June 30, 1988".

Approved July 22, 1987.

LEGISLATIVE HISTORY—H.R. 558 (H.R. 177) (S. 728) (S. 809) (S. 810) (S. 811) (S. 813):

HOUSE REPORT: No. 100-8 accompanying H.R. 177, (Comm. on Agriculture), No. 100-10, Pt. I (Comm. on Banking, Finance and Urban Affairs), No. 100-10, Pt. II (Comm. on Energy and Commerce), and No. 100-174 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 5, considered and passed House.
Apr. 8, 9, considered and passed Senate, amended.
May 8, House disagreed to Senate amendment.
June 27, Senate agreed to conference report.
June 30, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
July 22, Presidential statement.

○

Public Law 100-78
100th Congress

Joint Resolution

To designate the period commencing November 15, 1987, and ending November 21, 1987, as "Geography Awareness Week".

July 24, 1987
[S.J. Res. 88]

Whereas the United States of America is a truly unique nation with diverse landscapes, bountiful resources, a distinctive multiethnic population, and a rich cultural heritage, all of which contributes to the status of the United States as a world power;

Whereas geography is the study of people, their environments, and their resources;

Whereas, historically, geography has aided Americans in understanding the wholeness of their vast nation and the great abundance of its natural resources;

Whereas geography today offers perspectives and information in understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world;

Whereas 20 percent of American elementary school students asked to locate the United States on a world map placed it in Brazil;

Whereas 95 percent of American college freshmen tested could not locate Vietnam on a world map;

Whereas 75 percent of Americans responding to a nationwide survey could not locate El Salvador on a map, while 63 percent could not name the two nations involved in the SALT talks;

Whereas over 20 percent of American teachers currently teaching geography have taken no classes in the subject and, therefore, do not have the training necessary to effectively teach geographic concepts;

Whereas departments of geography are being eliminated from American institutes of higher learning, thus endangering the discipline of geography in the United States;

Whereas traditional geography has virtually disappeared from the curricula of American schools while still being taught as a basic subject in other countries, including Great Britain, Canada, Japan, and the Soviet Union;

Whereas an ignorance of geography, foreign languages, and cultures places the United States at a disadvantage with other countries in matters of business, politics, and the environment;

Whereas the United States is a nation of worldwide involvements and global influence, the responsibilities of which demand an understanding of the lands, languages, and cultures of the world; and

Whereas national attention must be focused on the integral role that knowledge of world geography plays in preparing citizens of the United States for the future of an increasingly interdependent and interconnected world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing November 15, 1987, and ending November 21, 1987, is designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved July 24, 1987.

LEGISLATIVE HISTORY—S.J. Res. 88:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 9, considered and passed Senate.
July 14, considered and passed House.

○

Public Law 100-79
100th Congress

Joint Resolution

To designate July 25, 1987 as "Clean Water Day".

July 28, 1987
[S.J. Res. 160]

Whereas fresh, pure water is inextricably linked to our Nation's culture and heritage and is an invaluable resource to be cherished and protected;

Whereas every American should be able to draw upon the abundant resources of our rivers, lakes, streams, and underground water supplies to enjoy clean and safe drinking water;

Whereas our coastal waters produce a rich bounty of fish and seafood without equal, and our inland waters nourish an agricultural system that feeds the world;

Whereas millions of Americans and visitors to our Nation enjoy our rivers, lakes, streams, and oceans for fishing, swimming, boating, and other recreation each year;

Whereas the Nation's trade and commerce were built upon our waterways, and water related jobs bring continued vitality to our economy; and

Whereas it is important to recognize and appreciate the natural beauty and wealth that our waterways have to offer us: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 25, 1987, is designated as "Clean Water Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved July 28, 1987.

LEGISLATIVE HISTORY—S.J. Res. 160:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
July 21, considered and passed House.

○

Public Law 100-80
100th Congress

An Act

July 30, 1987
[H.R. 3022]

To provide for a temporary extension of the public debt limit.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of the first section of the Act of May 15, 1987, entitled "An Act to provide for a temporary increase in the public debt limit" (Public Law 100-40) is amended by striking out "July 17, 1987" and inserting in lieu thereof "August 6, 1987". *Ante*, p. 308

Effective date. 31 USC 3101 note.

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Approved July 30, 1987.

LEGISLATIVE HISTORY—H.R. 3022:

HOUSE REPORTS: No. 100-244 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 29, considered and passed House and Senate.

O

Public Law 100-81
100th Congress

Joint Resolution

To designate the week of October 4, 1987, through October 10, 1987, as "Mental Illness Awareness Week".

July 31, 1987
[S.J. Res. 76]

Whereas mental illness is a problem of grave concern and consequence in American society, though one widely but unnecessarily feared and misunderstood;

Whereas thirty-one to forty-one million Americans annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, attendance at school, or independent living;

Whereas more than ten million Americans are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression;

Whereas between 30 and 50 per centum of the homeless suffer serious, chronic forms of mental illness;

Whereas alcohol, drug, and mental disorders affect almost 19 per centum of American adults in any six-month period;

Whereas mental illness in at least twelve million children interferes with vital development and maturational processes;

Whereas mental disorder-related deaths are estimated to be thirty-three thousand, with suicide accounting for at least twenty-nine thousand, although the real number is thought to be at least three times higher;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas mental disorders result in staggering costs to society, totalling an estimated $106,200,000,000 in direct treatment and support and indirect costs to society, including lost productivity;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas families of mentally ill citizens and those persons themselves have begun to join self-help groups seeking to combat the unfair stigma of the diseases, to support greater national investment in research, and to advocate for an adequate continium of care from hospital to community;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (both somatic and psychosocial) for some of the most incapacitating forms of mental illness (including schizophrenia, major affective disorders, phobias, and phobic disorders);

Whereas appropriate treatment of mental illness has been demonstrated to be cost effective in terms of restored productivity, reduced utilization of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, **That the week beginning on October 4, 1987, is designated as "Mental Illness Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.**

Approved July 31, 1987.

LEGISLATIVE HISTORY—S.J. Res. 76:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 5, considered and passed Senate.
June 21, considered and passed House.

○

Public Law 100-82
100th Congress

Joint Resolution

To designate August 1, 1987, as "Helsinki Human Rights Day".

Aug. 4, 1987
[S.J. Res. 151]

Whereas August 1, 1987, will be the twelfth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereafter in this preamble referred to as the "Helsinki Accords");

Whereas on August 1, 1975, the Helsinki Accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the participating States have committed themselves to balanced progress in all areas of the Helsinki Accords;

Whereas the Helsinki Accords express the commitment of the participating States to "recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all States";

Whereas the Helsinki Accords also express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the Helsinki Accords also express the commitment of the participating States to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development";

Whereas the Helsinki Accords also express the commitment of the participating States to "recognize and respect the freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience";

Whereas the Helsinki Accords also express the commitment of the participating States in whose territory national minorities exist to "respect the right of persons belonging to such minorities to equality before the law" and that such States "will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere";

Whereas the Helsinki Accords also express the commitment of the participating States to "constantly respect these rights and freedoms in their mutual relations" and that such States "will endeavor jointly and separately, including in cooperation with the United Nations, to promote universal and effective respect for them";

Whereas the Helsinki Accords also express the commitment of the participating States to "confirm the right of the individual to know and act upon his rights and duties in this field";

Whereas the Helsinki Accords also express the commitment of the participating States in the field of human rights and fundamental freedoms to "act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" and to "fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound";

59 Stat. 1031.

Whereas the Helsinki Accords also express the commitment of the participating States to guarantee the right of the individual to leave his own country and return to such country;

Whereas the Helsinki Accords also express the commitment of the participating States to "facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection";

Whereas the Helsinki Accords also express the commitment of the participating States to "favorably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families";

Whereas the Helsinki Accords also express the commitment of the participating States to "deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family" and "to deal with applications in this field as expeditiously as possible";

Whereas the Helsinki Accords also express the commitment of the participating States to "examine favorably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating State";

Whereas the Helsinki Accords also express the commitment of the participating States to "facilitate wider travel by their citizens for personal or professional reasons";

Whereas the Governments of the Union of Soviet Socialist Republics, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania, in agreeing to the Helsinki Accords, have acknowledged an adherence to the principles of human rights and fundamental freedoms as embodied in the Helsinki Accords;

Whereas in varying degrees the aforementioned Governments consciously and systematically have violated their commitments to the Helsinki Accords by denying individuals their inherent rights to freedom of religion, thought, conscience, and belief;

Whereas in varying degrees the aforementioned Governments consciously and systematically have violated their commitments to the Helsinki Accords by restricting the free movement of people, ideas, and information;

Whereas in November 1986 representatives from the signatory States convened in Vienna to review implementation of the Helsinki Accords, including the human rights and humanitarian provisions; and

Whereas the Vienna meeting has presented important opportunities to address issues of compliance with the human rights and humanitarian provisions of the Helsinki Accords: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1987, the twelfth anniversary of the signing of the Helsinki Accords is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki Accords, urging all signatory nations to abide by their obligations under the Helsinki Accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights provisions of the Helsinki Accords by raising the issue of noncompliance with the Governments of the Soviet Union, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania at every available opportunity;

(4) the President is further requested to convey to all signatories of the Helsinki Accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process;

(5) the President is authorized to convey to allies and friends of the United States that unity on the question of respect for human rights and fundamental freedoms is the most effective means to promote the full implementation of the human rights and humanitarian provisions of the Helsinki Accords;

(6) the President is further requested to continue his efforts to achieve the release of all political prisoners of the Soviet Union, including Helsinki monitors, the significant increase in Soviet emigration, the resolution of all family reunification cases, and the cessation of radio transmission jamming;

(7) the President is further requested to seek the inclusion, in any concluding document agreed to in Vienna, of a mechanism to assure that human rights progress is sustained following the conclusion of the Vienna Conference on Security and Cooperation in Europe; and

(8) the President is further requested to convey to signatory States the desire of the United States for a balanced result at the Vienna meeting that will not favor military security at the expense of human rights.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this joint resolution to the President, the Secretary of State, and the Ambassadors of the thirty-four Helsinki signatory nations.

Approved August 4, 1987.

LEGISLATIVE HISTORY—S.J. Res. 151:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 5, considered and passed Senate.
July 28, considered and passed House.

○

Public Law 100-83
100th Congress

An Act

To confer the honorary status of Librarian of Congress Emeritus on Daniel J. Boorstin.

Aug. 4, 1987
[S. 1020]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon retirement from service as the Librarian of Congress, Daniel J. Boorstin, who has held that position since November 12, 1975, may be known as the Librarian of Congress Emeritus. Such honorary designation shall not constitute an appointment in the civil service, as defined in section 2101 of title 5, United States Code.

Library of Congress.

SEC. 2. In connection with his activities as Librarian of Congress Emeritus, Daniel J. Boorstin may receive incidental administrative and clerical support through the Library of Congress.

Approved August 4, 1987.

LEGISLATIVE HISTORY—S. 1020 (H.J. Res. 291):

HOUSE REPORTS: No. 100-215 accompanying H.J. Res. 291 (Comm. on House Administration).
SENATE REPORTS: No. 100-54 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 133 (1987):
May 12, considered and passed Senate.
July 21, H.J. Res. 291 considered and passed House; proceedings vacated and S. 1020, amended, passed in lieu.
July 22, Senate concurred in House amendments.

○

91-139 0 - 87 (83)

Public Law 100-84
100th Congress

An Act

Aug. 10, 1987
[H.R. 3190]

To provide for a temporary increase in the public debt limit.

31 USC 3101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That during the period beginning on the date of the enactment of this Act and ending on September 23, 1987, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be equal to $2,352,000,000,000.

Approved August 10, 1987.

LEGISLATIVE HISTORY—H.R. 3190:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 7, considered and passed House and Senate.

○

Public Law 100-85
100th Congress

An Act

To dedicate the North Cascades National Park to Senator Henry M. Jackson.

Aug. 10, 1987
[S. 958]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the North Cascades National Park, Washington, is hereby dedicated to Senator Henry M. Jackson in recognition of his leadership in establishing the North Cascades National Park, his outstanding contributions to the National Park System, the National Wilderness Preservation System, and to the protection and preservation of our great natural resources for the benefit of the people of the United States for all time.

Washington.
16 USC 90 note.

SEC. 2. In order to carry out the provisions of this Act, the Secretary of the Interior is authorized and directed to provide such identification by signs, including, but not limited to changes in existing signs, materials, maps, markers, interpretive programs, or other means as will adequately inform the public of the contributions of Henry M. Jackson.

Public information.
16 USC 90 note.

SEC. 3. The Secretary of the Interior is further authorized and directed to cause to be erected and maintained, within the boundaries of the North Cascades National Park, an appropriate memorial to Henry M. Jackson. Such memorial shall include but not be limited to an appropriate permanent marker describing the contributions of Henry M. Jackson to the Nation.

16 USC 90 note.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Appropriation authorization.
16 USC 90 note.

Approved August 10, 1987.

LEGISLATIVE HISTORY—S. 958:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 9, considered and passed Senate.
July 27, considered and passed House.

O

PUBLIC LAW 100-86—AUG. 10, 1987

COMPETITIVE EQUALITY BANKING ACT OF 1987

91-139 0 - 87 -- 1 (86)

Public Law 100-86
100th Congress

An Act

Aug. 10, 1987
[H.R. 27]

To regulate nonbank banks, impose a moratorium on certain securities and insurance activities by banks, recapitalize the Federal Savings and Loan Insurance Corporation, allow emergency interstate bank acquisitions, streamline credit union operations, regulate consumer checkholds, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Competitive Equality Banking Act of 1987.
12 USC 226 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Competitive Equality Banking Act of 1987".

(b) Table of Contents.—

TITLE I—FINANCIAL INSTITUTIONS COMPETITIVE EQUALITY

Sec. 100. Short title.
Sec. 101. Amendments to the Bank Holding Company Act of 1956.
Sec. 102. Amendments to the Federal Reserve Act.
Sec. 103. Securities affiliations of nonmember insured banks.
Sec. 104. Amendments to savings and loan holding company provisions of the National Housing Act.
Sec. 105. Amendment to the Federal Home Loan Bank Act.
Sec. 106. Securities affiliations of FSLIC insured institutions.
Sec. 107. Mutual holding company amendments.
Sec. 108. Leasing authority of national banks.
Sec. 109. NOW accounts.
Sec. 110. Exemption from affiliate transaction restrictions.
Sec. 111. Consideration of certain acquisitions.

TITLE II—MORATORIUM ON CERTAIN NONBANKING ACTIVITIES

Sec. 201. Moratorium on certain nonbanking activities.
Sec. 202. Authority of Federal banking agencies.
Sec. 203. Intent of Congress.
Sec. 204. Amendments to the International Banking Act of 1978.
Sec. 205. Amendments to the Bank Holding Company Act of 1956.

TITLE III—FSLIC RECAPITALIZATION

Sec. 301. Short title.
Sec. 302. Financing corporation established.
Sec. 303. Mixed ownership government corporation.
Sec. 304. Recapitalization of FSLIC.
Sec. 305. FSLIC authority to charge premiums reduced by amount of financing corporation assessments.
Sec. 306. Miscellaneous provisions.
Sec. 307. Secondary reserve provisions.

TITLE IV—THRIFT INDUSTRY RECOVERY PROVISIONS

Sec. 401. Short title.
Sec. 402. Thrift institution accounting, appraisal, and reserve standards.
Sec. 403. Audit of Federal Asset Disposition Association.
Sec. 404. Thrift industry recovery regulations.
Sec. 405. Capital instrument purchase program.
Sec. 406. Minimum capital requirements.
Sec. 407. Improvements in the supervisory process.
Sec. 408. Prevention of insolvencies.
Sec. 409. Feasibility study relating to establishment of asset holding corporation.
Sec. 410. Notice and disapproval procedure required for all applications to the Bank Board.

Sec. 411. Guidelines for asset disposition.
Sec. 412. Expansion of use of underutilized minority thrift institutions.
Sec. 413. Authority of independent contractors, consultants, and counsel.
Sec. 414. Extension of forbearance previously provided in the acquisition of troubled thrift institutions.
Sec. 415. Congressional oversight.
Sec. 416. Sunset.

TITLE V—FINANCIAL INSTITUTIONS EMERGENCY ACQUISITIONS

Sec. 501. Short title.
Sec. 502. FDIC assisted emergency interstate acquisitions.
Sec. 503. Bridge banks.
Sec. 504. Conversions.
Sec. 505. Federal depository institutions regulatory agencies not subject to apportionment of funds provisions.
Sec. 506. Federal depository institutions regulatory agencies not subject to sequestration.
Sec. 507. Liquidation proceedings.
Sec. 508. Capital pools.
Sec. 509. Permanent extension of certain temporary provisions of law; 5 year extension of net worth certificates.

TITLE VI—EXPEDITED FUNDS AVAILABILITY

Sec. 601. Short title.
Sec. 602. Definitions.
Sec. 603. Expedited funds availability schedules.
Sec. 604. Safeguard exceptions.
Sec. 605. Disclosure of funds availability policies.
Sec. 606. Payment of interest.
Sec. 607. Miscellaneous provisions.
Sec. 608. Effect on State law.
Sec. 609. Regulations and reports by Board.
Sec. 610. Administrative enforcement.
Sec. 611. Civil liabilities.
Sec. 612. Parity in clearing.
Sec. 613. Effective dates.

TITLE VII—CREDIT UNION AMENDMENTS

Sec. 701. Short title.
Sec. 702. Second mortgage and home improvement loans.
Sec. 703. Ownership interest.
Sec. 704. Faithful performance.
Sec. 705. Membership officers.
Sec. 706. Nonparticipation.
Sec. 707. Property acquisition flexibility.
Sec. 708. Treatment of NCUAB funds.
Sec. 709. Technical and clarifying amendments; removal and prohibition authority.
Sec. 710. Effect of removal or suspension.
Sec. 711. Imposition of conservatorship.
Sec. 712. Reduction in State comment waiting period.
Sec. 713. Authority as conservator.
Sec. 714. Liquidation proceedings.
Sec. 715. Transfer of FTC jurisdiction to NCUAB.
Sec. 716. Assets which may be pledged.

TITLE VIII—LOAN LOSS AMORTIZATION

Sec. 801. Loan loss amortization for agricultural banks.

TITLE IX—FULL FAITH AND CREDIT OF FEDERALLY INSURED DEPOSITORY INSTITUTIONS

Sec. 901. Reaffirmation of security of funds deposited in federally insured depository institutions.

TITLE X—GOVERNMENT CHECKS

Sec. 1001. Report on difficulty in cashing Treasury checks.
Sec. 1002. Time limit on payment of Treasury checks.
Sec. 1003. Cancellation of Treasury checks.
Sec. 1004. Limitation on reclamation actions and claims.
Sec. 1005. Regulations.
Sec. 1006. Effective date.

TITLE XI—INTEREST TO CERTAIN DEPOSITORS

Sec. 1101. Interest to certain depositors.

TITLE XII—MISCELLANEOUS PROVISIONS

Sec. 1201. High yield bond study.
Sec. 1202. Study of competitive issues in the payments mechanism.
Sec. 1203. Study and reports concerning direct investments.
Sec. 1204. Adjustable rate mortgage caps.
Sec. 1205. Separability of provisions.

Competitive Equality Amendments of 1987.

TITLE I—FINANCIAL INSTITUTIONS COMPETITIVE EQUALITY

12 USC 226 note.

SEC. 100. SHORT TITLE.

This title may be cited as the "Competitive Equality Amendments of 1987".

SEC. 101. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.

(a) DEFINITIONS.—

(1) AMENDMENT TO DEFINITION OF BANK.—Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) is amended to read as follows:

"(c) BANK DEFINED.—For purposes of this Act—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'bank' means any of the following:

"(A) An insured bank as defined in section 3(h) of the Federal Deposit Insurance Act.

12 USC 1813.

"(B) An institution organized under the laws of the United States, any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands which both—

"(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others; and

"(ii) is engaged in the business of making commercial loans.

"(2) EXCEPTIONS.—The term 'bank' does not include any of the following:

"(A) A foreign bank which would be a bank within the meaning of paragraph (1) solely because such bank has an insured or uninsured branch in the United States.

"(B) An insured institution (as defined in subsection (j)).

"(C) An organization that does not do business in the United States except as an incident to its activities outside the United States.

"(D) An institution that functions solely in a trust or fiduciary capacity, if—

"(i) all or substantially all of the deposits of such institution are in trust funds and are received in a bona fide fiduciary capacity;

"(ii) no deposits of such institution which are insured by the Federal Deposit Insurance Corporation are offered or marketed by or through an affiliate of such institution;

"(iii) such institution does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others or make commercial loans; and

"(iv) such institution does not—

"(I) obtain payment or payment related services from any Federal Reserve bank, including any service referred to in section 11A of the Federal Reserve Act; or 12 USC 248a.

"(II) exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act. 12 USC 461.

"(E) A credit union (as described in section 19(b)(1)(A)(iv) of the Federal Reserve Act).

"(F) An institution which—

"(i) engages only in credit card operations;

"(ii) does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others;

"(iii) does not accept any savings or time deposit of less than $100,000;

"(iv) maintains only one office that accepts deposits; and

"(v) does not engage in the business of making commercial loans.

"(G) An organization operating under section 25 or section 25(a) of the Federal Reserve Act. 12 USC 601-604a, 611-631.

"(H) An industrial loan company, industrial bank, or other similar institution which is—

"(i) an institution organized under the laws of a State which, on March 5, 1987, had in effect or had under consideration in such State's legislature a statute which required or would require such institution to obtain insurance under the Federal Deposit Insurance Act— 12 USC 1811 note.

"(I) which does not accept demand deposits that the depositor may withdraw by check or similar means for payment to third parties;

"(II) which has total assets of less than $100,000,000; or

"(III) the control of which is not acquired by any company after the date of the enactment of the Competitive Equality Amendments of 1987; or

"(ii) an institution which does not, directly, indirectly, or through an affiliate, engage in any activity in which it was not lawfully engaged as of March 5, 1987,

except that this subparagraph shall cease to apply to any institution which permits any overdraft (including any intraday overdraft), or which incurs any such overdraft in such institution's account at a Federal Reserve bank, on behalf of an affiliate if such overdraft is not the result of an inadvertent computer or accounting error that is beyond the control of both the institution and the affiliate.

"(I) The Investors Fiduciary Trust Company, located in Kansas City, Missouri, so long as such institution—

"(i) engages only in trust, fiduciary, and agency activities in which it was lawfully engaged on March 5, 1987;

"(ii) engages in such activities only at the same number of locations at which such activities were conducted on such date;

"(iii) does not accept demand deposits other than demand deposits which are maintained by such institution in—

"(I) a trust or fiduciary capacity;

"(II) the institution's capacity as a custodian or as a paying, transfer, shareholder servicing, securities clearing, escrow, or dividend disbursing agent; or

"(III) any capacity which is incidental to the trust or fiduciary activities of the institution;

"(iv) does not engage in the business of making commercial loans;

"(v) does not exercise discount or borrowing privileges pursuant to section 19(b)(7) of the Federal Reserve Act; and

12 USC 461.

"(vi) is not directly or indirectly controlled by any company other than a company which directly or indirectly controlled such institution on March 5, 1987.

"(J) A savings bank (as defined in section 3(g) of the Federal Deposit Insurance Act) which—

Post, p. 563.

"(i) is an insured bank (as defined in section 3(h) of such Act);

"(ii) is a subsidiary of the Great Western Financial Corporation as a result of an approval in writing by the State bank supervisor of the State of New York before June 30, 1987;

"(iii) meets or exceeds the investment requirements which an insured institution must meet in order to be a qualified thrift lender under section 408(o) of the National Housing Act; and

Post, p. 571.

"(iv) does not, directly, or through insurance products such savings bank receives from or provides to the Great Western Financial Corporation, engage in the sale or underwriting of insurance,

except that this subparagraph shall cease to apply with respect to such savings bank or any successor institution if any deposits of any other subsidiary or affiliate of the Great Western Financial Corporation which are subject to an assessment of an insurance premium under subsection (b) or (c) of section 404 of the National Housing Act are, directly or indirectly by any device whatsoever, transferred to or acquired by such savings bank or any successor institution which would have the effect of materially reducing such premium assessments. The exemption provided by this subparagraph shall cease to apply if Great Western Financial Corporation uses such savings bank or any successor institution as a vehicle to move such Corporation from Federal Savings and Loan Insurance Corporation insurance to Federal Deposit Insurance Corporation insurance.

Post, p. 601.

"(3) DISTRICT BANK.—The term 'District bank' means any bank operating under the Code of Law for the District of Columbia.".

(2) AMENDMENT TO DEFINITION OF THRIFT INSTITUTION.—Section 2(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(i)) is amended to read as follows:

"(i) THRIFT INSTITUTION.—For purposes of this Act, the term 'thrift institution' means—

"(1) any domestic building and loan or savings and loan association;

"(2) any cooperative bank without capital stock organized and operated for mutual purposes and without profit;

"(3) any Federal savings bank; and

"(4) any State-chartered savings bank the holding company of which is registered pursuant to section 408 of the National Housing Act.".

Post, p. 571.

(3) ADDITIONAL DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsections:

"(j) INSURED INSTITUTION.—For purposes of this Act, the term 'insured institution' has the meaning given to such term in section 408(a)(1) of the National Housing Act.

"(k) AFFILIATE.—For purposes of this Act, the term 'affiliate' means any company that controls, is controlled by, or is under common control with another company.

"(l) SAVINGS BANK HOLDING COMPANY.—For purposes of this Act, the term 'savings bank holding company' means any company which controls one or more qualified savings banks if the aggregate total assets of such savings banks constitute, upon formation of the holding company and at all times thereafter, at least 70 percent of the total assets of such company.

"(m) QUALIFIED SAVINGS BANK.—For purposes of this Act, the term 'qualified savings bank'—

"(1) means any savings bank (as defined in section 3(g) of the Federal Deposit Insurance Act) which was organized on or before March 5, 1987; and

Post, p. 563.

"(2) includes any cooperative bank that is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) and any interim savings bank that is established to facilitate a corporate reorganization, or the formation of a holding company, involving a savings bank described in paragraph (1).".

(b) IMMEDIATE DIVESTITURE REQUIREMENT.—Section 4(a)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)(2)) is amended by adding at the end thereof the following sentence: "Notwithstanding any other provision of this paragraph, if any company that became a bank holding company as a result of the enactment of the Competitive Equality Amendments of 1987 acquired, between March 5, 1987, and the date of the enactment of such Amendments, an institution that became a bank as a result of the enactment of such Amendments, that company shall, upon the enactment of such Amendments, immediately come into compliance with the requirements of this Act.".

(c) CERTAIN COMPANIES NOT TREATED AS BANK HOLDING COMPANIES; LIMITATIONS ON CERTAIN BANKS.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end thereof the following new subsections:

"(f) CERTAIN COMPANIES NOT TREATED AS BANK HOLDING COMPANIES.—

"(1) IN GENERAL.—Except as provided in paragraph (9), any company which—

"(A) on March 5, 1987, controlled an institution which became a bank as a result of the enactment of the Competitive Equality Amendments of 1987; and

"(B) was not a bank holding company on the day before the date of the enactment of the Competitive Equality Amendments of 1987,

shall not be treated as a bank holding company for purposes of this Act solely by virtue of such company's control of such institution.

"(2) LOSS OF EXEMPTION.—Paragraph (1) shall cease to apply to any company described in such paragraph if—

"(A) such company directly or indirectly—

"(i) acquires control of an additional bank or an insured institution (other than an insured institution described in paragraph (10) of this subsection) after March 5, 1987; or

"(ii) acquires control of more than 5 percent of the shares or assets of an additional bank or an insured institution other than—

"(I) shares acquired in a bona fide fiduciary capacity;

"(II) shares held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

"(III) shares held in an account solely for trading purposes;

"(IV) loans or other accounts receivable acquired in the normal course of business; and

"(V) shares or assets of an insured institution described in paragraph (10) of this subsection; or

"(B) any bank subsidiary of such company fails to comply with the restrictions contained in paragraph (3)(B).

"(3) LIMITATION ON BANKS CONTROLLED BY PARAGRAPH (1) COMPANIES.—

"(A) FINDINGS.—The Congress finds that banks controlled by companies referred to in paragraph (1) may, because of relationships with affiliates, be involved in conflicts of interest, concentration of resources, or other effects adverse to bank safety and soundness, and may also be able to compete unfairly against banks controlled by bank holding companies by combining banking services with financial services not permissible for bank holding companies. The purpose of this paragraph is to minimize any such potential adverse effects or inequities by temporarily restricting the activities of banks controlled by companies referred to in paragraph (1) until such time as the Congress has enacted proposals to allow, with appropriate safeguards, all banks or bank holding companies to compete on a more equal basis with banks controlled by companies referred to in paragraph (1) or, alternatively, proposals to permanently restrict the activities of banks controlled by companies referred to in paragraph (1).

"(B) LIMITATIONS.—Until such time as the Congress has taken action pursuant to subparagraph (A), a bank controlled by a company described in paragraph (1) shall not—

"(i) engage in any activity in which such bank was not lawfully engaged as of March 5, 1987;

"(ii) offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8), or permit its products or services to be offered or marketed by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under subsection (c)(8)), unless such products or services were being so offered or marketed as of March 5, 1987, and then only in the same manner in which they were being offered or marketed as of that date;

"(iii) after the date of the enactment of the Competitive Equality Amendments of 1987, permit any overdraft (including an intraday overdraft), or incur any such overdraft in such bank's account at a Federal Reserve bank, on behalf of an affiliate, other than an overdraft described in subparagraph (C); or

"(iv) increase its assets at an annual rate of more than 7 percent during any 12-month period beginning after the end of the 1-year period beginning on the date of the enactment of the Competitive Equality Amendments of 1987.

"(C) PERMISSIBLE OVERDRAFTS DESCRIBED.—For purposes of subparagraph (B)(iii), an overdraft is described in this subparagraph if—

"(i) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate; or

"(ii) such overdraft—

"(I) is permitted or incurred on behalf of an affiliate which is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

"(II) is fully secured, as required by the Board, by bonds, notes, or other obligations which are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system.

"(4) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—If any company described in paragraph (1) loses the exemption provided under such paragraph by operation of paragraph (2), such company shall divest control of each bank it controls within 180 days after such company becomes a bank holding company due to the loss of such exemption.

"(5) SUBSECTION CEASES TO APPLY UNDER CERTAIN CIRCUMSTANCES.—This subsection shall cease to apply to any company described in paragraph (1) if such company—

"(A) registers as a bank holding company under section 5(a) of this Act; 12 USC 1844.

"(B) immediately upon such registration, complies with all of the requirements of this Act, and regulations prescribed by the Board pursuant to this Act, including the nonbanking restrictions of this section; and

"(C) does not, at the time of such registration, control banks in more than one State, the acquisition of which would be prohibited by section 3(d) of this Act if an application for such acquisition by such company were filed under section 3(a) of this Act.

12 USC 1842.

"(6) INFORMATION REQUIREMENT.—Each company described in paragraph (1) shall, within 60 days after the date of enactment of the Competitive Equality Amendments of 1987, provide the Board with the name and address of such company, the name and address of each bank such company controls, and a description of each such bank's activities.

Reports.

"(7) EXAMINATION.—The Board may, from time to time, examine a company described in paragraph (1), or a bank controlled by such company, or require reports under oath from appropriate officers or directors of such company or bank solely for purposes of assuring compliance with the provisions of this subsection and enforcing such compliance.

"(8) ENFORCEMENT.—

"(A) IN GENERAL.—In addition to any other power of the Board, the Board may enforce compliance with the provisions of this Act which are applicable to any company described in paragraph (1), and any bank controlled by such company, under section 8 of the Federal Deposit Insurance Act and such company or bank shall be subject to such section (for such purposes) in the same manner and to the same extent as if such company or bank were a State member insured bank.

12 USC 1818.

"(B) APPLICATION OF OTHER ACT.—Any violation of this Act by any company described in paragraph (1), and any bank controlled by such company, may also be treated as a violation of the Federal Deposit Insurance Act for purposes of subparagraph (A).

12 USC 1811 note.

"(C) NO EFFECT ON OTHER AUTHORITY.—No provision of this paragraph shall be construed as limiting any authority of the Comptroller of the Currency or the Federal Deposit Insurance Corporation.

"(9) TYING PROVISIONS.—A company described in paragraph (1) shall be—

"(A) treated as a bank holding company for purposes of section 106 of the Bank Holding Company Act Amendments of 1970 and section 22(h) of the Federal Reserve Act and any regulation prescribed under any such section; and

12 USC 1971-1978, 375b.

"(B) subject to the restrictions of section 106 of the Bank Holding Company Act Amendments of 1970, in connection with any transaction involving the products or services of such company or affiliate and those of a bank affiliate, as if such company or affiliate were a bank and such bank were a subsidiary of a bank holding company.

"(10) EXEMPTION UNAFFECTED BY CERTAIN EMERGENCY ACQUISITIONS.—For purposes of clauses (i) and (ii)(V) of paragraph (2)(A), an insured institution is described in this paragraph if—

"(A) the insured institution was acquired (or any shares or assets of such institution were acquired) by a company described in paragraph (1) in an acquisition under section 408(m) of the National Housing Act; and Post, p. 621.

"(B) either—

"(i) the insured institution is located in a State in which such company controlled a bank on March 5, 1987; or

"(ii) the insured institution has total assets of $500,000,000 or more at the time of such acquisition.

"(g) LIMITATIONS ON CERTAIN BANKS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section (other than the last sentence of subsection (a)(2)), a bank holding company which controls an institution that became a bank as a result of the enactment of the Competitive Equality Amendments of 1987 may retain control of such institution if such institution does not—

"(A) engage in any activity after the date of the enactment of such Amendments which would have caused such institution to be a bank (as defined in section 2(c), as in effect before such date) if such activities had been engaged in before such date; or Ante, p. 554.

"(B) increase the number of locations from which such institution conducts business after March 5, 1987.

"(2) LIMITATIONS CEASE TO APPLY UNDER CERTAIN CIRCUMSTANCES.—The limitations contained in paragraph (1) shall cease to apply to a bank described in such paragraph at such time as the acquisition of such bank, by the bank holding company referred to in such paragraph, would not be prohibited under section 3(d) of this Act if— 12 USC 1842.

"(A) an application for such acquisition were filed under section 3(a) of this Act; and

"(B) such bank were treated as an additional bank (under section 3(d)).

"(h) TYING PROVISIONS.—

"(1) APPLICABLE TO CERTAIN EXEMPT INSTITUTIONS AND PARENT COMPANIES.—An institution described in subparagraph (D), (F), (G), (H), (I), or (J) of section 2(c)(2) shall be treated as a bank, and a company that controls such an institution shall be treated as a bank holding company, for purposes of section 106 of the Bank Holding Company Act Amendments of 1970 and section 22(h) of the Federal Reserve Act and any regulation prescribed under any such section. 12 USC 1971-1978. 12 USC 375b.

"(2) APPLICABLE WITH RESPECT TO CERTAIN TRANSACTIONS.—A company that controls an institution described in subparagraph (D), (F), (G), (H), (I), or (J) of section 2(c)(2) and any of such company's other affiliates, shall be subject to the tying restrictions of section 106 of the Bank Holding Company Act Amendments of 1970 in connection with any transaction involving the products or services of such company or affiliate and those of such institution, as if such company or affiliate were a bank and such institution were a subsidiary of a bank holding company.".

(d) SAVINGS BANK ACTIVITIES.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following new subsection: Post, p. 579.

"(f) SAVINGS BANK SUBSIDIARIES OF BANK HOLDING COMPANIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act (other than paragraphs (2) and (3)), any qualified savings bank which is a subsidiary of a bank holding company may engage, directly or through a subsidiary, in any activity in which such savings bank may engage (as a State chartered savings bank) pursuant to express, incidental, or implied powers under any statute or regulation, or under any judicial interpretation of any law, of the State in which such savings bank is located.

"(2) INSURANCE ACTIVITIES.—Except as provided in paragraph (3), any insurance activities of any qualified savings bank which is a subsidiary of a bank holding company shall be limited to insurance activities allowed under section 4(c)(8).

12 USC 1843.
State and local governments.

"(3) SAVINGS BANK LIFE INSURANCE.—Any qualified savings bank permitted, as of March 5, 1987, to engage in the sale or underwriting of savings bank life insurance may sell or underwrite such insurance after such savings bank is a subsidiary of a bank holding company if—

Connecticut.
Massachusetts.
New York.

"(A) the savings bank is located in the State of Connecticut, Massachusetts, or New York;

"(B) such activity is expressly authorized by the law of the State in which such savings bank is located;

"(C) the savings bank retains its character as a savings bank;

"(D) such activity is carried out by the savings bank directly and not by—

"(i) any subsidiary or affiliate of the savings bank; or

"(ii) the bank holding company which controls such savings bank;

"(E) such activity is carried out by the savings bank in accordance with any residency or employment limitations set forth in the savings bank life insurance statute in effect on March 5, 1987, in the State in which such bank is located; and

"(F) such activity is otherwise carried out in the same manner as savings bank life insurance activity is carried out in the State in which such bank is located by savings banks which are not subsidiaries of any bank holding company registered under this Act.

"(4) SUBSECTION SHALL CEASE TO APPLY UNDER CERTAIN CIRCUMSTANCES.—If any company which is not a savings bank or a savings bank holding company acquires control of a qualified savings bank, such savings bank shall cease to engage in any activity authorized under paragraph (1) or (3) before the end of the 2-year period beginning on the date such company acquires control, unless such activity is otherwise authorized pursuant to this Act.

"(5) SPECIAL ASSET AGGREGATION RULE FOR PURPOSES OF PARAGRAPH (3).—For the sole purpose of determining whether a qualified savings bank may continue to sell and underwrite savings bank life insurance in accordance with this subsection after control of such savings bank is acquired by a bank holding company, the assets of any other bank affiliated with, or under contract to affiliate with, such savings bank as of March 5, 1987, shall be treated as assets of the savings bank in determining whether such bank holding company is a savings bank holding company.".

(e) THRIFT INSTITUTIONS' BANK.—Section 2(a)(5)(E) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(E)) is amended to read as follows:

"(E) No company is a bank holding company by virtue of its ownership or control of any State-chartered bank or trust company which—

"(i) is wholly owned by thrift institutions or savings banks; and

"(ii) is restricted to accepting—

"(I) deposits from thrift institutions or savings banks;

"(II) deposits arising out of the corporate business of the thrift institutions or savings banks that own the bank or trust company; or

"(III) deposits of public moneys.".

(f) EFFECT ON STATE AUTHORITY TO REGULATE.—Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended—

(1) by striking out "The enactment by the Congress of the Bank Holding Company Act of 1956 shall not" and inserting in lieu thereof "No provision of this Act shall"; and

(2) by inserting "companies," before "banks".

(g) AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 3(g) of the Federal Deposit Insurance Act (12 U.S.C. 1813(g)) is amended to read as follows:

"(g) SAVINGS BANK.—The term 'savings bank' means a bank (including a mutual savings bank) which transacts its ordinary banking business strictly as a savings bank under State laws imposing special requirements on such banks governing the manner of investing their funds and of conducting their business.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 27(a) of the Federal Deposit Insurance Act is amended by striking out "and insured mutual savings banks". 12 USC 1831d.

(h) 1987 AMENDMENT TRANSITION RULE.— 12 USC 1841 note.

(1) DELAY IN APPLICATION OF AMENDMENT TO CERTAIN INSTITUTIONS.—If—

(A) on March 5, 1987, an institution was not a bank (as defined in section 2(c) of the Bank Holding Company Act of 1956), as in effect on such date; and *Ante*, p. 554.

(B) any person which had a controlling interest in such institution on March 5, 1987, made a public announcement before such date that the transfer or other disposition of such person's controlling interest in such institution was being considered,

the institution shall not become a bank (for purposes of the Bank Holding Company Act of 1956) due to the amendment made to such section 2(c) by this section before the date on which such institution fails to meet any requirement of paragraph (2). 12 USC 1841 note.

(2) REQUIREMENTS FOR APPLICATION OF SUBSECTION.—This subsection shall not apply with respect to any institution described in paragraph (1) unless—

(A) the transfer or other disposition of the controlling interest referred to in such paragraph is completed, or an agreement to make such transfer or other disposition is in effect (or is subject only to final approval by the appropriate Federal and State regulatory agencies), before the end of the 180-day period beginning on the date of the enactment of this title;

(B) a written notice by the person acquiring a controlling interest in such institution (pursuant to the transfer or other disposition described in subparagraph (A)) of such person's intention to operate such institution as an institution described in section 2(c)(2)(F) of the Bank Holding Company Act of 1956, as in effect after the enactment of this title is filed with the Board before the end of the 7-day period beginning on the later of the date of such transfer (or other disposition) or the date of the enactment of this title; and

Ante, p. 554.

(C) the operation of such institution as an institution described in such section 2(c)(2)(F) begins before the end of the 180-day period beginning on the date the transfer (or other disposition) described in subparagraph (A) is completed.

(3) CONTROLLING INTEREST.—For purposes of this subsection, a person has a controlling interest in any institution if such person controls—

(A) such institution; or

(B) any company which controls such institution,

as determined in accordance with the provisions of subsections (b) and (g) of section 2 of the Bank Holding Company Act of 1956.

SEC. 102. AMENDMENTS TO THE FEDERAL RESERVE ACT.

(a) IN GENERAL.—The Federal Reserve Act is amended by inserting after section 23A the following:

"RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES

12 USC 371c-1.

"SEC. 23B. (a) IN GENERAL.—

"(1) TERMS.—A member bank and its subsidiaries may engage in any of the transactions described in paragraph (2) only—

"(A) on terms and under circumstances, including credit standards, that are substantially the same, or at least as favorable to such bank or its subsidiary, as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies, or

"(B) in the absence of comparable transactions, on terms and under circumstances, including credit standards, that in good faith would be offered to, or would apply to, nonaffiliated companies.

"(2) TRANSACTIONS COVERED.—Paragraph (1) applies to the following:

"(A) Any covered transaction with an affiliate.

"(B) The sale of securities or other assets to an affiliate, including assets subject to an agreement to repurchase.

"(C) The payment of money or the furnishing of services to an affiliate under contract, lease, or otherwise.

"(D) Any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the bank or to any other person.

"(E) Any transaction or series of transactions with a third party—

"(i) if an affiliate has a financial interest in the third party, or

"(ii) if an affiliate is a participant in such transaction or series of transactions.

"(3) TRANSACTIONS THAT BENEFIT AN AFFILIATE.—For the purpose of this subsection, any transaction by a member bank or its subsidiary with any person shall be deemed to be a transaction with an affiliate of such bank if any of the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate.

"(b) PROHIBITED TRANSACTIONS.—

"(1) IN GENERAL.—A member bank or its subsidiary—

"(A) shall not purchase as fiduciary any securities or other assets from any affiliate unless such purchase is permitted—

"(i) under the instrument creating the fiduciary relationship,

"(ii) by court order, or

"(iii) by law of the jurisdiction governing the fiduciary relationship; and

"(B) whether acting as principal or fiduciary, shall not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security if a principal underwriter of that security is an affiliate of such bank.

"(2) EXCEPTION.—Subparagraph (B) of paragraph (1) shall not apply if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank who are not officers or employees of the bank or any affiliate thereof.

"(3) DEFINITIONS.—For the purpose of this subsection—

"(A) the term 'security' has the meaning given to such term in section 3(a)(10) of the Securities Exchange Act of 1934; and

15 USC 78c.

"(B) the term 'principal underwriter' means any underwriter who, in connection with a primary distribution of securities—

"(i) is in privity of contract with the issuer or an affiliated person of the issuer;

"(ii) acting alone or in concert with one or more other persons, initiates or directs the formation of an underwriting syndicate; or

"(iii) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.

"(c) ADVERTISING RESTRICTION.—A member bank or any subsidiary or affiliate of a member bank shall not publish any advertisement or enter into any agreement stating or suggesting that the bank shall in any way be responsible for the obligations of its affiliates.

"(d) DEFINITIONS.—For the purpose of this section—

"(1) the term 'affiliate' has the meaning given to such term in section 23A (but does not include any company described in section (b)(2) of such section or any bank);

12 USC 371c.

"(2) the terms 'bank', 'subsidiary', 'person', and 'security' (other than security as used in subsection (b)) have the meanings given to such terms in section 23A; and

"(3) the term 'covered transaction' has the meaning given to such term in section 23A (but does not include any transaction which is exempt from such definition under subsection (d) of such section).

"(e) REGULATIONS.—The Board may prescribe regulations to administer and carry out the purposes of this section, including—

"(1) regulations to further define terms used in this section; and

"(2) regulations to—

"(A) exempt transactions or relationships from the requirements of this section; and

"(B) exclude any subsidiary of a bank holding company from the definition of affiliate for purposes of this section,

if the Board finds such exemptions or exclusions are in the public interest and are consistent with the purposes of this section.".

(b) CONFORMING AMENDMENTS.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is hereby amended—

(1) by inserting "and section 23B" after "section 23A" at each place it appears in paragraph (1); and

(2) by inserting ", 23B," after "23A" in paragraph (3)(A).

(c) TREATMENT OF EDGE ACT AND AGREEMENT CORPORATIONS FOR PURPOSES OF THE BANK HOLDING COMPANY ACT.—

12 USC 611-631.

(1) IN GENERAL.—The paragraph of section 25(a) of the Federal Reserve Act which begins "Except as otherwise provided in this section, a majority" (the 11th full paragraph) (12 U.S.C. 619) is amended by adding at the end thereof the following: "Any company, other than a bank as defined in section 2 of the Bank Holding Company Act of 1956, that after March 5, 1987, directly or indirectly acquires control of a corporation organized or operating under the provisions of this section or section 25 shall be subject to the provisions of the Bank Holding Company Act of 1956 in the same manner and to the same extent that bank holding companies are subject thereto, except that such company shall not by reason of this paragraph be deemed a bank holding company for the purpose of section 3 of the Bank Holding Company Act of 1956.".

Ante, pp. 554, 557.

12 USC 1841 note.

Ante, p. 561; *post*, p. 579.

England.

12 USC 619 note.

(2) EXCEPTION.—The amendment made by paragraph (1) does not apply to an acquisition pursuant to the application by Midland Bank, plc, London, England, pending before the Board of Governors of the Federal Reserve System on July 1, 1987, to acquire a corporation organized or operating under section 25(a) of the Federal Reserve Act. If Midland Bank, plc, London, England, is not otherwise subject to section 4 of the Bank Holding Company Act of 1956, the financial activities of Midland Bank, plc, London, England, in the United States shall, upon the determination of the Board of Governors of the Federal Reserve System made at any time, be subject to section 4 of the Bank Holding Company Act of 1956.

Ante, p. 557.

SEC. 103. SECURITIES AFFILIATIONS OF NONMEMBER INSURED BANKS.

(a) IN GENERAL.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by redesignating paragraph (3) (as amended by section 102(b)(2)) and paragraph (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) SECURITIES AFFILIATIONS OF INSURED NONMEMBER BANKS.—

12 USC 377.

12 USC 78.

"(A) IN GENERAL.—The provisions of section 20 of the Banking Act of 1933 (relating to affiliations between member banks and organizations engaged principally in certain securities activities), and the provisions of section 32 of the Banking Act of 1933 (relating to certain officer, director, or employee relationships involving a member bank and a person or organization primarily engaged in certain securities activities) shall apply to every insured nonmember bank in the same manner and to the same extent as if such insured nonmember bank were a member bank.

"(B) CONTINUATION OF CERTAIN AFFILIATIONS.—This paragraph shall not prohibit the continuation of such an affiliation or relationship which commenced before March 5, 1987, or the establishment of such an officer, director, or employee relationship in connection with any affiliation established before March 5, 1987.

"(C) 2-YEAR PERIOD.—An affiliation or officer, director, or employee relationship that becomes unlawful as a result of the enactment of this paragraph may continue for a period of 2 years after the date of enactment of this paragraph.

"(D) FOREIGN BANKS.—The provisions of this paragraph shall not apply to any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978, solely because it has an insured branch in the United States, except that the provisions of section 32 of the Banking Act of 1933 shall apply to an insured branch as if it were an insured bank. 12 USC 3101. 12 USC 78.

"(E) EXCEPTIONS.—The provisions of this paragraph shall not apply to any institution described in subparagraph (D), (F), or (I) of section 2(c)(2) of the Bank Holding Company Act of 1956. *Ante*, p. 554.

"(F) APPLICABILITY.—This paragraph shall apply during the period beginning on March 6, 1987, and ending on March 1, 1988.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 18(j)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) (as redesignated by subsection (a)) is amended by inserting "or any provision of section 20 of the Banking Act of 1933," after "or any lawful regulation issued pursuant thereto,". 12 USC 377.

SEC. 104. AMENDMENTS TO SAVINGS AND LOAN HOLDING COMPANY PROVISIONS OF THE NATIONAL HOUSING ACT.

(a) DEFINITIONS.—Section 408(a)(1) of the National Housing Act (12 U.S.C. 1730a(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(K) the terms 'bank holding company' and 'bank' have the meanings given to such terms in subsections (a) and (c), respectively, of section 2 of the Bank Holding Company Act of 1956; and *Ante*, pp. 554, 557.

"(L) the term 'acquire' has the meaning given to such term in section 13(f)(8)(E) of the Federal Deposit Insurance Act.". 12 USC 1823.

(b) HOLDING COMPANY ACTIVITIES.—Section 408(c) of the National Housing Act (12 U.S.C. 1730a(c)) is amended to read as follows:

"(c) HOLDING COMPANY ACTIVITIES.—

"(1) PROHIBITED ACTIVITIES.—Except as otherwise provided in this subsection, no savings and loan holding company and no subsidiary (of such company) which is not an insured institution shall—

"(A) engage in any activity or render any service for or on behalf of an insured institution subsidiary for the purpose or with the effect of evading any law or regulation applicable to such insured institution;

"(B) commence any business activity, other than the activities described in paragraph (2), after the date of the enactment of the Competitive Equality Amendments of 1987; or

"(C) continue any business activity, other than the activities described in paragraph (2), after the later of—

"(i) the end of the 2-year period beginning on the date of the enactment of the Competitive Equality Amendments of 1987; or

"(ii) the date on which such company received approval under subsection (e) of this section to become a savings and loan holding company.

"(2) EXEMPT ACTIVITIES.—The prohibitions of subparagraphs (B) and (C) of paragraph (1) shall not apply to the following business activities of any savings and loan holding company or any subsidiary (of such company) which is not an insured institution:

"(A) Furnishing or performing management services for an insured institution subsidiary of such company.

"(B) Conducting an insurance agency or escrow business.

"(C) Holding, managing, or liquidating assets owned or acquired from an insured institution subsidiary of such company.

"(D) Holding or managing properties used or occupied by an insured institution subsidiary of such company.

"(E) Acting as trustee under deed of trust.

"(F) Any other activity—

"(i) which the Board of Governors of the Federal Reserve System, by regulation, has determined to be permissible for bank holding companies under section 4(c) of the Bank Holding Company Act of 1956, unless the Corporation, by regulation, prohibits or limits any such activity for savings and loan holding companies; or

12 USC 1843.

"(ii) in which multiple savings and loan holding companies were authorized (by regulation) to directly engage on March 5, 1987.

"(3) CERTAIN LIMITATIONS ON ACTIVITIES NOT APPLICABLE TO CERTAIN HOLDING COMPANIES.—Notwithstanding paragraphs (4) and (6) of this subsection, the limitations contained in subparagraphs (B) and (C) of paragraph (1) shall not apply to any savings and loan holding company (or any subsidiary of such company) which controls—

"(A) only 1 insured institution, if the insured institution subsidiary of such company is a qualified thrift lender (as determined under subsection (o)); or

"(B) more than 1 insured institution, if—

"(i) all, or all but 1, of the insured institution subsidiaries of such company were acquired pursuant to an acquisition under subsection (m) of this section or section 406(f); and

Post, p. 613.

"(ii) all of the insured institution subsidiaries of such company are qualified thrift lenders (as determined under subsection (o)).

"(4) PRIOR APPROVAL OF CERTAIN NEW ACTIVITIES REQUIRED.—

"(A) IN GENERAL.—No savings and loan holding company and no subsidiary (of such company) which is not an insured institution shall commence, either de novo or by an acquisition (in whole or in part) of a going concern, any activity described in paragraph (2)(F)(i) of this subsection without the prior approval of the Corporation.

"(B) FACTORS TO BE CONSIDERED BY CORPORATION.—In considering any application under subparagraph (A) by any savings and loan holding company or any subsidiary of any such company which is not an insured institution, the Corporation shall consider—

"(i) whether the performance of the activity described in such application by the company or the subsidiary can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, or gains in efficiency) that outweigh possible adverse effects of such activity (such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound financial practices);

"(ii) the managerial resources of the companies involved; and

"(iii) the adequacy of the financial resources, including capital, of the companies involved.

"(C) CORPORATION MAY DIFFERENTIATE BETWEEN NEW AND ONGOING ACTIVITIES.—In prescribing any regulation or considering any application under this paragraph, the Corporation may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

"(D) APPROVAL OR DISAPPROVAL BY ORDER.—The approval or disapproval of any application under this paragraph by the Corporation shall be made in an order issued by the Corporation containing the reasons for such approval or disapproval.

"(5) GRACE PERIOD TO ACHIEVE COMPLIANCE.—If any insured institution referred to in paragraph (3) fails to maintain the status of such institution as a qualified thrift lender, the Corporation may allow, for good cause shown, any company which controls such institution (or any subsidiary of such company which is not an insured institution) up to 3 years to comply with the limitations contained in paragraph (1)(C).

"(6) SPECIAL PROVISIONS RELATING TO CERTAIN COMPANIES AFFECTED BY 1987 AMENDMENTS.—

"(A) EXCEPTION TO 2-YEAR GRACE PERIOD FOR ACHIEVING COMPLIANCE.—Notwithstanding paragraph (1)(C)(i), any company which received approval under subsection (e) of this section to acquire control of an insured institution between March 5, 1987, and the date of the enactment of the Competitive Equality Amendments of 1987 shall not continue any business activity other than the activities described in paragraph (2) after such date of enactment.

"(B) Exemption for activities lawfully engaged in before March 5, 1987.—Notwithstanding paragraph (1)(C) and subject to subparagraphs (C) and (D), any savings and loan holding company which received approval, before March 5, 1987, under subsection (e) of this section to acquire control of an insured institution may engage, directly or through any subsidiary (other than an insured institution subsidiary of such company), in any activity in which such company or such subsidiary was lawfully engaged on such date.

"(C) Termination of subparagraph (B) exemption.—The exemption provided under subparagraph (B) for activities engaged in by any savings and loan holding company or a subsidiary of such company (which is not an insured institution) which would otherwise be prohibited under paragraph (1)(C) shall terminate with respect to such activities of such company or subsidiary upon the occurrence (after the date of the enactment of the Competitive Equality Amendments of 1987) of any of the following:

"(i) The savings and loan holding company acquires control of a bank or an additional insured institution (other than an insured institution acquired pursuant to subsection (m) of this section or section 406(f)).

Post, p. 613.

"(ii) Any insured institution subsidiary of the savings and loan holding company fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986.

26 USC 7701.
100 Stat. 2095.

"(iii) The savings and loan holding company engages in any business activity—

"(I) which is not described in paragraph (2); and

"(II) in which it was not engaged on March 5, 1987.

"(iv) Any insured institution subsidiary of the savings and loan holding company increases the number of locations from which such insured institution conducts business after March 5, 1987 (other than an increase which occurs in connection with a transaction under subsection (m) of this section or section 406(f)).

"(v) Any insured institution subsidiary of the savings and loan holding company permits any overdraft (including an intraday overdraft), or incurs any such overdraft in its account at a Federal Reserve bank, on behalf of an affiliate, unless such overdraft is the result of an inadvertent computer or accounting error that is beyond the control of both the insured institution subsidiary and the affiliate.

"(D) Order by corporation to terminate subparagraph (B) activity.—Any activity described in subparagraph (B) may also be terminated by the Corporation, after opportunity for hearing, if the Corporation determines, having due regard for the purposes of this title, that such action is necessary to prevent conflicts of interest or unsound practices or is in the public interest.

"(7) Foreign savings and loan holding company.—Notwithstanding any other provision of this section, any savings and loan holding company organized under the laws of a foreign country as of June 1, 1984 (including any subsidiary thereof which is not an insured institution), which controls a single insured institution on the date of enactment of the Competitive Equality Amendments of 1987 shall not be subject to this subsection with respect to any activities of such holding company which are conducted exclusively in a foreign country.".

(c) Requirements for Treatment as a Qualified Thrift Lender.—

(1) In general.—Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end thereof the following new subsection:

"(o) Qualified Thrift Lender Requirements.—

"(1) In general.—Except as provided in paragraphs (2) and (3), any insured institution shall have the status of a qualified thrift lender if—

"(A) the qualified thrift investments of such insured institution equal or exceed 60 percent of the total tangible assets of such institution; and

"(B) the qualified thrift investments of such insured institution continue to equal or exceed 60 percent of the total tangible assets of such institution on an average basis in 3 out of every 4 quarters and 2 out of every 3 years.

"(2) Transition rule for certain institutions.—

"(A) In general.—If any insured institution—

"(i) which was chartered as a savings bank or a cooperative bank under State law before October 15, 1982; or

"(ii) the principal assets of which were acquired from an institution which was chartered as a savings bank or a cooperative bank under State law before October 15, 1982,

meets the requirements of subparagraph (B), such insured institution shall be treated as a qualified thrift lender during the 10-year period beginning on January 1, 1988.

"(B) Subparagraph (b) requirements.—An insured institution meets the requirements of this subparagraph if, in the determination of the Corporation—

"(i) the actual thrift investment percentage of such institution does not, after the date of the enactment of the Competitive Equality Amendments of 1987, decrease below the actual thrift investment percentage of such institution on such date of enactment; and

"(ii) the amount by which—

"(I) the actual thrift investment percentage of such institution at the end of each period described in the following table, exceeds

"(II) the actual thrift investment percentage of such institution on such date of enactment,

is equal to or greater than the applicable percentage (as determined under the following table) of the amount by which 60 percent exceeds the actual thrift investment percentage of such institution on such date of enactment:

"For the following period:	The applicable percentage is:
The 2½-year period beginning on such date of enactment	25 percent
The 5-year period beginning on such date of enactment	50 percent
The 7½-year period beginning on such date of enactment	75 percent

"(3) Exceptions granted by corporation.—Notwithstanding paragraph (1), the Corporation may grant such temporary and limited exceptions from the minimum actual thrift investment percentage requirement contained in such paragraph as the Corporation deems necessary if—

"(A) the Corporation determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for an insured institution to meet such investment requirements; or

"(B) the Corporation determines that—

Post, pp. 613, 575.

"(i) the grant of any such exception will facilitate an acquisition under section 406(f) or 408(m); and

"(ii) the acquired institution will comply with the transition requirements of paragraph (2)(B).

"(4) Failure to maintain qtl status.—Any insured institution which fails to maintain its status as a qualified thrift lender, as determined by the Corporation, may not thereafter be a qualified thrift lender for a period of 5 years.

"(5) Definitions.—For purposes of this subsection—

"(A) Actual thrift investment percentage.—The term 'actual thrift investment percentage' means the percentage determined by dividing—

"(i) the amount of the qualified thrift investments of an insured institution, by

"(ii) the total amount of tangible assets of such insured institution.

"(B) Qualified thrift investments.—The term 'qualified thrift investments' means, with respect to any insured institution, the sum of—

"(i) the aggregate amount of loans, equity positions, or securities held by the insured institution (or any subsidiary of such institution) which are related to domestic residential real estate or manufactured housing;

"(ii) the value of property used by such institution or subsidiary in the conduct of the business of such institution or subsidiary;

12 USC 1425a.

"(iii) subject to paragraph (6), the liquid assets of the type required to be maintained under section 5A of the Federal Home Loan Bank Act; and

"(iv) subject to paragraph (6), 50 percent of the dollar amount of the residential mortgage loans originated by such insured institution or subsidiary and sold within 90 days of origination.

"(6) Limitation on treatment of certain assets as thrift investments.—The aggregate amount of the assets described in clauses (iii) and (iv) of paragraph (5)(B) which may be taken into account in determining the amount of the qualified thrift investments of any insured institution shall not exceed the amount which is equal to 10 percent of the tangible assets of such institution.

"(7) Additional transition rule.—The insured institution described in subsection (r)(2)(C) shall be treated as a qualified thrift lender during the 10-year period beginning on January 1, 1988, if the requirements of paragraph (2)(B) are met by such institution.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 1988. 12 USC 1730a note.

(3) REGULATIONS.—The Federal Savings and Loan Insurance Corporation shall prescribe, under the authority of section 408(h)(1) of the National Housing Act, regulations to carry out the provisions of the amendment made by paragraph (1) before January 1, 1988. 12 USC 1730a note. 12 USC 1730a.

(d) TRANSACTIONS BETWEEN INSURED INSTITUTION SUBSIDIARIES AND CERTAIN AFFILIATES.—

(1) IN GENERAL.—Section 408 of the National Housing Act (12 U.S.C. 1730a(d)) is amended by adding after subsection (o) (as added by subsection (c) of this section) the following new subsection:

"(p) RESTRICTIONS ON ACTIVITIES OF CERTAIN INSURED INSTITUTION SUBSIDIARIES.—

"(1) TRANSACTIONS WITH CERTAIN AFFILIATES.—

"(A) IN GENERAL.—Transactions between any insured institution subsidiary of a savings and loan holding company and any affiliate (of such insured institution subsidiary) which is engaged only in business activities described in subsection (c)(2)(F)(i)—

"(i) shall not be subject to subsection (d); and

"(ii) shall be subject to the limitations and prohibitions specified in sections 23A and 23B of the Federal Reserve Act in the same manner and to the same extent as if such insured institution were a member bank. 12 USC 371c; *ante*, p. 564.

"(B) REGULATIONS.—The Corporation may prescribe regulations for the purpose of defining and clarifying the applicability of the limitations and prohibitions described in subparagraph (A).

"(2) CROSS-MARKETING PRACTICES.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, an insured institution subsidiary of a diversified savings and loan holding company may not offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under section 4(c)(8) of the Bank Holding Company Act of 1956 or permit its products or services to be offered or marketed by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under section 4(c) of that Act), unless such products or services were being so offered or marketed as of March 5, 1987, and then only in the same manner in which they were being offered or marketed as of that date. 12 USC 1843.

"(B) EXCEPTION.—This paragraph shall not apply so as to prohibit an insured institution subsidiary of a diversified savings and loan holding company from offering or marketing the products or services of an affiliate or from permitting its products or services to be offered or marketed by or through an affiliate if—

"(i) the savings and loan holding company is a reciprocal interinsurance exchange that acquired control of the insured institution before January 1, 1984; and

Armed Forces.

"(ii) at least 90 percent of the customers of the savings and loan holding company and its subsidiaries and affiliates are active or former officers in the United States military services or the widows, widowers, divorced spouses, or current or former dependents of such officers.".

(2) TECHNICAL AMENDMENT.—Section 408(d) of the National Housing Act (12 U.S.C. 1730a(d)) is amended by striking out "No savings and loan" and inserting in lieu thereof "Except as provided in subsection (p), no savings and loan".

(e) TYING RESTRICTIONS.—Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by inserting after subsection (p) (as added by subsection (d) of this section) the following new subsection:

"(q) TYING RESTRICTIONS.—

"(1) STATE CHARTERED INSURED INSTITUTION SUBSIDIARIES.—A State chartered insured institution subsidiary of a savings and loan holding company shall be subject to section 5(q) of the Home Owners' Loan Act of 1933, and regulations prescribed under such subsection, in the same manner and to the same extent as an association (as defined in section 2(d) of such Act).

12 USC 1464.

12 USC 1462.

"(2) HOLDING COMPANIES AND CERTAIN AFFILIATES.—A savings and loan holding company and any of its affiliates (other than an insured institution) shall be subject to section 5(q) of the Home Owners' Loan Act of 1933, and regulations prescribed under such subsection, in connection with transactions involving the products or services of such company or affiliate and those of an affiliated insured institution as if such company or affiliate were an association (as defined in section 2(d) of such Act).".

(f) SAVINGS BANK AS INSURED INSTITUTION.—

(1) IN GENERAL.—Section 408(n) of the National Housing Act (12 U.S.C. 1730a) is amended to read as follows:

"(n) TREATMENT OF FDIC INSURED STATE SAVINGS BANKS AND COOPERATIVE BANKS AS INSURED INSTITUTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a savings bank (as defined in section 3(g) of the Federal Deposit Insurance Act) and a cooperative bank that is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) upon application shall be deemed to be an insured institution for the purpose of this section, if the Corporation determines that such bank is a qualified thrift lender (as determined under subsection (o)).

Ante, p. 563.

"(2) FAILURE TO MAINTAIN QTL STATUS.—If any savings bank which is deemed to be an insured institution under paragraph (1) subsequently fails to maintain its status as a qualified thrift lender, as determined by the Corporation, such bank may not thereafter be a qualified thrift lender for a period of 5 years.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 408(a)(1)(A) of the National Housing Act (12 U.S.C. 1730a(a)(1)(A)) is amended by adding before the semicolon at the end thereof the following: "and a savings bank which is deemed by the Corporation to be an insured institution under subsection (n)".

(g) THRIFT ACQUISITIONS.—Section 408(e)(3) of the National Housing Act (12 U.S.C. 1730(e)) is amended to read as follows:

12 USC 1730a.

"(3) INTERSTATE ACQUISITIONS.—No acquisition shall be approved by the Corporation under this subsection which will result in the formation by any company, through one or more subsidiaries or through one or more transactions, of a multiple savings and loan holding company controlling insured institutions in more than one State, unless—

"(A) such company, or an insured institution subsidiary of such company, is authorized to acquire control of an insured institution subsidiary, or to operate a home or branch office, in the additional State or States pursuant to subsection (m);

"(B) such company controls an insured institution subsidiary which operated a home or branch office in the additional State or States as of March 5, 1987; or

"(C) the statute laws of the State in which the insured institution, control of which is to be acquired, is located are such that an insured institution chartered by such State could be acquired by an insured institution chartered by the State where the acquiring insured institution or savings and loan holding company is located (or by a holding company that controls such a State-chartered insured institution), and such statute laws specifically authorize such an acquisition by language to that effect and not merely by implication.".

(h) EMERGENCY ACQUISITIONS.—Section 408(m)(1)(A)(i) of the National Housing Act (12 U.S.C. 1730a(m)(1)(A)(i)) is amended by inserting "(c)," before "(e)(2)".

SEC. 105. AMENDMENT TO THE FEDERAL HOME LOAN BANK ACT.

Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end thereof the following: *Post*, p. 601.

"(e) REDUCED ELIGIBILITY FOR ADVANCES FOR CERTAIN MEMBERS WHICH ARE NOT QUALIFIED THRIFT LENDERS.—

"(1) IN GENERAL.—Except as the Board may prescribe, a member that is not a qualified thrift lender may not receive advances in excess of the amount determined by multiplying—

"(A) the total amount of advances that such member would be eligible to receive in the absence of this subsection; by

"(B) such member's actual thrift investment percentage.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) a savings bank as defined in section 3(g) of the Federal Deposit Insurance Act; *Ante*, p. 563.

"(B) an insured institution which was chartered prior to October 15, 1982, as a savings bank under State law; or

"(C) an insured institution which acquired its principal assets from an institution which was chartered prior to October 15, 1982, as a savings bank under State law.

"(3) DEFINITIONS.—As used in this subsection—

"(A) INSURED INSTITUTION.—The term 'insured institution' has the same meaning as in section 408(a)(1)(A) of the National Housing Act. *Ante*, p. 594.

"(B) QUALIFIED THRIFT LENDER.—The term 'qualified thrift lender' has the same meaning as in section 408(o) of the National Housing Act. *Ante*, p. 571.

"(C) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' has the same meaning as in section 408(o)(5)(A) of the National Housing Act.".

SEC. 106. SECURITIES AFFILIATIONS OF FSLIC INSURED INSTITUTIONS.

(a) In General.—Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by inserting after subsection (q) (as added by section 104(e) of this title) the following new subsection:

"(r) Securities Affiliations.—

12 USC 377.
12 USC 78.

"(1) In general.—The provisions of section 20 of the Banking Act of 1933 (relating to affiliations between member banks and organizations engaged principally in certain securities activities) and the provisions of section 32 of the Banking Act of 1933 (relating to certain officer, director, or employee relationships involving a member bank and a person or organization primarily engaged in certain securities activities) shall be applicable to every insured institution in the same manner and to the same extent as if such insured institution were a member bank.

"(2) Exceptions.—This subsection does not prohibit—

"(A) the continuation of such an affiliation or relationship which commenced prior to March 5, 1987, or the establishment of such an officer, director, or employee relationship in connection with any affiliation established before such date;

Washington.

"(B) the Washington Mutual Savings Bank, located in the State of Washington, from acquiring control of one or more insured institutions or establishing an officer, director, or employee relationship between such an insured institution and any affiliate of the savings bank referred to in section 18(j)(3)(B) of the Federal Deposit Insurance Act;

Ante, p. 566.
Minnesota.

"(C) the acquisition of Peoples Savings and Loan Association of Owatonna, Minnesota, by Miller and Schroeder Holdings, Inc. (or any affiliate of such company), or the establishment of any officer, director, or employee relationship between such association and such company or any affiliate of such company, including Miller and Schroeder Financial, Inc.; or

"(D) such an affiliation or officer, director, or employee relationship which results from the acquisition by an organization described in paragraph (1) of an insured institution under subsection (m) of this section, if such institution has total assets of $500,000,000 or more at the time of such acquisition.

"(3) Two-year period.—An affiliation or an officer, director, or employee relationship that becomes unlawful as a result of the enactment of this subsection may continue for a period of 2 years after the date of the enactment of this subsection.

Real property.

"(4) Exempt activities of certain institutions.—Nothing in this subsection or section 18(j)(3) of the Federal Deposit Insurance Act prohibits an affiliation or an officer, director, or employee relationship between an insured institution or an institution which is eligible to become a member of a Federal Home Loan Bank, and an organization engaged principally in the issuance, sale, underwriting, or distribution, at wholesale or retail, or through syndicate participation, of—

"(A) securities representing or secured by interests in real estate or real estate loans or pools of real estate loans;

"(B) interests in partnerships formed primarily to own, operate, manage, or invest in real estate;

"(C) insurance products deemed to be securities, including without limitation variable annuities and variable life insurance;

"(D) securities of an investment company, as such term is defined in the Investment Company Act of 1940; and

15 USC 80a-1.

"(E) any securities to the extent such issuance, sale, underwriting, or distribution is permitted for national banks.

"(5) REGULATIONS.—

"(A) IN GENERAL.—The Corporation is authorized to issue rules and regulations and to publish interpretations governing the implementation of this subsection, and shall enforce the provisions of this subsection.

"(B) FEDERAL DEPOSIT INSURANCE CORPORATION AUTHORITY.—For the purpose of paragraph (4), the Federal Deposit Insurance Corporation is authorized to issue rules and regulations and publish interpretations with respect to savings banks and other institutions subject to section 18(j)(3) of the Federal Deposit Insurance Act.".

Ante, p. 566.

(b) EXPIRATION DATE.—The amendment made by subsection (a) shall cease to be effective on March 1, 1988.

12 USC 1730a note.

SEC. 107. MUTUAL HOLDING COMPANY AMENDMENTS.

(a) IN GENERAL.—Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by inserting after subsection (r) (as added by section 106(a) of this title) the following new subsection:

"(s) MUTUAL HOLDING COMPANIES.—

"(1) IN GENERAL.—Notwithstanding any provision of Federal law other than this title, an insured institution operating in mutual form may reorganize so as to become a holding company by—

"(A) chartering an interim savings institution, the stock of which is to be wholly owned by the mutual institution; and

"(B) transferring the substantial part of its assets and liabilities, including all of its insured liabilities, to the interim savings institution.

"(2) DIRECTORS AND CERTAIN ACCOUNT HOLDERS' APPROVAL OF PLAN REQUIRED.—A reorganization is not authorized under this subsection unless—

"(A) a plan providing for such reorganization has been approved by a majority of the board of directors of the mutual savings institution; and

"(B) in the case of an institution in which holders of accounts and obligors exercise voting rights, such plan has been submitted to and approved by a majority of such individuals at a meeting held at the call of the directors in accordance with the procedures prescribed by the institution's charter and bylaws.

"(3) NOTICE TO THE CORPORATION; DISAPPROVAL PERIOD.—

"(A) NOTICE REQUIRED.—At least 60 days prior to taking any action described in paragraph (1), an insured institution seeking to establish a mutual holding company shall provide written notice to the Corporation. The notice shall contain such relevant information as the Corporation shall require by regulation or by specific request in connection with any particular notice.

"(B) TRANSACTION ALLOWED IF NOT DISAPPROVED.—Unless the Corporation within such 60-day notice period disapproves the proposed holding company formation, or extends for another 30 days the period during which such disapproval may be issued, the insured institution providing such notice may proceed with the transaction, if the requirements of paragraph (2) have been met.

"(C) GROUNDS FOR DISAPPROVAL.—The Corporation may disapprove any proposed holding company formation only if—

"(i) such disapproval is necessary to prevent unsafe or unsound practices;

"(ii) the financial or management resources of the insured institution involved warrant disapproval;

"(iii) the insured institution fails to furnish the information required under subparagraph (A); or

"(iv) the insured institution fails to comply with the requirement of paragraph (2).

"(D) RETENTION OF CAPITAL ASSETS.—In connection with the transaction described in paragraph (1), an insured institution may, subject to the approval of the Corporation, retain capital assets at the holding company level to the extent that such capital exceeds adequate reserves as prescribed pursuant to section 403(b) or the comparable provisions of State or Federal law.

12 USC 1726.

"(4) OWNERSHIP.—Persons having ownership rights in the mutual institution pursuant to section 5(b)(1)(B) of the Home Owners' Loan Act of 1933 or State law shall have the same ownership rights with respect to the mutual holding company.

12 USC 1464.

"(5) PERMITTED ACTIVITIES.—A mutual holding company may engage only in the following activities:

"(A) Investing in the stock of an insured institution.

"(B) Acquiring a mutual institution through the merger of such institution into an insured institution subsidiary of such holding company or an interim savings institution subsidiary of such holding company.

"(C) Subject to paragraph (6), merging with or acquiring another holding company, one of whose subsidiaries is an insured institution.

"(D) Investing in a corporation the capital stock of which is available for purchase by an insured institution under Federal law or under the law of any State where the subsidiary insured institution or institutions have their home offices.

"(E) Engaging in the activities described in subsection (c)(2), except subparagraph (B).

"(6) LIMITATIONS ON CERTAIN ACTIVITIES OF ACQUIRED HOLDING COMPANIES.—

"(A) NEW ACTIVITIES.—If a mutual holding company acquires or merges with another holding company under paragraph (5)(C), the holding company acquired or the holding company resulting from such merger or acquisition may only invest in assets and engage in activities which are authorized under paragraph (5).

"(B) GRACE PERIOD FOR DIVESTING PROHIBITED ASSETS OR DISCONTINUING PROHIBITED ACTIVITIES.—Not later than 2 years following a merger or acquisition described in paragraph (5)(C), the acquired holding company or the holding company resulting from such merger or acquisition shall—

"(i) dispose of any asset which is an asset in which a mutual holding company may not invest under paragraph (5); and

"(ii) cease any activity which is an activity in which a mutual holding company may not engage under paragraph (5).

"(7) REGULATION.—Unless the context otherwise requires, a mutual holding company shall be subject to the other requirements of this section regarding regulation of holding companies.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) MUTUAL HOLDING COMPANY.—The term 'mutual holding company' means a corporation organized as a holding company under this subsection.

"(B) MUTUAL INSTITUTION.—The term 'mutual institution' means—

"(i) an insured institution; or

"(ii) a savings bank (as defined in section 3(g) of the Federal Deposit Insurance Act),

Ante, p. 563.

which is operating in mutual form.".

(b) AMENDMENT TO THE BANK HOLDING COMPANY ACT.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

Ante, p. 561.

"(g) MUTUAL BANK HOLDING COMPANY.—

"(1) ESTABLISHMENT.—Notwithstanding any provision of Federal law other than this Act, a savings bank or cooperative bank operating in mutual form may reorganize so as to form a holding company.

"(2) REGULATION.—A corporation organized as a holding company under this subsection shall be regulated on the same terms and be subject to the same limitations as any other holding company which controls a savings bank.".

SEC. 108. LEASING AUTHORITY OF NATIONAL BANKS.

Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof the following:

Real property.

"Tenth. To invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for lease financing transactions on a net lease basis, but such investment may not exceed 10 percent of the assets of the association.".

SEC. 109. NOW ACCOUNTS.

Section 2(a)(2) of Public Law 93-100 (12 U.S.C. 1832(a)(2)) is amended by inserting the term "political," immediately after "educational,".

SEC. 110. EXEMPTION FROM AFFILIATE TRANSACTION RESTRICTIONS.

Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by inserting after subsection (s) (as added by section 107(a) of this title) the following new subsection:

"(t) EXEMPTION.—

"(1) IN GENERAL.—Subject to paragraph (2), but notwithstanding any other provision of law, an insured institution that is a subsidiary of an insured institution or insured institutions the voting stock of which is 80 percent owned by the same company shall not be subject—

"(A) to the provisions of subsection (d) of this section as to transactions with such parent insured institution or affiliate insured institutions (and their subsidiaries), or

"(B) to the provisions of subsections (f) and (g).

"(2) LOW QUALITY ASSETS.—An insured institution (or its subsidiary) may not purchase a low quality asset, as such term is defined in section 23A of the Federal Reserve Act, from another insured institution (or its subsidiary) in a transaction exempted by this subsection and any transaction with another insured institution (or its subsidiary) under this subsection shall be on terms and conditions that are consistent with safe and sound financial practices. 12 USC 371c.

"(3) DEFINITION.—For purposes of this subsection, an 'insured institution' includes an institution that was chartered prior to October 15, 1982, as a savings bank or cooperative bank under State law and that is or becomes a savings and loan holding company or is or becomes a subsidiary of a savings and loan holding company.".

SEC. 111. CONSIDERATION OF CERTAIN ACQUISITIONS.

(a) AMENDMENT TO SECTION 408.—Section 408(e) of the National Housing Act (12 U.S.C. 1730a(e)) is amended— *Ante*, p. 574.

(1) by redesignating paragraph (4) as paragraph (5);

(2) by inserting a new paragraph (4) to read as follows:

"(4) CONSIDERATION OF LOSS OF CERTAIN TAX BENEFITS.—

"(A) IN GENERAL.—In each case in which a filing of any type is required by this section, or regulations prescribed under this section, before the acquisition of stock of an insured institution, the Corporation, in evaluating such filing, may consider the likelihood that the proposed acquisition will result in the loss or reduction of the tax benefits of the insured institution's net operating loss carryforwards under section 382 of the Internal Revenue Code of 1986. 26 USC 382. 100 Stat. 2095.

"(B) REQUIRED CONSIDERATION IN CERTAIN CASES.—The Corporation shall, with respect to any acquisition, give consideration to the likelihood of future loss or reduction of the tax benefits of an insured institution's net operating loss carryforwards under section 382 of the Internal Revenue Code of 1986 if such net operating loss carryforwards result from the insured institution's acquisition of one or more insured institutions under subsection (m) of this section or section 406(f) or pursuant to acquisitions that are otherwise deemed to be supervisory cases by the Corporation. *Post*, p. 613.

"(C) PERMITTED TRANSACTIONS.—Notwithstanding subparagraph (A) or (B), the Corporation may permit—

"(i) acquisitions in which the proposed acquirer commits itself in writing to maintain the ratio of tangible equity capital to liabilities of the insured institution to be acquired, as determined in accordance with generally accepted accounting principles, in an amount equal to the ratio in existence at the time of filing with the Corporation, "(ii) acquisitions which are approved by the holders of a majority of the voting stock of the institution to be acquired, or

"(iii) acquisitions pursuant to subsection (m) of this section or section 406(f) or pursuant to acquisitions that are otherwise deemed to be supervisory cases by the Corporation.". *Post*, p. 613.

(b) AMENDMENT TO SECTION 407.—Section 407(q) of the National Housing Act (12 U.S.C. 1730(q)) is amended—

(1) by redesignating paragraphs (8) through (18) as paragraphs (9) through (19), respectively;

(2) by inserting a new paragraph (8) to read as follows:

"(8) CONSIDERATION OF LOSS OF CERTAIN TAX BENEFITS.—

"(A) IN GENERAL.—In each case in which a filing of any type is made under this subsection, or regulations prescribed under this section, before the acquisition of stock of an insured institution, the Corporation, in evaluating such filing, may consider the likelihood that the proposed acquisition will result in the loss or reduction of the tax benefits of an insured institution's net operating loss carryforwards under section 382 of the Internal Revenue Code of 1986. 26 USC 382. 100 Stat. 2095.

"(B) REQUIRED CONSIDERATION IN CERTAIN CASES.—The Corporation shall, with respect to any acquisition, give consideration to the likelihood of future loss or reduction of the tax benefits of an insured institution's net operating loss carryforwards under section 382 of the Internal Revenue Code of 1986 if such net operating loss carry forwards result from the insured institution's acquisition of one or more insured institutions under section 406(f) or 408(m) or pursuant to acquisitions that are otherwise deemed to be supervisory cases by the Corporation. 12 USC 1730a.

"(C) PERMITTED TRANSACTIONS.—Notwithstanding subparagraph (A) or (B), the Corporation may permit—

"(i) acquisitions in which the proposed acquirer commits itself in writing to maintain the ratio of tangible equity capital to liabilities of the insured institutions to be acquired, as determined in accordance with generally accepted accounting principles, in an amount equal to the ratio in existence at the time of filing with the Corporation,

"(ii) acquisitions which are approved by the holders of a majority of the voting stock of the institution to be acquired, or

"(iii) acquisitions under section 406(f) or 408(m), or are acquisitions that are otherwise deemed to be supervisory cases by the Corporation.".

TITLE II—MORATORIUM ON CERTAIN NONBANKING ACTIVITIES

SEC. 201. MORATORIUM ON CERTAIN NONBANKING ACTIVITIES.

12 USC 1841 note.

(a) APPLICABILITY.—The provisions of this section shall apply during the period beginning on March 6, 1987, and ending on March 1, 1988.

(b) **Moratorium.**—

(1) A foreign bank or other company covered by subsection (c) of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106(c)) shall not, under any provision of law which is not applicable to domestic bank holding companies, expand any activity in which it is engaged pursuant to that subsection by acquiring an interest in, or the assets of, a going concern. This paragraph shall not apply to any "domestically-controlled affiliate covered in 1978" as defined in that subsection.

(2) A Federal banking agency may not authorize or allow by action, inaction, or otherwise any bank holding company or subsidiary or affiliate thereof, any foreign bank or other company subject to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) under section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)), or any insured bank or subsidiary or affiliate thereof to engage in the United States to any extent whatever—

(A) in the flotation, underwriting, public sale, dealing in, or distribution of securities if that approval would require the agency to determine that the entity which would conduct such activities would not be engaged principally in such activities,

(B) in any securities activity not legally authorized in writing prior to March 5, 1987, or

(C) in the operation of a nondealer marketplace in options.

Subparagraph (B) shall not affect (i) activities in which any bank holding company or subsidiary or affiliate thereof, any foreign bank or other company subject to the Bank Holding Company Act of 1956 under section 8(a) of the International Banking Act of 1978, or any insured bank or subsidiary or affiliate thereof acts only as an agent; (ii) activities which had been lawfully engaged in prior to March 5, 1987; or (iii) sales or transactions closed on or before June 30, 1987.

(3) A Federal banking agency may not issue any rule, regulation, or order that would have the effect of increasing the insurance powers of banks, bank holding companies, foreign banks or other companies subject to the Bank Holding Company Act of 1956 under section 8(a) of the International Banking Act of 1978, or banking or nonbanking subsidiaries thereof with respect to any activities in the United States, either with respect to specific banks or bank holding companies or subsidiaries thereof or generally beyond those expressly authorized for bank holding companies under subparagraphs (A) through (G) of section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)(A) through (G)).

(4) Except as provided in section 3(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(f)), as added by section 101(d) of this Act, the Board of Governors of the Federal Reserve System may not approve the acquisition by a bank holding company or by a foreign bank or other company subject to the Bank Holding Company Act of 1956 under section 8(a) of the International Banking Act of 1978, of any company, including a State-chartered bank, unless the bank holding company, foreign bank, or other company has agreed to limit the insurance activities in the United States of the company to be acquired to

those permissible under section 4(c)(8) of the Bank Holding Company Act of 1956. This paragraph shall not apply to the acquisition of a State-chartered bank that upon acquisition would be subject to the Bank Holding Company Act of 1956, pursuant to a reorganization plan under which the stockholders of the bank exchange their shares for shares in a newly created bank holding company which is not a subsidiary of any other company or to the acquisition of a State-chartered bank by a bank holding company that on March 6, 1987, controlled one or more State-chartered banks that have engaged in insurance activities identical to those of the newly acquired institution so long as the bank holding company agrees that it will— 12 USC 1843.

(A) within 2 years of the consummation of its acquisition of the State-chartered bank, divest or terminate that bank's impermissible insurance activities, and

(B) limit the bank's insurance activities during that 2-year period to the renewal of existing policies.

(5) A national bank or a Federal branch or agency of a foreign bank may not expand its insurance agency activities pursuant to the Act of September 7, 1916 (12 U.S.C. 92), into places where it was not conducting such activities as of March 5, 1987.

(6) A Federal banking agency may not issue any rule, regulation, or order that would have the effect of increasing real estate powers in the United States of banks, bank holding companies, foreign banks or other companies subject to the Bank Holding Company Act of 1956 under section 8(a) of the International Banking Act of 1978, or of any banking or nonbanking subsidiaries of any such banks or companies. 12 USC 1841 note. 12 USC 3106.

(c) Definitions.—As used in this section and section 202—

(1) the term "affiliate" has the same meaning as in section 2(j)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)(2)), as added by section 101(a) of this Act;

(2) the term "bank holding company" has the same meaning as in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a));

(3) the term "Federal banking agency" has the same meaning as the term "appropriate Federal banking agency" has in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)); and

(4) the term "insured bank" has the same meaning as in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)).

(d) Insurance Authority of Banking Organizations.—Nothing in this section may be construed to increase or reduce the insurance authority of bank holding companies or banking or nonbanking subsidiaries thereof or of national banks under current law.

(e) Insurance Authority of Certain State-Chartered Banks.—

(1) Freestanding state-chartered banks.—Nothing in this section shall be construed to deny any State the authority to permit its State-chartered banks that are not controlled by bank holding companies from engaging in any insurance activity.

(2) State-chartered subsidiaries of bank holding companies.—In addition, neither the existence of the moratorium nor its expiration shall be construed to increase, decrease, or affect in any way the authority of State-chartered bank subsidiaries of bank holding companies with respect to insurance activities.

12 USC 1841 note.

SEC. 202. AUTHORITY OF FEDERAL BANKING AGENCIES.

Nothing in section 201 may be construed to prevent a Federal banking agency from issuing any rule, regulation, or order pursuant to its legal authority in existence on the day preceding the date of enactment of this Act to expand the securities, insurance, or real estate powers of banks or bank holding companies that are subject to the moratorium established under section 201 if the effective date of such rule, regulation, or order is delayed until the expiration of such moratorium.

12 USC 1841 note.

SEC. 203. INTENT OF CONGRESS.

(a) Comprehensive Congressional Review of Banking and Financial Laws.—It is the intent of the Congress, through the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, to conduct a comprehensive review of our banking and financial laws and to make decisions on the need for financial restructuring legislation in the light of today's changing financial environment both domestic and international before the expiration of such moratorium.

(b) Congressional Intent Not To Renew or Extend Moratorium.—It is the intent of the Congress not to renew or extend the moratorium established under section 201 whether or not subsequent banking legislation is passed by the Congress.

SEC. 204. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) Termination of Certain Nonbanking Activities.—Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by adding at the end thereof the following new paragraph:

"(2) The authority conferred by this subsection on a foreign bank or other company shall terminate 2 years after the date on which such foreign bank or other company becomes a 'bank holding company' as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)); except that the Board may, upon application of such foreign bank or other company, extend the 2-year period for not more than one year at a time, if, in its judgment, such an extension would not be detrimental to the public interest, but no such extensions shall exceed 3 years in the aggregate.".

(b) Clerical Amendment.—Section 8 of the International Banking Act of 1978 is amended by striking out "(c) After" and inserting in lieu thereof "(c)(1) After".

SEC. 205. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.

(a) Exception to Nonbanking Prohibitions.—Section 2(h) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(h)) is amended by striking out paragraph (2) and by adding after paragraph (1) the following new paragraphs:

"(2) Except as provided in paragraph (3), the prohibitions of section 4 of this Act shall not apply to shares of any company organized under the laws of a foreign country (or to shares held by such company in any company engaged in the same general line of business as the investor company or in a business related to the business of the investor company) that is principally engaged in business outside the United States if such shares are held or acquired by a bank holding company organized under the laws of a foreign country that is principally engaged in the banking business outside the United States. For the purpose of this subsection, the term 'section 2(h)(2) company' means any company whose shares are held pursuant to this paragraph.

"(3) Nothing in paragraph (2) authorizes a section 2(h)(2) company to engage in (or acquire or hold more than 5 percent of the outstanding shares of any class of voting securities of a company engaged in) any banking, securities, insurance, or other financial activities, as defined by the Board, in the United States. This paragraph does not prohibit a section 2(h)(2) company from holding shares that were lawfully acquired before the date of enactment of the Competitive Equality Banking Act of 1987.

"(4) No domestic office or subsidiary of a bank holding company or subsidiary thereof holding shares of a section 2(h)(2) company may extend credit to a domestic office or subsidiary of such section 2(h)(2) company on terms more favorable than those afforded similar borrowers in the United States.

"(5) No domestic banking office or bank subsidiary of a bank holding company that controls a section 2(h)(2) company may offer or market products or services of such section 2(h)(2) company, or permit its products or services to be offered or marketed by or through such section 2(h)(2) company, unless such products or services were being so offered or marketed as of March 5, 1987, and then only in the same manner in which they were being offered or marketed as of that date.".

TITLE III—FSLIC RECAPITALIZATION

Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987.
12 USC 226 note.

SEC. 301. SHORT TITLE.

This title may be cited as the "Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987".

SEC. 302. FINANCING CORPORATION ESTABLISHED.

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 20 the following new section:

"SEC. 21. FINANCING CORPORATION.

12 USC 1441.

"(a) ESTABLISHMENT.—Notwithstanding any other provision of law, the Board shall charter a corporation to be known as the Financing Corporation.

"(b) MANAGEMENT OF FINANCING CORPORATION.—

"(1) DIRECTORATE.—The Financing Corporation shall be under the management of a directorate composed of 3 members as follows:

"(A) The Director of the Office of Finance of the Federal Home Loan Banks (or the head of any successor to such office).

"(B) 2 members selected by the Federal Home Loan Bank Board from among the presidents of the Federal Home Loan Banks.

"(2) TERMS.—Each member appointed under paragraph (1)(B) shall be appointed for a term of 1 year.

"(3) VACANCY.—If any member leaves the office in which such member was serving when appointed to the Directorate—

"(A) such member's service on the Directorate shall terminate on the date such member leaves such office; and

"(B) the successor to the office of such member shall serve the remainder of such member's term.

"(4) EQUAL REPRESENTATION OF BANKS.—No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal Home Loan Banks have served as many terms on the Directorate as the president of such bank (before the appointment of such president to such additional term).

"(5) CHAIRPERSON.—The Chairman of the Federal Home Loan Bank Board shall select the chairperson of the Directorate from among the 3 members of the Directorate.

"(6) STAFF.—

"(A) NO PAID EMPLOYEES.—The Financing Corporation shall have no paid employees.

"(B) POWERS.—The Directorate may, with the approval of the Board, authorize the officers, employees, or agents of the Federal Home Loan Banks to act for and on behalf of the Financing Corporation in such manner as may be necessary to carry out the functions of the Financing Corporation.

"(7) ADMINISTRATIVE EXPENSES.—

"(A) IN GENERAL.—All administrative expenses of the Financing Corporation shall be paid by the Federal Home Loan Banks.

"(B) PRO RATA DISTRIBUTION.—The amount each Federal Home Loan Bank shall pay shall be determined by the Board by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

"(i) the aggregate amount the Board required such bank to invest in the Financing Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (d) (as computed without regard to paragraph (3) or (6) of such subsection); by

"(ii) the aggregate amount the Board required all Federal Home Loan Banks to invest (as of the time of such determination) under such paragraphs.

"(C) ADMINISTRATIVE EXPENSES DEFINED.—For purposes of this paragraph, the term 'administrative expenses' does not include—

"(i) issuance costs (as such term is defined in subsection (g)(5)(A));

"(ii) any interest on (and any redemption premium with respect to) any obligation of the Financing Corporation; or

"(iii) custodian fees (as such term is defined in subsection (g)(5)(B)).

"(8) REGULATION BY BOARD.—The Directorate shall be subject to such regulations, orders, and directions as the Board may prescribe.

"(9) NO COMPENSATION FROM FINANCING CORPORATION.—Members of the Directorate shall receive no pay, allowances, or benefits from the Financing Corporation by reason of their service on the Directorate.

"(c) POWERS OF FINANCING CORPORATION.—The Financing Corporation shall have only the following powers, subject to the other provisions of this section and such regulations, orders, and directions as the Board may prescribe:

"(1) To issue nonvoting capital stock to the Federal Home Loan Banks.

"(2) To invest in any security issued by the Federal Savings and Loan Insurance Corporation under section 402(b) of the National Housing Act.

Post, p. 597.

"(3) To issue debentures, bonds, or other obligations and to borrow, to give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

"(4) To impose assessments in accordance with subsection (f).

"(5) To adopt, alter, and use a corporate seal.

"(6) To have succession until dissolved.

"(7) To enter into contracts.

"(8) To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Financing Corporation in any State or Federal court of competent jurisdiction.

"(9) To exercise such incidental powers not inconsistent with the provisions of this section or section 402(b) of the National Housing Act as are necessary or appropriate to carry out the provisions of this section.

"(d) CAPITALIZATION OF FINANCING CORPORATION.—

"(1) PURCHASE OF CAPITAL STOCK BY FEDERAL HOME LOAN BANKS.—

"(A) IN GENERAL.—Each Federal Home Loan Bank shall invest in nonvoting capital stock of the Financing Corporation at such times and in such amounts as the Board may prescribe under this subsection.

"(B) PAR VALUE; TRANSFERABILITY.—Each share of stock issued by the Financing Corporation to a Federal Home Loan Bank shall have par value in an amount determined by the Board and shall be transferable only among the Federal Home Loan Banks in the manner and to the extent prescribed by the Board at not less than par value.

"(2) AGGREGATE DOLLAR AMOUNT LIMITATION ON ALL INVESTMENTS.—The aggregate amount of funds invested by all Federal Home Loan Banks in nonvoting capital stock of the Financing Corporation shall not exceed $3,000,000,000.

"(3) MAXIMUM INVESTMENT AMOUNT LIMITATION FOR EACH FEDERAL HOME LOAN BANK.—The cumulative amount of funds invested in nonvoting capital stock of the Financing Corporation by each Federal Home Loan Bank shall not exceed the aggregate amount of—

"(A) the sum of—

"(i) the reserves maintained by such bank on December 31, 1985, pursuant to the requirement contained in the first 2 sentences of section 16; and

"(ii) the undivided profits (as defined in paragraph (7)) of such bank on such date; and

"(B) the sum of—

"(i) the amounts added to reserves after December 31, 1985, pursuant to the requirement contained in the first 2 sentences of section 16; and

"(ii) the undivided profits of such bank accruing after such date.

"(4) PRO RATA DISTRIBUTION OF 1ST $1,000,000,000 INVESTED IN FINANCING CORPORATION BY HOME LOAN BANKS.—With respect to the first $1,000,000,000 which the Board may require the Federal Home Loan Banks to invest in capital stock of the Financing Corporation under this subsection, the amount which each Federal Home Loan Bank (or any successor to such bank) shall invest shall be determined by the Board by applying to the total amount of such investment by all such banks the percentage appearing in the following table for each such bank:

"Bank	Percentage
Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

"(5) PRO RATA DISTRIBUTION OF AMOUNTS REQUIRED TO BE INVESTED IN EXCESS OF $1,000,000,000.—With respect to any amount in excess of $1,000,000,000 which the Board may require the Federal Home Loan Banks to invest in capital stock of the Financing Corporation under this subsection, the amount which each Federal Home Loan Bank (or any successor to such bank) shall invest shall be determined by the Board by multiplying such excess amount by the percentage arrived at by dividing—

"(A) the sum of the total assets (as of the most recent December 31) held by all insured institutions which are members of such bank; by

"(B) the sum of the total assets (as of such date) held by all insured institutions which are members of any Federal Home Loan Bank.

"(6) SPECIAL PROVISIONS RELATING TO MAXIMUM AMOUNT LIMITATIONS.—

"(A) IN GENERAL.—If the amount any Federal Home Loan Bank is required to invest in capital stock of the Financing Corporation pursuant to a determination by the Board under paragraph (5) (or under subparagraph (B) of this paragraph) exceeds the maximum investment amount applicable with respect to such bank under paragraph (3) at the time of such determination (hereinafter in this paragraph referred to as the 'excess amount')—

"(i) the Board shall require each remaining Federal Home Loan Bank to invest (in addition to the amount determined under paragraph (5) for such remaining bank and subject to the maximum investment amount applicable with respect to such remaining bank under paragraph (3) at the time of such determination) in such capital stock on behalf of the bank in the amount determined under subparagraph (B);

"(ii) the Board shall require the bank to subsequently purchase the excess amount of capital stock from the remaining banks in the manner described in subparagraph (C); and

"(iii) the requirements contained in subparagraphs (D) and (E) relating to the use of net earnings available for dividends shall apply to such bank until the bank has purchased all of the excess amount of capital stock.

"(B) ALLOCATION OF EXCESS AMOUNT AMONG REMAINING HOME LOAN BANKS.—The amount each remaining Federal Home Loan Bank shall be required to invest under subparagraph (A)(i) is the amount determined by the Board by multiplying the excess amount by the percentage arrived at by dividing—

"(i) the amount of capital stock of the Financing Corporation held by such remaining bank at the time of such determination; by

"(ii) the aggregate amount of such stock held by all remaining banks at such time.

"(C) PURCHASE PROCEDURE.—The bank on whose behalf an investment in capital stock is made under subparagraph (A)(i) shall purchase, annually and at the issuance price, from each remaining bank an amount of such stock determined by the Board by multiplying the amount available for such purchases (at the time of such determination) by the percentage determined under subparagraph (B) with respect to such remaining bank until the aggregate amount of such capital stock has been purchased by the bank.

"(D) LIMITATION ON DIVIDENDS.—The amount of dividends which may be paid for any year by a bank on whose behalf an investment is made under subparagraph (A)(i) shall not exceed an amount equal to ½ of the net earnings available for dividends of the bank for the year.

"(E) TRANSFER TO ACCOUNT FOR PURCHASE OF STOCK REQUIRED.—Of the net earnings available for dividends for any year of a bank on whose behalf an investment is made under subparagraph (A)(i), such amount as is necessary to make the purchases of stock required under subparagraph (A)(ii) shall be placed in a reserve account (established in such manner as the Board shall prescribe by regulations) the balance in which shall be available only for such purchases.

"(F) NET EARNINGS AVAILABLE FOR DIVIDENDS DEFINED.—For purposes of this paragraph, the term 'net earnings available for dividends' means the net earnings of a bank for any period as computed after reducing the amount of earnings for such period by the amount required to be carried (for such period) to reserves maintained by such bank pursuant to the first two sentences of section 16 of this Act.

12 USC 1436.

"(7) UNDIVIDED PROFITS DEFINED.—For purposes of paragraph (3), the term 'undivided profits' means retained earnings minus the sum of—

"(A) that portion required to be added to reserves maintained pursuant to the first two sentences of section 16 of this Act; and

"(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined under the following table:

"Bank	Dollar amount
Federal Home Loan Bank of Boston	$3.2 million
Federal Home Loan Bank of New York	7.7 million
Federal Home Loan Bank of Pittsburgh	5.2 million
Federal Home Loan Bank of Atlanta	12.3 million
Federal Home Loan Bank of Cincinnati	5.9 million
Federal Home Loan Bank of Indianapolis	37.4 million
Federal Home Loan Bank of Chicago	6.0 million
Federal Home Loan Bank of Des Moines	32.7 million
Federal Home Loan Bank of Dallas	45.0 million
Federal Home Loan Bank of Topeka	13.7 million
Federal Home Loan Bank of San Francisco	21.9 million
Federal Home Loan Bank of Seattle	33.6 million

"(e) OBLIGATIONS OF THE FINANCING CORPORATION.—

"(1) LIMITATION ON AMOUNT OF OUTSTANDING OBLIGATIONS.—The aggregate amount of obligations of the Financing Corporation which may be outstanding at any time (as determined by the Board) shall not exceed the lesser of—

"(A) an amount equal to the greater of—

"(i) 5 times the amount of the nonvoting capital stock of the Financing Corporation which is outstanding at such time; or

"(ii) the sum of the face amounts (the amount of principal payable at maturity) of securities described in subsection (g)(2) which are held at such time in the segregated account established pursuant to such subsection; or

"(B) $10,825,000,000.

"(2) ANNUAL LIMITATION ON NET NEW BORROWING.—Net new borrowing by the Financing Corporation—

"(A) shall not exceed an amount equal to $3,750,000,000 in the 1-year period beginning on the date of the enactment of the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987; and

"(B) shall not exceed an amount equal to $3,750,000,000 in each 1-year period beginning after the 1-year period described in subparagraph (A).

"(3) NET PROCEEDS TO BE INVESTED IN CAPITAL OF FSLIC.—Subject to such terms and conditions as may be approved by the Board, the net proceeds of any obligation issued by the Financing Corporation shall be used to—

"(A) purchase capital certificates or capital stock issued by the Federal Savings and Loan Insurance Corporation under section 402(b)(1)(A) of the National Housing Act; or

Post, p. 597.

"(B) refund any previously issued obligation the net proceeds of which were invested in the manner described in subparagraph (A).

"(4) LIMITATION ON TERM OF OBLIGATIONS.—No obligation of the Financing Corporation may be issued which matures—

"(A) more than 30 years after the date of issue; or

"(B) after December 31, 2026.

"(5) INVESTMENT OF UNITED STATES FUNDS IN OBLIGATIONS.—Obligations issued under this section by the Financing Corporation with the approval of the Board shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer of the United States.

"(6) MARKET FOR OBLIGATIONS.—All persons having the power to invest in, sell, underwrite, purchase for their own accounts, accept as security, or otherwise deal in obligations of the Federal Home Loan Banks shall also have the power to do so with respect to obligations of the Financing Corporation.

"(7) NO FULL FAITH AND CREDIT OF THE UNITED STATES.—Obligations of the Financing Corporation and the interest payable on such obligations shall not be obligations of, or guaranteed as to principal or interest by, the Federal Home Loan Banks, the United States, or the Federal Savings and Loan Insurance Corporation and the obligations shall so plainly state.

"(8) TAX EXEMPT STATUS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), obligations of the Financing Corporation shall be exempt from tax both as to principal and interest to the same extent as any obligation of a Federal Home Loan Bank is exempt from tax under section 13. 12 USC 1433.

"(B) EXCEPTION.—The Financing Corporation, like the Federal Home Loan Banks, shall be treated as an agency of the United States for purposes of the first sentence of section 3124(b) of title 31, United States Code (relating to determination of tax status of interest on obligations).

"(9) OBLIGATIONS ARE EXEMPT SECURITIES.—Notwithstanding paragraph (7), obligations of the Financing Corporation shall be deemed to be exempt securities (within the meaning of laws administered by the Securities and Exchange Commission) to the same extent as securities which are direct obligations of the United States or are guaranteed as to principal or interest by the United States.

"(10) MINORITY PARTICIPATION IN PUBLIC OFFERINGS.—The Chairman of the Board and the Directorate shall ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of obligations issued under this section.

"(f) ASSESSMENT AUTHORITY OF THE FINANCING CORPORATION.—

"(1) IN GENERAL.—The Financing Corporation may, with the approval of the Board, assess on each insured institution an assessment, except that the aggregate amount assessed under this paragraph on any insured institution for any year may not exceed an amount equal to 1/12th of 1 percent of the aggregate amount of all accounts of insured members of such insured institution.

"(2) SUPPLEMENTAL ASSESSMENT AUTHORIZED.—Upon the unanimous vote of the Directorate that additional funds are needed to pay the interest on the obligations of the Financing Corporation because no other funds are available, the Financing Corporation may, with the approval of the Board and in addition to any assessment assessed under paragraph (1), assess on each insured institution an assessment, except that the aggregate amount assessed under this paragraph on any insured institution for any year may not exceed an amount equal to 1/8th of 1 percent of the aggregate amount of all accounts of insured members of such insured institution.

"(3) TOTAL AMOUNT OF ASSESSMENTS MAY NOT EXCEED INTEREST AND FINANCING COSTS.—The aggregate amount of all assessments assessed under paragraphs (1) and (2) for any year may not exceed—

"(A) the aggregate amount of—

"(i) issuance costs (as such term is defined in subsection (g)(5)(A)) incurred with respect to obligations issued during such year;

"(ii) interest paid on (and any redemption premium paid with respect to) obligations of the Financing Corporation during such year; and

"(iii) custodian fees (as such term is defined in subsection (g)(5)(B)) incurred during such year; minus

"(B) the aggregate amount of any payments under subsection (g)(4) during such year.

"(4) TERMINATION ASSESSMENTS.—

"(A) ASSESSMENT AUTHORIZED.—The Financing Corporation shall, with the approval of the Board, assess a termination assessment on any insured institution which ceases to be an insured institution.

"(B) MAXIMUM AMOUNT OF ASSESSMENT.—The amount of the assessment on any institution under subparagraph (A) shall be the amount which is equal to the sum of—

"(i) the amount which is equal to 2 times the last annual insurance premium payable by such institution under section 404(b) of the National Housing Act (including the amount of any assessment imposed under paragraph (1) of this subsection in lieu of any such premium); and

12 USC 1727.

"(ii) the amount which is the product of—

"(I) the aggregate amount of all accounts of insured members of such institution (as of the date the institution ceases to be an insured institution); and

"(II) 2 times the rate (expressed as an annual rate) at which the supplemental assessment under section 404(c) of the National Housing Act was assessed against insured institutions by the Federal Savings and Loan Insurance Corporation in 1986.

Post, p. 601.

"(C) REDUCTION IN ASSESSMENT ALLOWED FOR WEAKENED INSTITUTIONS.—The amount of any assessment which the Financing Corporation may otherwise impose under this paragraph on an institution (which ceases to be an insured institution) may be reduced by such amount as the Financing Corporation, with the approval of the Board, may deem appropriate when—

"(i) the institution poses a substantial risk to the assets of the Federal Savings and Loan Insurance Corporation; and

"(ii) such reduction is necessary to assist in the sale or other disposition of the institution.

"(D) TIME FOR PAYING ASSESSMENT.—

"(i) DUE WITHIN 30 DAYS.—If an assessment is imposed on an institution under subparagraph (A), the institution shall be obligated to pay such assessment before the end of the 30-day period beginning on the date on which such institution ceases to be an insured institution.

"(ii) SEMIANNUAL INSTALLMENTS WITH INTEREST.—Notwithstanding the requirement of clause (i), an institution may elect to pay the amount of any assessment imposed under subparagraph (A) in semiannual installments during the period beginning no later than the end of the 30-day period referred to in clause (i) and ending no later than the end of the 2-year period beginning on the date such assessment is imposed, together with interest accruing on the unpaid balance of such amount at a variable rate equal to the sum of—

"(I) the bond equivalent yield on 6-month United States Treasury bills; and

"(II) 100 basis points.

"(E) **Exit fee equalization.**—If any institution described in subparagraph (F) paid any exit fee, or the equivalent thereof (as determined by the Corporation), on or before the date of the enactment of the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987, the Corporation shall repay to such institution an amount equal to the amount by which the amount of such fee exceeds the amount which such institution would be required to pay if the amount of such fee were determined under this paragraph as of the date of the enactment of this Act.

"(F) **Provisions applicable to certain institutions.**—Except as provided in subparagraph (E), no assessment under this paragraph or insurance premium under section 407(d) of the National Housing Act may be imposed on an insured institution which, on or before March 31, 1987, had—

Post, p. 602.

"(i) its status as an insured institution terminated voluntarily, involuntarily, or by operation of law in connection with a conversion into, merger with, acquisition by, consolidation with, reorganization into, or combination by any means with, an institution the deposits of which are insured by the Federal Deposit Insurance Corporation;

"(ii) filed an application or notice with any State banking agency or authority, or with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Corporation or the Federal Home Loan Bank Board pursuant to a transaction which, upon consummation thereof, will result in the termination of the institution's status as an insured institution in connection with its conversion into, merger with, acquisition by, consolidation with, reorganization into, or combination by any means with, an institution the deposits of which are insured by the Federal Deposit Insurance Corporation; or

"(iii) entered into a letter of intent or a written memorandum of understanding, pursuant to a transaction which will result in the termination of the institution's status as an insured institution in connection with its conversion into, merger with, acquisition by consolidation with, reorganization into, or combination by any means with, an institution the deposits of which are insured by the Federal Deposit Insurance Corporation.

Michigan.

"(G) ADDITIONAL PROVISION.—Notwithstanding any other provision of law, the Federal Savings and Loan Insurance Corporation shall repay to Comerica, Inc. of Detroit, Michigan, an amount equal to any exit fee or equivalent thereof paid by Comerica, Inc.

"(5) PAYMENT TO FINANCING CORPORATION.—All assessments assessed by the Financing Corporation under paragraph (1), (2), or (4) shall be paid to the Financing Corporation.

"(g) USE AND DISPOSITION OF ASSETS OF THE FINANCING CORPORATION NOT INVESTED IN FSLIC.—

"(1) IN GENERAL.—Subject to such regulations, restrictions, and limitations as may be prescribed by the Board, assets of the Financing Corporation, which are not invested in capital certificates or capital stock issued by the Federal Savings and Loan Insurance Corporation under section 402(b)(1)(A) of the National Housing Act, shall be invested in—

Post, p. 597.

"(A) direct obligations of the United States;

"(B) obligations, participations, or other instruments of, or issued by, the Federal National Mortgage Association or the Government National Mortgage Association;

"(C) mortgages, obligations, or other securities for sale by, or which have been disposed of by, the Federal Home Loan Mortgage Corporation under section 305 or 306 of the Federal Home Loan Mortgage Corporation Act; or

12 USC 1454, 1455.

"(D) any other security in which it is lawful for fiduciary and trust funds to be invested under the laws of any State.

"(2) SEGREGATED ACCOUNT FOR ZERO COUPON INSTRUMENTS HELD TO ASSURE PAYMENT OF PRINCIPAL.—The Financing Corporation shall invest in, and hold in a segregated account, noninterest bearing instruments—

"(A) which are securities described in paragraph (1); and

"(B) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Financing Corporation,

to assure the repayment of principal on obligations of the Financing Corporation.

"(3) DOLLAR AMOUNT LIMITATION ON INVESTMENT IN ZERO COUPON INSTRUMENTS FOR SEGREGATED ACCOUNT.—The aggregate amount invested by the Financing Corporation under paragraph (2) shall not exceed $2,200,000,000 (as determined on the basis of the purchase price).

"(4) EXCEPTION FOR PAYMENT OF ISSUANCE COSTS, INTEREST, AND CUSTODIAN FEES.—Notwithstanding the requirements of paragraph (1), the assets of the Financing Corporation referred to in paragraph (1) which are not invested under paragraph (2) may be used to pay—

"(A) issuance costs;

"(B) any interest on (and any redemption premium with respect to) any obligation of the Financing Corporation; and

"(C) custodian fees.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) ISSUANCE COSTS.—The term 'issuance costs'—

"(i) means issuance fees and commissions incurred by the Financing Corporation in connection with the issuance or servicing of any obligation of the Financing Corporation; and

"(ii) includes legal and accounting expenses, trustee and fiscal and paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses, to the extent that any such cost or expense is incurred by the Financing Corporation in connection with issuing any obligation.

"(B) CUSTODIAN FEES.—The term 'custodian fee' means—

"(i) any fee incurred by the Financing Corporation in connection with the transfer of any security to, or the maintenance of any security in, the segregated account established under paragraph (2); and

"(ii) any other expense incurred by the Financing Corporation in connection with the establishment or maintenance of such account.

"(h) MISCELLANEOUS PROVISIONS RELATING TO FINANCING CORPORATION.—

"(1) TREATMENT FOR CERTAIN PURPOSES.—Except as provided in subsection (e)(8)(B), the Financing Corporation shall be treated as a Federal Home Loan Bank for purposes of sections 13 and 23.

12 USC 1433, 1443.

"(2) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks are authorized to act as depositaries for or fiscal agents or custodians of the Financing Corporation.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO GOVERNMENT CORPORATION.—Notwithstanding the fact that no Government funds may be invested in the Financing Corporation, the Financing Corporation shall be treated, for purposes of sections 9105, 9107, and 9108 of title 31, United States Code, as a mixed-ownership Government corporation which has capital of the Government.

"(i) FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION INDUSTRY ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—There is hereby established the Federal Savings and Loan Insurance Corporation Industry Advisory Committee (hereinafter in this subsection referred to as the 'Committee').

"(2) MEMBERSHIP.—

"(A) APPOINTMENT.—The Committee shall consist of 13 members selected as follows:

"(i) 1 member appointed by the Chairman of the Board from among individuals who are officers of insured institutions and who are not members of the Board or employees of the Board, the Federal Savings and Loan Insurance Corporation, or the Board of Directors of any Federal Home Loan Bank.

"(ii) 1 member elected from each Federal Home Loan Bank district (by the members of the Board of Directors of each such bank who were elected by the members of such bank) from among individuals who are officers of insured institutions.

"(B) TERMS.—Members shall be appointed or elected for terms of 1 year.

"(C) CHAIRPERSON.—The member appointed under subparagraph (A)(i) shall be the chairperson of the Committee.

"(D) VACANCIES.—Any vacancy on the Committee shall be filled in the manner in which the original appointment was made.

"(E) PAY AND EXPENSES.—Members of the Committee shall serve without pay but each member of the Committee shall be reimbursed, in such manner as the Board may prescribe by regulation, by the Federal Home Loan Bank which elected such member (and, in the case of the member appointed by the Chairman of the Board, by the Board) for expenses incurred in connection with attendance of such members at meetings of the Committee.

"(F) MEETINGS.—The Committee shall meet from time to time at the call of the chairperson or a majority of the members.

Reports.

"(3) DUTIES OF THE COMMITTEE.—The duties of the Committee are as follows:

Post, p. 603.

"(A) To review the reports and budgets prepared pursuant to section 402(k) of the National Housing Act and any other matter which the Board may present for the Committee's consideration.

"(B) To confer with the Board on the reports, budgets, and other matters reviewed under subparagraph (A).

"(C) To prepare written comments and recommendations for the Board and the Federal Savings and Loan Insurance Corporation with respect to the reports, budgets, and other matters reviewed under subparagraph (A) (which shall be submitted to the Board in a timely manner after each meeting).

"(4) ANNUAL REPORT.—

"(A) REQUIRED.—Not later than January 15 of each year, the Committee shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(B) CONTENTS.—The report required under subparagraph (A) shall describe the activities of the Committee during the preceding year and the reports and recommendations made by the Committee to the Board and the Federal Savings and Loan Insurance Corporation during such year.

"(5) REGULATIONS.—The Board shall prescribe such regulations as the Board determines to be appropriate to avoid conflicts of interest with respect to the disclosure to and use by members of the Committee of information relating to the Board, the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Banks, and the Federal Asset Disposition Association.

5 USC app.

"(6) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply to the Committee.

"(7) TERMINATION.—The Committee shall terminate when the Financing Corporation terminates under subsection (j).

"(j) TERMINATION OF THE FINANCING CORPORATION.—

"(1) In general.—The Financing Corporation shall be dissolved, as soon as practicable, after the earlier of—

"(A) the date by which all stock purchased by the Financing Corporation in the Federal Savings and Loan Insurance Corporation has been retired; or

"(B) December 31, 2026.

"(2) Board authority to conclude the affairs of financing corporation.—Effective on the date of the dissolution of the Financing Corporation under paragraph (1), the Board may exercise, on behalf of the Financing Corporation, any power of the Financing Corporation which the Board determines to be necessary to settle and conclude the affairs of the Financing Corporation.

"(k) Regulations.—The Board may prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations defining terms used in this section.

"(l) Definitions.—For purposes of this section—

"(1) Insured institution.—The term 'insured institution' has the meaning given to such term by section 401(a) of the National Housing Act. 12 USC 1724.

"(2) Insured member.—The term 'insured member' has the meaning given to such term by section 401(b) of the National Housing Act.

"(3) Directorate.—The term 'Directorate' means the directorate established in the manner provided in subsection (b)(1) to manage the Financing Corporation.".

SEC. 303. MIXED OWNERSHIP GOVERNMENT CORPORATION.

Section 9101(2) of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(K) The Financing Corporation.".

SEC. 304. RECAPITALIZATION OF FSLIC.

Section 402(b) of the National Housing Act (12 U.S.C. 1725(b)) is amended to read as follows:

"(b) Issuance and Sale of Capital Certificates and Stock to Financing Corporation.—

"(1) Authorization to issue.—

"(A) In general.—Notwithstanding any other provision of law, the Corporation may issue—

"(i) nonredeemable capital certificates; and

"(ii) redeemable nonvoting capital stock.

"(B) Requirement relating to amount of stock.—The aggregate amount of stock issued by the Corporation under subparagraph (A)(ii) shall be equal to the aggregate amount of the investments made by the Federal Home Loan Banks in the capital stock of the Financing Corporation under section 21 of the Federal Home Loan Bank Act. *Ante*, p. 585.

"(C) Certificates and stock may be sold only to financing corporation.—Capital certificates and stock issued under subparagraph (A) may be sold only to the Financing Corporation in the manner and to the extent provided in section 21 of the Federal Home Loan Bank Act and this subsection.

"(D) Proceeds of sale are part of primary reserve.—The proceeds of any sale of capital certificates or stock under this paragraph shall be considered part of the pri-

12 USC 1727.

mary reserve established by the Corporation pursuant to section 404(a).

"(E) NO DIVIDENDS.—The Corporation shall pay no dividends on any capital certificates or stock issued under this paragraph.

"(2) EQUITY RETURN ACCOUNT.—

"(A) IN GENERAL.—The Corporation shall establish and maintain (until all capital stock issued under subparagraph (A)(ii) of paragraph (1) has been paid off and retired) an equity return account—

"(i) which shall consist only of amounts contributed in accordance with the requirements of subparagraph (B);

"(ii) which shall not be treated as reserves of the Corporation; and

"(iii) the earnings accruing in which shall be transferred in the manner provided in subparagraph (D).

"(B) CONTRIBUTIONS TO ACCOUNT.—

"(i) NO CONTRIBUTION IF RESERVES-TO-ACCOUNTS RATIO IS LESS THAN 0.5 PERCENT.—No contribution shall be made to the equity reserve account established pursuant to subparagraph (A) in any year in which the reserves-to-accounts ratio is less than 0.5 percent.

"(ii) ANNUAL CONTRIBUTIONS REQUIRED.—Except as provided in clause (i), the Corporation shall make contributions to the equity reserve account established pursuant to subparagraph (A)—

"(I) at the end of each year beginning after 1996 through the final payoff year (as defined in clause (vii)); and

"(II) in amounts determined under clauses (iii), (iv), (v), and (vi) of this subparagraph.

"(iii) AMOUNT OF PRIMARY CONTRIBUTION.—The primary contribution to the equity return account for any year for which a contribution is required to be made shall be the amount determined by dividing—

"(I) the aggregate amount of capital stock issued by the Corporation and purchased by the Financing Corporation under paragraph (1)(A); by

"(II) the number of years between the first year beginning after 1996 in which the reserves-to-accounts ratio is equal to or greater than 0.5 percent and the final payoff year (taking into account the first and last year described).

"(iv) AMOUNT OF ADDITIONAL CONTRIBUTION ALLOWED IF RESERVES-TO-ACCOUNTS RATIO DOES NOT EXCEED 1.25 PERCENT.—In any year in which the reserves-to-accounts ratio is equal to or greater than 1 percent but less than 1.25 percent, the Federal Home Loan Bank Board may require the Corporation to make an additional contribution of an amount not to exceed the amount determined by dividing—

"(I) the investment return amount (as defined in clause (viii)) computed at an annual compound rate not to exceed 6 percent; by

"(II) the number of years between the first year beginning after 1996 in which the reserves-to-accounts ratio was equal to or greater than 1 percent and the final payoff year (taking into account the first and last year described).

"(v) AMOUNT OF ADDITIONAL CONTRIBUTION ALLOWED IF RESERVES-TO-ACCOUNTS RATIO DOES NOT EXCEED 1.75 PERCENT.—In any year in which the reserves-to-accounts ratio is equal to or greater than 1.25 percent but less than 1.75 percent, the Federal Home Loan Bank Board may require the Corporation to make an additional contribution of an amount not to exceed the amount determined by dividing—

"(I) the investment return amount computed at an annual compound rate not to exceed 8 percent, minus the sum of any amounts contributed under clause (iv); by

"(II) the number of years between the first year beginning after 1996 in which the reserves-to-accounts ratio was equal to or greater than 1.25 percent and the final payoff year (taking into account the first and last year described).

"(vi) AMOUNT OF ADDITIONAL CONTRIBUTION ALLOWED IF RESERVES-TO-ACCOUNTS RATIO EXCEEDS 1.75 PERCENT.—In any year in which the reserves-to-accounts ratio is equal to or greater than 1.75 percent, the Federal Home Loan Bank Board may require the Corporation to make an additional contribution of an amount not to exceed the amount determined by dividing—

"(I) the investment return amount computed at an annual compound rate not to exceed 10 percent, minus the sum of any amounts contributed under clause (iv) or (v); by

"(II) the number of years between the first year beginning after 1996 in which the reserves-to-accounts ratio was equal to or greater than 1.75 percent and the final payoff year (taking into account the first and last year described).

"(vii) FINAL PAYOFF YEAR DEFINED.—For purposes of this subparagraph, the term 'final payoff year' means the year of maturity of the last maturing obligation of the Financing Corporation (which was issued under section 21 of the Federal Home Loan Bank Act and matures before January 1, 2027). Ante, p. 585.

"(viii) INVESTMENT RETURN AMOUNT.—For purposes of clauses (iv), (v), and (vi), the term 'investment return amount' means the amount which would be realized on the aggregate amount invested by the Financing Corporation in capital stock issued by the Corporation under paragraph (1) over the period of the investment if the return on the investment is computed at the rate described in subclause (I) of the respective clauses.

"(C) INVESTMENT OF AMOUNTS IN ACCOUNT.—Amounts accumulating in the equity return account may be invested in such manner as the Corporation determines.

"(D) TRANSFER OF EARNINGS TO PRIMARY RESERVE.—Earnings accruing on any investment (under subparagraph (C)) of amounts in the equity return account shall be transferred to the primary reserve account of the Corporation

12 USC 1727.

established pursuant to section 404(a) as such earnings are realized by the Corporation and shall not be treated as amounts in the account.

"(E) Retirement of capital stock using balance in account.—Upon maturity of all obligations of the Financing Corporation under section 21 of the Federal Home Loan Bank Act, the Corporation shall pay off and retire any capital stock issued under paragraph (1)(A)(ii) using only amounts accumulated in the equity return account.

Ante, p. 585.

"(F) Reserves-to-accounts ratio defined.—For purposes of this paragraph, the term 'reserves-to-accounts ratio' means, with respect to any year, the amount determined by dividing—

"(i) the amount of reserves of the Corporation (determined as of December 31 of the preceding year); by

"(ii) the aggregate amount of all accounts of all of its insured members (determined as of such date).

"(3) Financing corporation defined.—For purposes of this subsection, the term 'Financing Corporation' means the Financing Corporation established under section 21 of the Federal Home Loan Bank Act.

"(4) No reduction or suspension of insurance premiums while stock is outstanding.—Notwithstanding any other provision of law, the provisions of subsections (b)(2) and (g) of section 404 shall not apply as long as any share of capital stock issued under paragraph (1)(A)(ii) is outstanding.".

12 USC 1727.

SEC. 305. FSLIC AUTHORITY TO CHARGE PREMIUMS REDUCED BY AMOUNT OF FINANCING CORPORATION ASSESSMENTS.

Section 404 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(j) Authority To Charge Premiums Reduced by Amount of Financing Corporation Assessments.—Notwithstanding any other provision of this section, the sum of—

"(1) the amount of any premium required to be paid by any insured institution under subsection (b)(1); and

"(2) the amount of any premium authorized to be assessed by the Corporation under subsection (c) with respect to such institution,

for any period shall be reduced by the amount of any assessment paid for such period by such insured institution to the Financing Corporation pursuant to section 21(f) of the Federal Home Loan Bank Act.".

SEC. 306. MISCELLANEOUS PROVISIONS.

(a) Federal Home Loan Bank Dividends.—Section 16 of the Federal Home Loan Bank Act (12 U.S.C. 1436) is amended by adding at the end thereof the following new subsection:

"(c) Exception in Case of Losses in Connection With Financing Corporation Stock.—

"(1) In general.—Notwithstanding subsection (a) of this section, if—

"(A) a Federal Home Loan Bank incurs a chargeoff or an expense in connection with such bank's investment in the stock of the Financing Corporation under section 21;

"(B) the Board determines there is an extraordinary need for the member institutions of the bank to receive dividends; and

"(C) the bank has reduced all reserves (other than the reserve account required by the first 2 sentences of subsection (a)) to zero,

the Board may authorize such bank to declare and pay dividends out of undivided profits (as such term is defined in section 21(d)(7)) or the reserve account required by the first 2 sentences of subsection (a). *Ante*, p. 585.

"(2) **Requirements of section 21 not affected.**—Notwithstanding any payment of dividends by any Federal Home Loan Bank pursuant to an authorization by the Board under paragraph (1), the applicable provisions of section 21 shall continue to apply with respect to such bank, and to such bank's investment in the Financing Corporation, in the same manner and to the same extent as if such payment had not been made.".

(b) **Conforming Amendment.**—Section 402(h) of the National Housing Act (12 U.S.C. 1725(h)) is amended—

(1) by striking out "After the effective date" and inserting in lieu thereof "(1) After the effective date"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The first three sentences of paragraph (1) shall not apply to stock issued by the Corporation to the Financing Corporation under subsection (b)(1)(A).".

(c) **Limitation on Special Assessment.**—Section 404(c) of the National Housing Act (12 U.S.C. 1727(c)) is amended—

(1) by striking out "(c) The Corporation" and inserting in lieu thereof "(c)(1) **Special Assessment.**—Subject to paragraph (2), the Corporation"; and

(2) by adding at the end thereof the following new paragraph:

"(2) **Limitations on Amount of Assessment.**—The amount of any additional premium assessed by the Corporation against any insured institution under paragraph (1) in any of the following years shall not exceed the amount listed in connection with each such year in the following table (unless the Federal Home Loan Board determines that severe pressures on the Corporation exist which necessitate an infusion of additional funds):

"For year:	The amount of the additional premium may not exceed:
1987	$\frac{5}{48}$ of 1 percent of the total amount of the accounts of the insured members of such institution;
1988	$\frac{1}{12}$ of 1 percent of the total amount of the accounts of the insured members of such institution;
1989	$\frac{1}{16}$ of 1 percent of the total amount of the accounts of the insured members of such institution;
1990	$\frac{1}{24}$ of 1 percent of the total amount of the accounts of the insured members of such institution;
1991	$\frac{1}{48}$ of 1 percent of the total amount of the accounts of the insured members of such institution.".

(d) **Priority of Secured Interests.**—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end thereof the following new subsection:

"(e) PRIORITY OF CERTAIN SECURED INTERESTS.—Notwithstanding any other provision of law, any security interest granted to a Federal Home Loan Bank by any member of any Federal Home Loan Bank or any affiliate of any such member shall be entitled to priority over the claims and rights of any party (including any receiver, conservator, trustee, or similar party having rights of a lien creditor) other than claims and rights that—

"(1) would be entitled to priority under otherwise applicable law; and

"(2) are held by actual bona fide purchasers for value or by actual secured parties that are secured by actual perfected security interests.".

(e) COORDINATION OF TERMINATION ASSESSMENT WITH FINAL INSURANCE PREMIUM.—Section 407(d) of the National Housing Act (12 U.S.C. 1730(d)) is amended—

(1) by striking out "(d)" and inserting in lieu thereof "(d)(1) FINAL INSURANCE PREMIUM"; and

(2) by adding at the end thereof the following new paragraph:

"(2) EXCEPTION RELATING TO FINAL INSURANCE PREMIUM.—If an institution (whose status as an insured institution is terminated) pays an assessment to the Financing Corporation under section 21(f)(4) of the Federal Home Loan Bank Act with respect to such termination, the institution shall not be obligated to pay the final insurance premium described in the third sentence of paragraph (1).".

Ante, p. 585.

(f) SECTION 404(f) DOES NOT APPLY TO INSTITUTIONS WHICH CEASE TO BE FSLIC INSURED.—Section 404(f) of the National Housing Act (12 U.S.C. 1727(f)) is amended—

(1) by striking out "(f) If" and inserting in lieu thereof "(f)(1) PRO RATA DISTRIBUTION ON TERMINATION OF INSURED STATUS.—If"; and

(2) by adding at the end thereof the following new paragraph:

"(2) EXCEPTION.—In the case of an institution which—

"(A) ceases to be an insured institution; and

"(B) is required to pay an assessment to the Financing Corporation under section 21(f)(4) of the Federal Home Loan Bank Act with respect to the termination of such insured status,

paragraph (1), the last sentence of subsection (e)(1), and subsection (i)(4) shall not apply with respect to such institution.".

(g) SECONDARY RESERVE.—Section 404 of the National Housing Act (12 U.S.C. 1727) is amended by striking out subsection (h).

12 USC 1730 note.

(h) 1-YEAR PROHIBITION ON TERMINATION OF FSLIC INSURED STATUS.—

(1) IN GENERAL.—No association or insured institution may take any action which would result in the voluntary termination of its status as an insured institution during the 1-year period beginning on the date of the enactment of this Act.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any association or institution described in section 21(f)(4)(F) of the Federal Home Loan Bank Act (as added by section 302 of this title).

(3) AUTHORITY OF FSLIC TO ARRANGE EMERGENCY ACQUISITIONS NOT AFFECTED.—Paragraph (1) shall not affect the authority of the Federal Savings and Loan Insurance Corporation to arrange for the acquisition of an association or insured institution under section 406(f) or 408(m) of the National Housing Act.

12 USC 1729, 1730a.

(4) Definitions.—For purposes of this subsection—

(A) Association.—The term "association" has the meaning given to such term under section 2(d) of the Home Owners' Loan Act of 1933. 12 USC 1462.

(B) Insured institution.—The term "insured institution" has the meaning given to such term in section 401(a) of the National Housing Act. 12 USC 1724.

(i) FSLIC Report Requirements.—Section 402 of the National Housing Act is amended by adding at the end thereof the following new subsection: 12 USC 1725.

"(k) Reports and Budgets Required.—

"(1) Quarterly reports and budgets.—Before the end of the 2-week period beginning on the first day of each calendar quarter, the Corporation shall complete a detailed written report and budget describing and explaining—

"(A) planned or anticipated activities and estimates of receipts and expenditures for such calendar quarter; and

"(B) the activities, receipts, and expenditures for the preceding calendar quarter.

"(2) Semiannual report.—Before the end of the 30-day period beginning on the first day of each semiannual period, the Corporation shall complete a detailed written report and budget describing and explaining the activities, receipts, and expenditures for the preceding semiannual period.

"(3) Submission of semiannual report to congress.—The Corporation shall submit a copy of each semiannual report required under paragraph (2) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(4) Activities, etc., of federal asset disposition association.—Activities, receipts, and expenditures of the Federal Asset Disposition Association (or any successor thereto) shall be included in any report or budget required under this subsection.

"(5) Definitions.—For purposes of this subsection—

"(A) Activities.—The term 'activities' includes any activity engaged in with respect to any insured institution in financial difficulty.

"(B) Semiannual period.—The term 'semiannual period' means—

"(i) the period beginning on January 1 of any calendar year and ending June 30 of such year; and

"(ii) the period beginning on July 1 of any calendar year and ending December 31 of such year.".

SEC. 307. SECONDARY RESERVE PROVISIONS.

(a) Offsets Against Premiums Authorized.—Section 404(e) of the National Housing Act (12 U.S.C. 1727(e)) is amended—

(1) by striking out "(e) The Corporation" and inserting in lieu thereof "(e)(1) The Corporation"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Secondary Reserve Offsets Against Premiums.—

"(A) Offsets in premium years beginning before 1993.—Subject to the maximum amount limitation contained in subparagraph (B) and notwithstanding any other provision of law, an insured institution may offset such institution's pro rata share of the statutorily prescribed amount against any pre-

mium assessed against such insured institution under subsection (c) for any premium year beginning after 1987 and before 1993.

"(B) ANNUAL MAXIMUM AMOUNT LIMITATION.—The amount of any offset allowed for any insured institution under subparagraph (A) for any premium year referred to in subparagraph (A) shall not exceed an amount which is equal to 20 percent of such institution's pro rata share of the statutorily prescribed amount (as computed for the calendar year in which such premium year begins).

"(C) OFFSETS IN PREMIUM YEARS BEGINNING AFTER 1992.—Notwithstanding any other provision of law, an insured institution may offset such institution's pro rata share of the statutorily prescribed amount against any premium assessed against such insured institution under this section for any premium year beginning after 1992.

"(D) STATUTORILY PRESCRIBED AMOUNT DEFINED.—For purposes of this paragraph, the term 'statutorily prescribed amount' means—

"(i) with respect to calendar year 1988, the sum of $823,705,000; and

"(ii) with respect to any calendar year beginning after 1988, the sum contained in clause (i) minus the aggregate amount of offsets made by all insured institutions before the beginning of the calendar year for which such computation is being made.

"(E) INSURED INSTITUTION'S PRO RATA AMOUNT.—For purposes of this paragraph, an insured institution's pro rata share of the statutorily prescribed amount is the percentage which is equal to such institution's pro rata share of the secondary reserve as determined under this subsection on the day before the date on which the Corporation ceased to recognize the secondary reserve.

"(F) PREMIUM YEAR DEFINED.—For purposes of this paragraph, the term 'premium year' means, with respect to any insured institution, the 1-year period for which a premium is assessed against such insured institution under subsection (b) or (c).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 404(d)(1) of the National Housing Act (12 U.S.C. 1727(d)) is amended—

(A) by striking out the second sentence of subparagraph (A);

(B) by striking out paragraph (B); and

(C) by striking out "(1)(A)" and inserting in lieu thereof "(1)".

(2) Section 404(g) of the National Housing Act (12 U.S.C. 1727(g)) is amended by striking out the second sentence.

Thrift Industry Recovery Act.

TITLE IV—THRIFT INDUSTRY RECOVERY PROVISIONS

12 USC 226 note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Thrift Industry Recovery Act".

SEC. 402. THRIFT INSTITUTION ACCOUNTING, APPRAISAL, AND RESERVE STANDARDS.

(a) FEDERALLY CHARTERED THRIFTS.—The Home Owners' Loan Act of 1933 (12 U.S.C. 1461 et seq.) is amended by redesignating section 9 as section 11 and by inserting after section 8 the following new section: 12 USC 1468.

"SEC. 9. ACCOUNTING PRINCIPLES AND OTHER STANDARDS AND REQUIREMENTS.

12 USC 1467.

"(a) IN GENERAL.—The Board shall prescribe regulations which make the following provisions applicable to associations for regulatory purposes: Regulations.

"(1) ASSET CLASSIFICATION SYSTEM.—An asset classification system shall be established which is consistent with the asset classification system established by the Federal banking agencies, except that such system shall provide that the principal supervisory agent of the Board for each Federal home loan bank district may, in such agent's discretion—

"(A) require an association to create additional general loss reserves on the basis of an evaluation of such institution's assets; or

"(B) determine whether a restructured loan asset which is in a nonperforming status or with respect to which the borrowers have otherwise failed to remain in compliance with the repayment terms at the time of such restructuring shall be classified.

"(2) APPRAISAL STANDARD.—An appraisal standard shall be established which is consistent with the appraisal standard established by the Federal banking agencies.

"(3) REAPPRAISAL UPON FORECLOSURE.—Generally accepted accounting principles shall apply to any reappraisal of the value of property securing any loan or other extension of credit upon any foreclosure on such property by an association (or any other action by the association in lieu of foreclosure). Real property.

"(4) AUTHORIZING USE OF FASB 15 FOR TROUBLED DEBT RESTRUCTURING.—If—

"(A) an association engages in troubled debt restructuring with respect to any loan by the association; and

"(B) the troubled debt restructuring complies with Statement of Financial Accounting Standards Numbered 5 and Statement of Financial Accounting Standards Numbered 15 (as issued by the Financial Accounting Standards Board),

regulatory accounting principles shall allow the association to account for the effects of the troubled debt restructuring and to account for such association's investment in the original debt instrument (or other agreement which is subject to such restructuring) in the manner provided in such statements.

"(5) CERTAIN LOAN LOSS RESERVES TREATED AS CAPITAL FOR CERTAIN PURPOSES.—Any amount which an association holds in any account as a general loss reserve may be treated, at the option of the association, as capital of the association for purposes of determining regulatory capital or regulatory net worth with respect to such association, to the extent such treatment is consistent with the procedures established by the Federal banking agencies.

"(b) UNIFORM GAAP ACCOUNTING STANDARDS REQUIRED.—

Regulations.

"(1) IN GENERAL.—Except as otherwise provided in this section, the Board shall prescribe, by regulation, uniformly applicable accounting standards to be used by all associations for the purpose of determining compliance with any rule or regulation issued by the Board or the Federal Savings and Loan Insurance Corporation to the same degree that generally accepted accounting principles are used to determine compliance with rules and regulations of the Federal banking agencies.

"(2) EXCEPTION FOR CERTAIN INSTITUTIONS AND TRANSACTIONS.—Notwithstanding the requirement contained in paragraph (1)(A), the Board may suspend the application of any such standard with respect to any association or transaction if—

"(A) the application of such standard to an association and a company that controls such association would result in such association and company being treated differently than a bank and such bank's holding company considered on a consolidated basis; and

"(B) the transaction was consistent with generally accepted accounting principles when such transaction was completed.

"(c) ASSET EVALUATIONS.—The Board may not require an association to establish reserves against, or write down the value of, any asset in an amount in excess of the amount which would result from an evaluation of such asset which is consistent with generally accepted accounting principles, except that evaluations which are consistent with the practice of the Federal banking agencies may be used for supervisory purposes.

"(d) ACCOUNTING FOR SUBORDINATED DEBT AND GOODWILL.—No provision of this section shall affect the authority of the Board to authorize associations to utilize subordinated debt and goodwill in meeting reserve and other regulatory requirements.

"(e) LOSS DEFERRALS.—Notwithstanding any other provision of this section—

"(1) associations may continue, for purposes of determining regulatory net worth and capital, to defer and amortize gains and losses from the disposition of assets pursuant to regulations of the Board in effect before the enactment of the Thrift Industry Recovery Act; and

"(2) the use of such deferrals and amortizations, consistently with the regulations referred to in paragraph (1), shall not reduce the ability of an association to comply with any other rule issued or regulation prescribed by the Board.

"(f) FEDERAL BANKING AGENCY DEFINED.—For purposes of this section, the term 'Federal banking agency' means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.".

(b) STATE CHARTERED, FEDERALLY INSURED THRIFTS.—Title IV of the National Housing Act (12 U.S.C. 1724 et seq.) is amended by adding at the end thereof the following new section:

12 USC 1730h.

"SEC. 415. ACCOUNTING PRINCIPLES AND OTHER STANDARDS AND REQUIREMENTS.

Regulations.

"(a) IN GENERAL.—The Corporation shall prescribe regulations which make the following provisions applicable to insured institutions for regulatory purposes:

"(1) Asset classification system.—An asset classification system shall be established which is consistent with the asset classification system established by the Federal banking agencies, except that such system shall provide the principal supervisory agent of the Federal Home Loan Bank Board for each Federal home loan bank district may, in such agent's discretion—

"(A) require an insured institution to create additional general loss reserves on the basis of an evaluation of such institution's assets; or

"(B) determine whether a restructured loan asset which is in a nonperforming status or with respect to which the borrowers have otherwise failed to remain in compliance with the repayment terms at the time of such restructuring shall be classified.

"(2) Appraisal standard.—An appraisal standard shall be established which is consistent with the appraisal standard established by the Federal banking agencies.

"(3) Reappraisal upon foreclosure.—Generally accepted accounting principles shall apply to any reappraisal of the value of property securing any loan or other extension of credit upon any foreclosure on such property by an insured institution (or any other action by the insured institution in lieu of foreclosure).

"(4) Authorizing use of FASB 15 for troubled debt restructuring.—If—

"(A) an insured institution engages in troubled debt restructuring with respect to any loan by the insured institution; and

"(B) the troubled debt restructuring complies with Statement of Financial Accounting Standards Numbered 5 and Statement of Financial Accounting Standards Numbered 15 (as issued by the Financial Accounting Standards Board),

regulatory accounting principles shall allow the insured institution to account for the effects of the troubled debt restructuring and to account for such insured institution's investment in the original debt instrument (or other agreement which is subject to such restructuring) in the manner provided in such statements.

"(5) Certain loan loss reserves treated as capital for certain purposes.—Any amount which an insured institution holds in any account as a general loss reserve may be treated, at the option of the insured institution, as capital of the insured institution for purposes of determining regulatory capital or regulatory net worth with respect to such insured institution, to the extent such treatment is consistent with the procedures established by the Federal banking agencies.

"(b) Uniform GAAP Accounting Standards Required.—

"(1) In general.—Except as otherwise provided in this section, the Corporation shall prescribe, by regulation, uniformly applicable accounting standards to be used by all insured institutions for the purpose of determining compliance with any rule or regulation issued by the Corporation or the Federal Home Loan Bank Board to the same degree that generally accepted accounting principles are used to determine compliance with rules and regulations of the Federal banking agencies. Regulations.

"(2) EXCEPTION FOR CERTAIN INSTITUTIONS AND TRANSACTIONS.—Notwithstanding the requirement contained in paragraph (1)(A), the Corporation may suspend the application of any such standard with respect to any insured institution or any transaction if—

"(A) the application of such standard to an insured institution and a company that controls such insured institution would result in such insured institution and company being treated differently than a bank and such bank's holding company considered on a consolidated basis; and

"(B) the transaction was consistent with generally accepted accounting principles when such transaction was completed.

"(c) ASSET EVALUATIONS.—The Corporation may not require an insured institution to establish reserves against, or write down the value of, any asset in an amount in excess of the amount which would result from an evaluation of such asset which is consistent with generally accepted accounting principles, except that evaluations which are consistent with the practice of the Federal banking agencies may be used for supervisory purposes.

"(d) ACCOUNTING FOR SUBORDINATED DEBT AND GOODWILL.—No provision of this section shall affect the authority of the Corporation to authorize insured institutions to utilize subordinated debt and goodwill in meeting reserve and other regulatory requirements.

"(e) LOSS DEFERRALS.—Notwithstanding any other provision of this section—

"(1) insured institutions may continue, for purposes of determining regulatory net worth and capital, to defer and amortize gains and losses from the disposition of assets pursuant to regulations of the Corporation in effect before the enactment of the Thrift Industry Recovery Act; and

"(2) the use of such deferrals and amortizations, consistently with the regulations referred to in paragraph (1), shall not reduce the ability of an insured institution to comply with any other rule issued or regulation prescribed by the Corporation.

"(f) FEDERAL BANKING AGENCY DEFINED.—For purposes of this section, the term 'Federal banking agency' means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.".

12 USC 1467 note.

(c) REPORT TO CONGRESS.—Not later than the end of the 90-day period beginning on the date of the enactment of this Act—

(1) the Federal Home Loan Bank Board shall submit a copy of the proposed regulations required to be prescribed under the amendment made by subsection (a) to the Congress; and

(2) the Federal Savings and Loan Insurance Corporation shall submit a copy of the proposed regulations required to be prescribed under the amendment made by subsection (b) to the Congress.

(d) EFFECTIVE DATE OF REGULATIONS.—

12 USC 1467 note.

(1) IN GENERAL.—Except as provided in paragraph (2), any regulation required to be prescribed under the amendment made by subsections (a) and (b) shall be implemented not later than the end of the 150-day period beginning on the date of the enactment of this Act.

(2) UNIFORM GAAP ACCOUNTING STANDARDS.—

Effective date.

(A) IN GENERAL.—Except as provided in subparagraph (B), the regulations required to be prescribed pursuant to subsection (b) of the amendments made by subsections (a) and (b) of this section shall take effect on December 31, 1987.

(B) COMPLIANCE AT A LATER DATE.—If any association or insured institution demonstrates to the satisfaction of the Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation, as the case may be, that it is not feasible for such association or institution to achieve compliance with the regulations referred to in subparagraph (A) by the date contained in such subparagraph, the Board or Corporation may approve a plan submitted by an association or insured institution which allows such association or institution to comply with such regulations at a later date to the extent such later date is the earlier of—

(i) the date by which, in the determination of the Board or Corporation, it is feasible for such association or insured institution to achieve compliance with such regulations; or

(ii) December 31, 1993.

SEC. 403. AUDIT OF FEDERAL ASSET DISPOSITION ASSOCIATION.

Section 9105(a) of title 31, United States Code (relating to audits) is amended by inserting at the end thereof the following new paragraph:

"(3)(A) Notwithstanding any other provision of law and under such regulations as the Comptroller General may prescribe, the Comptroller General shall perform a financial audit of the Federal Asset Disposition Association on whatever basis the Comptroller General determines to be necessary.

"(B) The Federal Asset Disposition Association shall—

"(i) make available to the Comptroller General for audit all records and property of, or used or managed by, the Association which may be necessary for the audit; and

"(ii) provide the Comptroller General with facilities for verifying transactions with the balances or securities held by any depositary, fiscal agent, or custodian.

"(C) For purposes of this paragraph, the term 'Federal Asset Disposition Association' means the savings and loan association established by the Federal Savings and Loan Insurance Corporation under section 406 of the National Housing Act to manage and liquidate nonperforming assets on behalf of such Corporation in accordance with such section.".

12 USC 1729.

SEC. 404. THRIFT INDUSTRY RECOVERY REGULATIONS.

(a) FEDERALLY CHARTERED THRIFTS.—The Home Owners' Loan Act of 1933 (12 U.S.C. 1461 et seq.) is amended by adding after section 9 (as added by section 402(a) of this title) the following new section:

"SEC. 10. THRIFT INDUSTRY RECOVERY REGULATIONS.

12 USC 1467a.

"(a) IN GENERAL.—The Board shall prescribe capital recovery regulations for regulating and supervising troubled but well-managed and viable associations in a manner which will maximize the long-term viability of the thrift industry at the lowest cost to the Federal Savings and Loan Insurance Corporation.

"(b) CAPITAL RECOVERY.—The regulations required to be prescribed under subsection (a) shall provide that an association with net worth of 0.5 percent or more, as determined in accordance with regulatory accounting principles, may be allowed to continue to operate and be eligible for capital forbearance if—

"(1) the Board determines that the association's weak capital condition is—

Minorities.

"(A) primarily the result of losses recognized on, the nonperforming status of, or the failure of borrowers to otherwise remain in compliance with the repayment terms of, loans, or participations in loans, the value of the collateral for which has been adversely affected by economic conditions in a designated economically depressed region; or

"(B) primarily the result of losses recognized on, the nonperforming status of, or the failure of borrowers to otherwise remain in compliance with the repayment terms of, loans, or participation in loans, made by a minority association 50 percent or more of whose loan assets are minority loans and 50 percent or more of whose originated loans are construction or permanent loans for 1 to 4 family residences;

"(2) the Board determines that the association's weak capital condition is not the result of imprudent operating practices, such as practices that were speculative at the time the practices were undertaken, insider abuses, excessive operating expenses, dividends paid by the association, or actions taken solely for the purpose of qualifying for capital recovery under this subsection;

"(3) the Board approves a plan submitted by the association for increasing such association's capital; and

"(4) the association—

"(A) adheres to the plan approved under paragraph (3); and

Reports.

"(B) submits regular and complete reports on such association's progress in meeting the association's goals under such plan.

"(c) ASSOCIATIONS WITH NET WORTH OF LESS THAN 0.5 PERCENT MAY PARTICIPATE IN CAPITAL RECOVERY.—In the regulations required to be prescribed under subsection (a), the Board may provide that a well-managed association with a net worth of less than 0.5 percent, as determined in accordance with regulatory accounting principles, may, in the discretion of the Board, be allowed to continue to operate and be eligible for capital forbearance if—

"(1) the conditions described in each paragraph of subsection (a) have been met with respect to such association; and

"(2) the association has reasonable and demonstrable prospects of returning to a satisfactory capital level, as determined by the Board.

"(d) DEFINITIONS.—For purposes of this section—

"(1) DESIGNATED ECONOMICALLY DEPRESSED REGION DEFINED.—The term 'designated economically depressed region' means any geographical region which the Board determines, by regulation, to be a region within which real estate values have suffered serious declines due to severe economic conditions, such as a decline in energy or agricultural values or prices.

"(2) MINORITY.—The term 'minority' means any Black American, Native American, Hispanic American, or Asian American.

"(3) MINORITY ASSOCIATION.—The term 'minority association' means any association of which—

"(A) more than 50 percent of the ownership or control (of such association) is held by minority individuals; and

"(B) more than 50 percent of the net profit or loss (of such association) accrues to minority individuals.

"(4) MINORITY LOAN.—The term 'minority loan' means any obligation or other extension or advance of credit which is made to 1 or more minority individuals or to any person which is owned or controlled by 1 or more minority individuals.".

(b) STATE CHARTERED, FEDERALLY INSURED THRIFTS.—Title IV of the National Housing Act (12 U.S.C. 1724 et seq.) is amended by adding after section 415 (as added by section 402(b) of this title) the following new section:

"SEC. 416. THRIFT INDUSTRY RECOVERY REGULATIONS.

12 USC 1730i.

"(a) IN GENERAL.—The Corporation shall prescribe capital recovery regulations for regulating and supervising troubled but well-managed and viable insured institutions in a manner which will maximize the long-term viability of the thrift industry at the lowest cost to the Corporation.

"(b) CAPITAL RECOVERY.—The regulations required to be prescribed under subsection (a) shall provide that an insured institution with net worth of 0.5 percent or more, as determined in accordance with regulatory accounting principles, may be allowed to continue to operate and be eligible for capital forbearance if—

"(1) the Corporation determines that the insured institution's weak capital condition is—

"(A) primarily the result of losses recognized on, the nonperforming status of, or the failure of borrowers to otherwise remain in compliance with the repayment terms of, loans, or participations in loans, the value of the collateral for which has been adversely affected by economic conditions in a designated economically depressed region; or

Minorities.

"(B) primarily the result of losses recognized on, the nonperforming status of, or the failure of borrowers to otherwise remain in compliance with the repayment terms of, loans, or participation in loans, made by a minority institution 50 percent or more of whose loan assets are minority loans and 50 percent or more of whose originated loans are construction or permanent loans for 1 to 4 family residences;

"(2) the Corporation determines that the insured institution's weak capital condition is not the result of imprudent operating practices, such as practices that were speculative at the time the practices were undertaken, insider abuses, excessive operating expenses, dividends paid by the insured institution, or actions taken solely for the purpose of qualifying for capital recovery under this subsection;

"(3) the Corporation approves a plan submitted by the insured institution for increasing such institution's capital; and

"(4) the insured institution—

"(A) adheres to the plan approved under paragraph (3); and

Reports.

"(B) submits regular and complete reports on such institution's progress in meeting the institution's goals under such plan.

"(c) THRIFTS WITH NET WORTH OF LESS THAN 0.5 PERCENT MAY PARTICIPATE IN CAPITAL RECOVERY.—In the regulations required to be prescribed under subsection (a), the Corporation may provide that a well-managed insured institution with a net worth of less than 0.5 percent, as determined in accordance with regulatory accounting principles, may, in the discretion of the Corporation, be allowed to continue to operate and be eligible for capital forbearance if—

"(1) the conditions described in each paragraph of subsection (a) have been met with respect to such insured institution; and

"(2) the insured institution has reasonable and demonstrable prospects of returning to a satisfactory capital level, as determined by the Corporation.

"(d) DEFINITIONS.—For purposes of this section—

"(1) DESIGNATED ECONOMICALLY DEPRESSED REGION DEFINED.—The term 'designated economically depressed region' means any geographical region which the Corporation determines, by regulation, to be a region within which real estate values have suffered serious declines due to severe economic conditions, such as a decline in energy or agricultural values or prices.

"(2) MINORITY.—The term 'minority' means any Black American, Native American, Hispanic American, or Asian American.

"(3) MINORITY INSTITUTION.—The term 'minority institution' means any insured institution of which—

"(A) more than 50 percent of the ownership or control (of such insured institution) is held by minority individuals; and

"(B) more than 50 percent of the net profit or loss (of such insured institution) accrues to minority individuals.

"(4) MINORITY LOAN.—The term 'minority loan' means any obligation or other extension or advance of credit which is made to 1 or more minority individuals or to any person which is owned or controlled by 1 or more minority individuals.".

12 USC 1467a note.

(c) IMPLEMENTATION REPORT TO CONGRESS.—The Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall each submit a report to Congress containing the proposed regulations required to be prescribed under subsection (a) or (b), as the case may be, not later than the end of the 90-day period beginning on the date of the enactment of this Act.

12 USC 1467a note.

(d) EFFECTIVE DATE OF REGULATIONS.—The regulations required to be prescribed under the amendments made by subsections (a) and (b) shall be implemented not later than the end of the 150-day period beginning on the date of the enactment of this Act.

12 USC 1467a note.

(e) AGENCY STUDY AND REPORT ON, AND CONGRESSIONAL REVIEW OF, CAPITAL RECOVERY.—

(1) STUDY AND REPORT REQUIRED.—Not later than January 31, 1989, the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall jointly—

(A) conduct a detailed evaluation of the effectiveness of the regulations required to be prescribed under the amendments made by subsections (a) and (b) in achieving an increased level of capitalization for thrift institutions; and

(B) submit a report to the Congress containing the findings and conclusions of the Board and the Corporation in connection with the study required under subparagraph (A).

(2) CONGRESSIONAL REVIEW.—The Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate shall, upon receipt of the report under paragraph (1)(B), review the regulations and recommend such revisions to the regulations as may be appropriate.

SEC. 405. CAPITAL INSTRUMENT PURCHASE PROGRAM.

Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended by adding at the end thereof the following new paragraph:

"(6) CAPITAL INSTRUMENT PURCHASE PROGRAM.—

"(A) IN GENERAL.—Notwithstanding any other provision of Federal law (other than subparagraph (C)) and without limitation on any other authority of the Corporation or the Federal Home Loan Bank Board, the Corporation may exercise its authority to purchase capital instruments in the case of any insured institution for which a plan for increasing capital has been approved by the Corporation pursuant to section 416 or by such Board pursuant to section 10 of the Home Owners' Loan Act of 1933.

Ante, p. 611.

Ante, p. 609.

"(B) TERMS AND CONDITIONS.—Except as provided in subparagraph (C), the purchase of capital instruments under subparagraph (A) shall be subject to such terms and conditions as the Corporation may prescribe.

"(C) WARRANT REQUIREMENT.—

"(i) IN GENERAL.—In the case of an insured institution with capital stock, the Corporation shall require such institution to negotiate with the Corporation warrants for the purchase of shares of stock as a condition for the purchase of capital instruments by the Corporation, on such terms and conditions as the Corporation may prescribe.

"(ii) MUTUAL INSTITUTIONS.—If any insured institution—

"(I) which is organized on a mutual basis; and

"(II) with respect to which the Corporation has purchased capital instruments,

converts to a stock charter, such insured institution shall comply with the requirements of clause (i) immediately upon such conversion.

"(iii) MAXIMUM AMOUNT.—The amount of shares for which warrants are negotiated under subparagraph (A) with respect to any insured institution shall not exceed the total number of shares outstanding at the time such warrants are issued to the Corporation.

"(iv) REDEMPTION BY INSURED INSTITUTION.—Upon the full redemption of the capital instruments by an insured institution, including all accumulated unpaid dividends, the Corporation may, at the discretion of the Corporation, tender the warrants for redemption by the insured institution.

"(v) PAYMENT ON REDEMPTION.—Upon any redemption of warrants under clause (iv), the insured institution shall pay the Corporation the difference between the fair market value of the warrants on the date of redemption and the exercise price of such warrants.

"(vi) PROCEEDS FROM REDEMPTION OF WARRANTS.—The proceeds of any sale or redemption of warrants under clause (iv) shall be deposited in and be considered a part of the primary reserve established under section 404(a). 12 USC 1727.

"(D) DIVIDENDS.—Capital instruments purchased by the Corporation under subparagraph (A) shall pay dividends at a reasonable rate, as determined by the Corporation, and the rate shall be indexed to obligations issued by the Secretary of the Treasury under subchapter I of chapter 31 of title 31, United States Code. 31 USC 3101.

"(E) PRIORITY.—

"(i) IN GENERAL.—In the event of the liquidation or reorganization of any insured institution with respect to which the Corporation holds capital instruments under this paragraph, the Corporation shall have priority over—

Claims.

"(I) any claim, other than a claim described in clause (ii), arising out of any equity interest in such insured institution; and

"(II) any right of any holder of an equity interest in such insured institution to participate in future earnings.

"(ii) DIVIDENDS.—

"(I) NO OTHER DIVIDENDS.—No dividends may be paid on any class of equity instruments of any insured institution (other than a capital instrument held by the Corporation) until all dividends, including accumulated unpaid dividends, on the capital instruments are paid.

"(II) PROHIBITION CEASES IF PAYMENT REDEMPTION PAYMENTS AND DIVIDENDS ARE CURRENT.—If all payments on capital instruments held by the Corporation with respect to any insured institution, including redemption payments and dividends, are current, dividends on other classes of equity instruments of such insured institution may be paid, notwithstanding subclause (I).".

SEC. 406. MINIMUM CAPITAL REQUIREMENTS.

(a) FEDERALLY CHARTERED THRIFTS.—Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding at the end thereof the following new subsection:

"(s) MINIMUM CAPITAL REQUIREMENTS.—

"(1) IN GENERAL.—Consistent with the purposes of section 908 of the International Lending Supervision Act of 1983 and the capital requirements established pursuant to such section by the appropriate Federal banking agencies (as defined in section 903(1) of such Act), the Board shall require all associations to achieve and maintain adequate capital by— 12 USC 3907. 12 USC 3902.

"(A) establishing minimum levels of capital for associations; and

"(B) using such other methods as the Board determines to be appropriate.

"(2) MINIMUM CAPITAL LEVELS MAY BE DETERMINED BY BOARD ON CASE-BY-CASE BASIS.—The Board may establish the minimum level of capital for an association at such amount or at such ratio of capital-to-assets as the Board determines to be necessary or appropriate for such association in light of the particular circumstances of the association.

"(3) UNSAFE OR UNSOUND PRACTICE.—In the Board's discretion, the Board may treat the failure of any association to maintain capital at or above the minimum level required by the Board under this subsection as an unsafe or unsound practice within the meaning of subsection (d).

"(4) DIRECTIVE TO INCREASE CAPITAL.—

"(A) PLAN MAY BE REQUIRED.—In addition to any other action authorized by law, including paragraph (3), the Board may issue a directive requiring any association which fails to maintain capital at or above the minimum level required by the Board to submit and adhere to a plan for increasing capital which is acceptable to the Board.

"(B) ENFORCEMENT OF PLAN.—Any directive issued and plan approved under subparagraph (A) shall be enforceable under subsection (d)(8) to the same extent and in the same manner as an outstanding order which was issued under subsection (d)(2) and has become final.

"(5) PLAN TAKEN INTO ACCOUNT IN OTHER PROCEEDINGS.—The Board may—

"(A) consider an association's progress in adhering to any plan required under paragraph (4) whenever such association or any affiliate of such association (including any company which controls such association) seeks the approval of the Board for any proposal which would have the effect of diverting earnings, diminishing capital, or otherwise impeding such association's progress in meeting the minimum level of capital required by the Board; and

"(B) disapprove any proposal referred to in subparagraph (A) if the Board determines that the proposal would adversely affect the ability of the association to comply with such plan.".

(b) STATE CHARTERED, FEDERALLY INSURED THRIFTS.—Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following new subsection:

"(t) MINIMUM CAPITAL REQUIREMENTS.—

"(1) IN GENERAL.—Consistent with the purposes of section 908 of the International Lending Supervision Act of 1983 and the capital requirements established pursuant to such section by the appropriate Federal banking agencies (as defined in section 903(1) of such Act), the Corporation shall require all insured institutions to achieve and maintain adequate capital by—

12 USC 3907.

12 USC 3902.

"(A) establishing minimum levels of capital for insured institutions; and

"(B) using such other methods as the Corporation determines to be appropriate.

"(2) MINIMUM CAPITAL LEVELS MAY BE DETERMINED BY CORPORATION ON CASE-BY-CASE BASIS.—The Corporation may establish the minimum level of capital for an insured institution at such amount or at such ratio of capital-to-assets as the Corporation determines to be necessary or appropriate for such insured institution in light of the particular circumstances of the insured institution.

"(3) UNSAFE OR UNSOUND PRACTICE.—In the Corporation's discretion, the Corporation may treat the failure of any insured institution to maintain capital at or above the minimum level required by the Corporation under this subsection as an unsafe or unsound practice within the meaning of subsection (e).

"(4) DIRECTIVE TO INCREASE CAPITAL.—

"(A) PLAN MAY BE REQUIRED.—In addition to any other action authorized by law, including paragraph (3), the Corporation may issue a directive requiring any insured institution which fails to maintain capital at or above the minimum level required by the Corporation to submit and adhere to a plan for increasing capital which is acceptable to the Corporation.

"(B) ENFORCEMENT OF PLAN.—Any directive issued and plan approved under subparagraph (A) shall be enforceable under subsection (k) to the same extent and in the same manner as an outstanding order which was issued under subsection (e) and has become final.

"(5) PLAN TAKEN INTO ACCOUNT IN OTHER PROCEEDINGS.—The Corporation may—

"(A) consider an insured institution's progress in adhering to any plan required under paragraph (4) whenever such insured institution or any affiliate of such insured institution (including any company which controls such insured institution) seeks the approval of the Corporation for any proposal which would have the effect of diverting earnings, diminishing capital, or otherwise impeding such insured institution's progress in meeting the minimum level of capital required by the Corporation; and

"(B) disapprove any proposal referred to in subparagraph (A) if the Corporation determines that the proposal would adversely affect the ability of the insured institution to comply with such plan.".

12 USC 1437 note.

SEC. 407. IMPROVEMENTS IN THE SUPERVISORY PROCESS.

(a) ENHANCED FLEXIBILITY IN THE SUPERVISORY PROCESS.—The Federal Home Loan Bank Board (acting as such under the Federal Home Loan Bank Act and in the Board's capacity as the board of trustees of the Federal Savings and Loan Insurance Corporation under section 402(a) of the National Housing Act) shall issue guidelines which provide greater flexibility for supervisory agents, examiners, and other employees and agents of the Board, the Federal Savings and Loan Insurance Corporation, and the Federal home loan banks in applying regulations, standards, and other requirements of the Board or such Corporation with regard to particular situations or particular thrift institutions.

12 USC 1725.

(b) PARTICULAR GUIDELINES REQUIRED.—The guidelines issued under subsection (a) shall contain the following provisions:

(1) FLEXIBLE APPROVAL PROCESS FOR RENEGOTIATED LOANS.—A provision establishing a flexible procedure for obtaining supervisory approval of the terms of loans renegotiated by thrift institutions if a supervisory agreement is in effect between such institution and the principal supervisory agent of the Federal home loan bank district where such institution is located.

(2) RECOGNITION OF ADDITIONAL FINANCIAL CAPABILITY OF A BORROWER.—A provision permitting examiners and other employees and agents of the Board, the Federal Savings and Loan Insurance Corporation, and the Federal home loan banks to take into account, to the extent consistent with the practices of the Federal banking agencies, other financial resources of a borrower (in addition to the financial assets of the borrower which are pledged to secure a loan) in classifying the assets of

the thrift institution which holds a loan made to such borrower or with recourse to the borrower.

(3) APPRAISAL REVIEW.—A provision establishing an appraisal review system to avoid overly optimistic or conservative appraisals with the goal of achieving appraisals that are more consistent in reflecting underlying values.

(4) 1-TO-4 FAMILY RESIDENCES.—A provision eliminating the scheduled item system except as such system relates to 1-to-4 family residences.

(c) DEFINITIONS.—For purposes of subsections (a) and (b)—

(1) THRIFT INSTITUTION.—The term "thrift institution" means—

(A) any association (within the meaning given to such term in section 2(d) of the Home Owners' Loan Act of 1933); 12 USC 1462.

(B) any insured institution (within the meaning given to such term in section 401(a) of the National Housing Act); and 12 USC 1724.

(C) any member (within the meaning given to such term in section 2(4) of the Federal Home Loan Bank Act). 12 USC 1422.

(2) BOARD.—The term "Board" means the Federal Home Loan Bank Board.

(3) FEDERAL BANKING AGENCY.—The term "Federal banking agency" means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

(d) NONADVERSARIAL REVIEW OF CERTAIN SUPERVISORY DECISIONS.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 22 the following new section:

"SEC. 22A. INFORMAL REVIEW OF CERTAIN SUPERVISORY DECISIONS. 12 USC 1442a.

"(a) REVIEW OF CERTAIN SUPERVISORY DECISIONS.—The Board shall establish an informal review procedure under which any association, insured institution, or member may obtain a review, by the principal supervisory agent for the Federal home loan bank district in which such association, institution, or member is located, of any decision by any examiner or supervisory agent of the Federal home loan bank for such district with respect to—

"(1) the appraisal value of—

"(A) any loan held by the association, insured institution, or member; or

"(B) any property serving as collateral to secure the repayment of any loan (held by the association, institution, or member);

"(2) the classification of any loan held by the association, institution, or member; or

"(3) any requirement imposed on the association, institution, or member to establish or to add to a reserve or allowance for a possible loss on any loan held by such institution.

"(b) STANDARDS FOR REVIEW.—The review procedure established pursuant to subsection (a) shall provide that the principal supervisory agent for the appropriate Federal home loan bank district, after taking into account the report described in subsection (c)(2) by the arbiter (or panel of arbiters), shall approve, modify, or set aside any decision for which a review has been requested on the basis of the supervisory agent's review of all the facts and the regulations applicable to such decision and shall take such action as such agent may determine to be necessary or appropriate in light of such review.

"(c) APPOINTMENT OF INDEPENDENT ARBITER.—The review procedure established pursuant to subsection (a) shall provide for the appointment (by the principal supervisory agent for the appropriate Federal home loan bank district, upon the filing of a request for a review under this section by an association, insured institution, or member) of an independent arbiter (or, upon the request of such association, institution, or member, a panel of independent arbiters) who shall—

"(1) review the decision which is the subject of the review in light of all the facts of the case and the regulations applicable to such determination; and

"(2) report the conclusions and recommendations of the independent arbiter (or the panel) with respect to the decision under review to the principal supervisory agent for the appropriate Federal home loan bank district and the association, insured institution, or member.

"(d) CONSOLIDATION OF REVIEWS OF RELATED DECISIONS.—The principal supervisory agent may consolidate requests for review under this section of related decisions and conduct a single review of all such related decisions.

"(e) 25-DAY ARBITER REVIEW PERIOD; 20-DAY PSA REVIEW PERIOD.—

"(1) ARBITER REVIEW.—The review procedure established pursuant to subsection (a) shall provide that any review described in subsection (c) by an arbiter (or panel of arbiters) shall be completed before the end of the 25-day period beginning on the date the request for the review was filed with the principal supervisory agent.

"(2) REVIEW BY PSA.—The review procedure established pursuant to subsection (a) shall provide that any review by the principal supervisory agent of an arbiter's report described in subsection (c)(2) (or the report of a panel of arbiters) shall be completed before the end of the 20-day period beginning on the date the agent receives such report.

"(3) ONLY BUSINESS DAYS INCLUDED.—Saturdays, Sundays, and holidays shall not be taken into account in determining the periods described in paragraphs (1) and (2).

"(f) CLARIFICATION OF RELATIONSHIP BETWEEN INFORMAL REVIEW AND OTHER AVAILABLE REVIEW.—

"(1) INFORMAL REVIEW NOT EXCLUSIVE.—The informal review procedure established pursuant to subsection (a) for reviewing any decision referred to in such subsection shall be in addition to, and not in lieu of, any other procedure established by law, or any regulation of the Board, which provides for formal administrative or judicial review of such decision.

"(2) ONLY THE ORIGINAL DECISION IS WITHIN SCOPE OF ADMINISTRATIVE AND JUDICIAL REVIEW.—If any association, insured institution, or member seeks administrative or judicial review of any examiner or supervisory agent decision for which such association, insured institution, or member obtained an informal review under the procedure established pursuant to subsection (a), such administrative or judicial review shall be carried out—

"(A) without regard to the fact that such informal review was made; and

"(B) without admitting into evidence, or otherwise taking into account, the findings, recommendations, or conclusions of the principal supervisory agent and the independent arbiter (or the panel of independent arbiters) which conducted the informal review.

"(3) INFORMAL REVIEW NOT SUBJECT TO FORMAL REVIEW.—The findings, recommendations, or conclusions of any principal supervisory agent who conducted a review under the procedure established pursuant to subsection (a) are not decisions which may be subject to review by the Board or any court under any regulation of the Board or any law.

"(g) EXPENSES OF REVIEW BORNE BY ASSOCIATION, INSTITUTION, OR MEMBER.—All reasonable expenses incurred as a direct or indirect result of any review under the procedure established pursuant to subsection (a) shall be paid by the association, insured institution, or member which requested the review.".

SEC. 408. PREVENTION OF INSOLVENCIES.

Reports.

Before the end of the 6-month period beginning on the date of the enactment of this Act, the Federal Home Loan Bank Board shall submit a report to the Congress containing—

(1) a detailed description of the steps the Board has taken and is planning to take to prevent additional failures of thrift institutions; and

(2) such recommendations for legislation as the Board may determine to be appropriate.

SEC. 409. FEASIBILITY STUDY RELATING TO ESTABLISHMENT OF ASSET HOLDING CORPORATION.

Real property.

(a) STUDY REQUIRED.—The Federal Home Loan Bank Board shall study the feasibility of establishing an asset holding corporation to relieve thrift institutions of the burden of carrying and maintaining troubled real estate assets by providing for the acquisition of such assets by such corporation.

(b) FACTORS TO BE CONSIDERED.—In studying the feasibility of establishing an asset holding corporation, the Federal Home Loan Bank Board shall—

(1) estimate the cost of establishing and operating such corporation for the purposes intended;

(2) consider whether sufficient capital for the establishment and operation of the corporation can be obtained from the private sector or from the Federal home loan bank system without any Government investment in the corporation;

(3) develop standards for determining the type and condition of real estate assets which would be eligible for acquisition by such corporation and estimate the total value of such real estate; and

(4) develop a proposal for allowing participating thrift institutions to obtain an equity participation in the corporation.

(c) REPORT REQUIRED.—The Federal Home Loan Bank Board shall prepare and submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 6 months after the date of the enactment of this Act, a report containing the findings and conclusions of the Board with respect to the study required under subsection (a) and any recommendation of the Board for legislation which the Board determines may be necessary or appropriate.

12 USC 1437 note.

SEC. 410. NOTICE AND DISAPPROVAL PROCEDURE REQUIRED FOR ALL APPLICATIONS TO THE BANK BOARD.

(a) IN GENERAL.—The Federal Home Loan Bank Board shall promulgate guidelines which provide that with respect to each type of completed application (other than an application under section 408(g) of the National Housing Act) by any person for approval by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation, the application shall be deemed to be approved as of the end of the period prescribed under such guidelines unless the Board or the Federal Savings and Loan Insurance Corporation, as the case may be, approves or disapproves such application before the end of such period.

(b) APPLICATION FOR HOLDING COMPANY INDEBTEDNESS.—Section 408(g) of the National Housing Act (12 U.S.C. 1730a(g)) is amended by adding at the end thereof the following new paragraph:

"(7) Any completed application under this subsection shall be deemed to be approved as of the end of the 60-day period beginning on the date such application was filed, unless the Corporation issues notice of approval or disapproval of the application before the end of such period.".

(c) REPORT TO CONGRESS.—Before the end of the 60-day period beginning on the date of the enactment of this Act, the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the guidelines required to be promulgated under subsection (a).

(d) EFFECTIVE DATE.—The guidelines required to be promulgated under subsection (a) shall take effect at the end of the 60-day period referred to in subsection (c).

12 USC 1437 note. Reports.

SEC. 411. GUIDELINES FOR ASSET DISPOSITION.

Not later than 6 months after the date of the enactment of this Act, the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing appropriate new guidelines which—

(1) prevent the dumping of assets over which it has direct or indirect control; and

(2) the Board shall promulgate at the end of such period.

12 USC 1437 note.

SEC. 412. EXPANSION OF USE OF UNDERUTILIZED MINORITY THRIFT INSTITUTIONS.

(a) CONSULTATION ON EXPANDED USE.—The Secretary of the Treasury shall consult with the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation on methods for increasing the use of underutilized minority thrift institutions as depositaries or financial agents of Federal agencies.

(b) DESIGNATION OF MINORITY THRIFT INSTITUTIONS INVOLVED IN CAPITAL RECOVERY PROGRAM AS UNDERUTILIZED THRIFT.—If the Federal Home Loan Bank Board approves any plan submitted under regulations prescribed under section 10 of the Home Owners' Loan Act of 1933 (as added by section 404(a) of this title) or section 416 of

Ante, p. 609.

the National Housing Act (as added by section 404(c) of this title) by any minority institution (as defined in each such section), such minority institution shall be designated by the Board as an underutilized thrift institution for purposes of increasing the use of such association as a depositary or financial agent of other Federal agencies. *Ante*, p. 611.

(c) Report to Congress.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury, the Federal Home Loan Bank Board, and the Federal Savings and Loan Insurance Corporation shall each submit a report to the Congress on actions taken by such Secretary or agency pursuant to subsection (a) or (b).

(d) Thrift Institution Defined.—For purposes of this section, the term "thrift institution" has the meaning given to such term in section 407(c)(1).

SEC. 413. AUTHORITY OF INDEPENDENT CONTRACTORS, CONSULTANTS, AND COUNSEL.

(a) Federally Chartered Thrift Institutions.—Section 5(d)(6) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)) (relating to appointments of receivers and conservators) is amended by adding at the end thereof the following new subparagraph:

"(E) Disclosure requirement for those acting on behalf of conservator.—A conservator shall require that any independent contractor, consultant, or counsel employed by the conservator in connection with the conservatorship of an association pursuant to this section shall fully disclose to all parties with which such contractor, consultant, or counsel is negotiating, any limitation on the authority of such contractor, consultant, or counsel to make legally binding representations on behalf of the conservator.".

(b) Federally Insured State Chartered Thrift Institutions.—Section 406(b) of the National Housing Act (12 U.S.C. 1730) (relating to involuntary termination of insurance) is amended by adding at the end thereof the following new paragraph:

"(4) Disclosure requirement for those acting on behalf of corporation.—The Corporation shall require that any independent contractor, consultant, or counsel employed by the Corporation in connection with the management or liquidation of an insured institution shall fully disclose to all parties with which such contractor, consultant, or counsel is negotiating, any limitation on the authority of such contractor, consultant, or counsel to make legally binding representations on behalf of the Corporation.".

SEC. 414. EXTENSION OF FORBEARANCE PREVIOUSLY PROVIDED IN THE ACQUISITION OF TROUBLED THRIFT INSTITUTIONS.

Section 408(m)(1)(A) of the National Housing Act (12 U.S.C. 1730a(m)(1)(A)) is amended by adding at the end thereof the following new clause:

"(iv) If, in connection with a merger, consolidation, transfer, or acquisition of an insured institution under this subparagraph before March 31, 1987, forbearance measures have been included in the agreement governing the supervisory action with respect to such transaction, the period of forbearance in such agreement shall be extended for an additional 5 years upon a showing by the acquiring or resulting insured institution that any failure to meet any requirement, restriction, or limitation specified in such agreement with respect to any such forbearance measure is attributable to the assets or liabilities (of the acquired or merged insured institution) which were acquired by or assumed by the acquiring or resulting insured institution.".

12 USC 1437 note.

SEC. 415. CONGRESSIONAL OVERSIGHT.

(a) Banking Committee Review of Panel Actions.—The Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate shall monitor and review the actions taken by each review panel established pursuant to the amendment made by section 407(d) of this Act.

Ante, p. 616.

Reports.

(b) Other Congressional Oversight.—The Federal Home Loan Bank Board shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, at the end of the 6-month period beginning on the date of the enactment of this title, at the end of the 1-year period beginning on such date, and on an annual basis after the end of such 1-year period, containing—

(1) a description of the Board's existing manpower and talent;

(2) an estimate of the Board's projected manpower and talent needs for the year, including the cost of such projected needs;

(3) a description and explanation of the goals and objectives, of the Board and all its related entities (including the Federal Asset Disposition Association), for the coming year and the management strategies to be employed by such entities in accomplishing such goals and objectives;

(4) a summary of the operations, receipts, expenses, and expenditures, of the Board and all its related entities (including the Federal Asset Disposition Association), during the preceding year; and

(5) a summary of the operations and the aggregate receipts, expenses, and expenditures of any other person not referred to in paragraph (4), including receivers, conservators, accountants, attorneys, and consultants, who is engaged in any activity on behalf of the Board or any other entity which is referred to in such paragraph, to the extent such operations, receipts, expenses, and expenditures are in connection with such activity.

(c) Appearance.—The Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall, before the beginning of each fiscal year, appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate to describe and explain each such agency's plans and proposals with respect to administrative expenses for such fiscal year.

Reports.

(d) Guidelines for Employment of Outside Accountants, Attorneys, Conservators, and Other Consultants.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing guidelines to improve the management of and control over all outside accountants, attorneys, conservators, consultants, and other persons whose services are employed by the Board, the Federal Savings and Loan Insurance Corporation, the Federal Asset Disposition Association, the principal supervisory agent for any Federal home loan bank district, or any other entity created, owned, or controlled by the

Board in connection with any function for which the Board has direct or indirect regulatory or supervisory responsibility.

SEC. 416. SUNSET.

12 USC 1441 note.
Federal Register, publication.

(a) In General.—The following provisions shall cease to be effective on the date that a notice is published in the Federal Register by the Financing Corporation pursuant to subsection (b):

(1) Paragraphs (2), (3), and (5) of—

(A) section 9(a) of the Home Owners' Loan Act of 1933; and

(B) section 415(a) of the National Housing Act,

(as added by subsections (a) and (b), respectively, of section 402 of this title).

Ante, pp. 605, 606.

(2) Section 10 of the Home Owners' Loan Act of 1933 and section 416 of the National Housing Act (as added by subsections (a) and (b), respectively, of section 404 of this title).

Ante, pp. 609, 611.

(3) Paragraph (6) of section 406(f) of the National Housing Act (as added by section 405 of this title).

Ante, p. 613.

(4) Section 22A of the Federal Home Loan Bank Act (as added by section 407(d) of this title).

Ante, p. 617.

(5) Section 411 of this title.

Ante, p. 620.

Federal Register, publication.
Ante, p. 585.

(b) Notice of Completion of Net New Borrowing by Financing Corporation.—When the Financing Corporation established pursuant to section 21 of the Federal Home Loan Bank Act has completed all net new borrowing under such section, the Financing Corporation shall publish a notice of such fact in the Federal Register.

(c) Savings Provision.—The termination by subsection (a) of the effectiveness of any provision described in such subsection shall not be construed to affect or limit any authority of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation to prescribe any regulation or engage in any activity with respect to any association or insured institution under any other provision of law.

TITLE V—FINANCIAL INSTITUTIONS EMERGENCY ACQUISITIONS

Financial Institutions Emergency Acquisitions Amendments of 1987.
12 USC 1811 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "Financial Institutions Emergency Acquisitions Amendments of 1987".

SEC. 502. FDIC ASSISTED EMERGENCY INTERSTATE ACQUISITIONS.

(a) General Provisions.—Section 13(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(1)) is amended to read as follows:

"(f) Assisted Emergency Interstate Acquisitions.—(1) This subsection shall apply only to an acquisition of an insured bank or a holding company by an out-of-State bank or out-of-State holding company for which the Corporation provides assistance under subsection (c).".

(b) Emergency Interstate Acquisitions of Banks in Danger of Closing.—Section 13(f)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(3)) is amended to read as follows:

"(3) Emergency Interstate Acquisitions of Insured Banks in Danger of Closing.—

"(A) ACQUISITION OF INSURED BANKS IN DANGER OF CLOSING.—One or more out-of-State banks or out-of-State holding companies may acquire and retain all or part of the shares or assets of, or otherwise acquire and retain—

"(i) an insured bank in danger of closing which has total assets of $500,000,000 or more; or

"(ii) 2 or more affiliated insured banks in danger of closing which have aggregate total assets of $500,000,000 or more, if the aggregate total assets of such banks is equal to or greater than 33 percent of the aggregate total assets of all affiliated insured banks.

"(B) ACQUISITION OF A HOLDING COMPANY OR OTHER BANK AFFILIATE.—If one or more out-of-State banks or out-of-State holding companies acquire 1 or more affiliated insured banks under subparagraph (A) the aggregate total assets of which is equal to or greater than 33 percent of the aggregate total assets of all affiliated insured banks, any such out-of-State bank or out-of-State holding company may also, as part of the same transaction, acquire and retain the shares or assets of, or otherwise acquire and retain—

"(i) the holding company which controls the affiliated insured banks so acquired; or

"(ii) any other affiliated insured bank.

"(C) REQUEST FOR ASSISTANCE BY CORPORATE BOARD OF DIRECTORS.—The Corporation may assist an acquisition or merger authorized under subparagraph (A) only if the board of directors or trustees of each insured bank in danger of closing which is being acquired has requested in writing that the Corporation assist the acquisition or merger.

"(D) CERTAIN ACQUISITIONS AUTHORIZED AFTER ASSISTANCE IS PROVIDED.—Notwithstanding paragraph (1), if—

"(i) at any time after the date of the enactment of the Financial Institutions Emergency Acquisitions Amendments of 1987, the Corporation provides any assistance under subsection (c) to an insured bank; and

"(ii) at the time such assistance is granted, the insured bank, the holding company which controls the insured bank (if any), or any affiliated insured bank is eligible to be acquired by an out-of-State bank or out-of-State holding company under this paragraph,

the insured bank, the holding company, and such other affiliated insured bank shall remain eligible, subject to such terms and conditions as the Corporation (in the Corporation's discretion) may impose, to be acquired by an out-of-State bank or out-of-State holding company under this paragraph as long as any portion of such assistance remains outstanding.

"(E) STATE BANK SUPERVISOR APPROVAL.—The Corporation may take no final action in connection with any acquisition under this paragraph unless the State bank supervisor of the State in which the bank in danger of closing is located approves the acquisition.

"(F) OTHER REQUIREMENTS NOT AFFECTED.—This paragraph does not affect any other requirement under Federal or State law for regulatory approval of an acquisition under this paragraph.

"(G) ACQUISITION MAY BE CONDITIONED ON RECEIPT OF CONSIDERATION FOR CORPORATION'S ASSISTANCE.—Any acquisition described in subparagraph (D) may be conditioned on the receipt of such consideration for the Corporation's assistance as the Board of Directors deems appropriate.".

(c) SPECIAL PROVISIONS APPLICABLE TO EMERGENCY INTERSTATE ACQUISITIONS.—

(1) COORDINATION WITH CERTAIN STATE LAWS.—Section 13(f)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(4)) is amended—

(A) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively;

(B) by amending subparagraph (A) (as so redesignated) to read as follows:

"(A) ACQUISITIONS NOT SUBJECT TO CERTAIN OTHER LAWS.—Section 3(d) of the Bank Holding Company Act of 1956, any provision of State law, the constitution of any State, and section 408(e)(3) of the National Housing Act shall not apply to prohibit any acquisition under paragraph (2) or (3), except that an out-of-State bank may make such an acquisition only if such ownership is otherwise specifically authorized."; and

12 USC 1842.
12 USC 1730a.

(C) by adding at the end thereof the following new subparagraphs:

"(D) SUBSEQUENT NONEMERGENCY INTERSTATE ACQUISITIONS SUBJECT TO STATE LAW.—

"(i) IN GENERAL.—Any out-of-State bank holding company which acquires control of an insured bank in any State under paragraph (2) or (3) may acquire any other insured bank and establish branches in such State to the same extent as a bank holding company whose insured bank subsidiaries' operations are principally conducted in such State may acquire any other insured bank or establish branches.

"(ii) DELAYED DATE OF APPLICABILITY.—Clause (i) shall not apply with respect to any out-of-State bank holding company referred to in such clause before the earlier of—

"(I) the end of the 2-year period beginning on the date the acquisition referred to in such clause with respect to such company is consummated; or

"(II) the end of any period established under State law during which such out-of-State bank holding company may not be treated as a bank holding company whose insured bank subsidiaries' operations are principally conducted in such State for purposes of acquiring other insured banks or establishing bank branches.

"(iii) DETERMINATION OF PRINCIPALLY CONDUCTED.—For purposes of this subparagraph, the State in which the operations of a holding company's insured bank subsidiaries are principally conducted is the State determined under section 3(d) of the Bank Holding Company Act of 1956 with respect to such holding company.

"(E) CERTAIN STATE INTERSTATE BANKING LAWS INAPPLICABLE.—Any holding company which acquires control of any insured bank or holding company under paragraph (2) or (3) or subparagraph (D) of this paragraph shall not, by reason of such acquisition, be required under the law of any State to divest any other insured bank or be prevented from acquiring any other bank or holding company.".

(2) RECIPROCAL BANK PACTS AND MINORITY BANK OWNERSHIP TAKEN INTO ACCOUNT IN BIDDING PRIORITIES.—Section 13(f)(6) of

the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(6)) is amended—

(A) in subparagraph (B), by striking out clause (ii) and all that follows through clause (iv) and inserting in lieu thereof the following new clauses:

"(ii) Second, between depository institutions of the same type—

"(I) in different States which by statute specifically authorize such acquisitions; or

"(II) in the absence of such statutes, in different States which are contiguous.

"(iii) Third, between depository institutions of the same type in different States other than the States described in clause (ii).

"(iv) Fourth, between depository institutions of different types in the same State.

"(v) Fifth, between depository institutions of different types—

"(I) in different States which by statute specifically authorize such acquisitions; or

"(II) in the absence of such statutes, in different States which are contiguous.

"(vi) Sixth, between depository institutions of different types in different States other than the States described in clause (v)."; and

(B) by amending subparagraph (C) to read as follows:

"(C) MINORITY BANK PRIORITY.—In the case of a minority-controlled bank, the Corporation shall seek an offer from other minority-controlled banks before proceeding with the bidding priorities set forth in subparagraph (B).".

(3) REAFFIRMATION OF THE RULE THAT NO ASSISTANCE IS AUTHORIZED FOR NONBANK SUBSIDIARIES OF HOLDING COMPANIES.—Section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)) is amended by adding at the end thereof the following new paragraph:

"(9) NO ASSISTANCE AUTHORIZED FOR NONBANK SUBSIDIARIES OF HOLDING COMPANIES.—

"(A) IN GENERAL.—The Corporation shall not provide any assistance to a subsidiary of a holding company which is not an insured bank in connection with any acquisition under this subsection.

"(B) INTERMEDIATE HOLDING COMPANY PERMITTED.—This paragraph does not prohibit an intermediate holding company from being a conduit for assistance ultimately intended for an insured bank.".

(4) REPORTS REQUIRED.—Section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)) is amended by adding after paragraph (9) (as added by paragraph (3) of this subsection) the following new paragraph:

"(10) ANNUAL REPORT.—

"(A) REQUIRED.—In its annual report to Congress the Corporation shall include a report on the acquisitions under this subsection during the preceding year.

"(B) CONTENTS.—The report required under subparagraph (A) shall contain the following information:

"(i) The number of acquisitions under this subsection.

"(ii) A brief description of each such acquisition and the circumstances under which such acquisition occurred.".

(5) **Determination of total assets.**—Section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)) is amended by adding after paragraph (10) (as added by paragraph (4) of this subsection) the following new paragraph:

"(11) **Determination of Total Assets.**—For purposes of this subsection, the total assets of any insured bank shall be determined on the basis of the most recent report of condition of such bank which is available at the time of such determination.".

(d) **Bank in Danger of Closing Defined.**—Section 13(f)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(8)) is amended—

(1) by adding at the end thereof the following new subparagraph:

"(D) the term 'bank in danger of closing' means an insured bank with respect to which the appropriate Federal or State chartering authority certifies in writing that—

"(i)(I) the bank is not likely to be able to meet the demands of such bank's depositors or pay the obligations of the bank in the normal course of business, and

"(II) there is no reasonable prospect that the bank will be able to meet such demands or pay such obligations without Federal assistance; or

"(ii)(I) the bank has incurred or is likely to incur losses that will deplete all or substantially all of the capital of the bank, and

"(II) there is no reasonable prospect for the replenishment of the bank's capital without Federal assistance;";

(2) by striking out "and" at the end of subparagraph (B); and

(3) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon.

(e) **Acquire Defined.**—Section 13(f)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(8)) is amended by adding after subparagraph (D) (as added by subsection (d) of this section) the following new subparagraph:

"(E) the term 'acquire' means to acquire, directly or indirectly, ownership or control through—

"(i) an acquisition of shares;

"(ii) an acquisition of assets or assumption of liabilities;

"(iii) a merger or consolidation; or

"(iv) any similar transaction;".

(f) **Affiliated Insured Bank Defined.**—Section 13(f)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(8)) is amended by adding after subparagraph (E) (as added by subsection (e) of this section) the following new subparagraph:

"(F) the term 'affiliated insured bank' means—

"(i) when used in connection with a reference to a holding company, an insured bank which is a subsidiary of such holding company; and

"(ii) when used in connection with a reference to 2 or more insured banks, insured banks which are subsidiaries of the same holding company; and".

(g) **Subsidiary Defined.**—Section 13(f)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(8)) is amended by adding after subparagraph (F) (as added by subsection (f) of this section) the following new subparagraph:

"(G) the term 'subsidiary' has the meaning given to such term in section 2(d) of the Bank Holding Company Act of 1956.". 12 USC 1841.

(h) **Waiver of Notice and Hearing Requirements.**—

(1) APPLICATION RELATING TO ACQUISITIONS.—Section 3(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(b)) is amended—

(A) by striking out "(b) Upon" and inserting in lieu thereof "(b)(1) NOTICE AND HEARING REQUIREMENTS.—Upon"; and

(B) by adding at the end thereof the following new paragraph:

"(2) WAIVER IN CASE OF BANK IN DANGER OF CLOSING.—If the Board receives a certification described in section 13(f)(8)(D) of the Federal Deposit Insurance Act from the appropriate Federal or State chartering authority that a bank is in danger of closing, the Board may dispense with the notice and hearing requirements of paragraph (1) with respect to any application received by the Board relating to the acquisition of such bank, the bank holding company which controls such bank, or any other affiliated bank.".

Ante, p. 627.

(2) APPLICATION RELATING TO NONBANKING ACTIVITIES.—Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking out the semicolon at the end and inserting in lieu thereof a period and the following new sentences: "If an application is filed under this paragraph in connection with an application to make an acquisition pursuant to section 13(f) of the Federal Deposit Insurance Act, the Board may dispense with the notice and hearing requirement of this paragraph and the Board may approve or deny the application under this paragraph without notice or hearing. If an application described in the preceding sentence is approved, the Board shall publish in the Federal Register, not later than 7 days after such approval is granted, the order approving the application and a description of the nonbanking activities involved in the acquisition;".

Federal Register, publication.

(3) EARLY ANTITRUST REVIEW IN CASE OF EMERGENCY ACQUISITION OF FAILING BANK.—Section 11(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)) is amended—

(A) by striking out "(b) The Board" and inserting in lieu thereof "(b) ANTITRUST REVIEW.—

"(1) IN GENERAL.—The Board";

(B) by moving all that follows 2 ems to the right; and

(C) by adding at the end thereof the following new paragraph:

"(2) SECTION 13(f) CASES.—(A) If—

"(i) the Federal Deposit Insurance Corporation learns that a bank insured by such Corporation is in danger of closing; and

"(ii) the Corporation is considering assisting the acquisition of such bank and its affiliated banks by another bank or holding company under section 13(f) of the Federal Deposit Insurance Act and such acquisition is subject to the approval of the Board under section 3 of this Act,

the Corporation shall immediately notify the Board of such facts.

"(B) Upon receipt of notice from the Federal Deposit Insurance Corporation under subparagraph (A) or at such earlier time as deemed appropriate by the Board, the Board shall immediately notify the Attorney General of the United States of the facts concerning the possible acquisition.

"(C) Within 5 days of receiving notice under subparagraph (B), the Attorney General shall notify the Board in writing of the Attorney General's preliminary finding as to the consistency of the possible acquisition with the antitrust laws.

"(D) The Board may reduce or eliminate the post-approval waiting period established under paragraph (1) for an acquisition to which this paragraph applies, except that such period may not be eliminated or reduced to less than 5 days without the concurrence of the Attorney General.".

(i) TECHNICAL AND CONFORMING AMENDMENTS.—Section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)) is amended—

(1) in paragraph (5), by striking out "to permit"; and

(2) in paragraph (6)(A)—

(A) by striking out "where the closed bank" and inserting in lieu thereof "where the bank"; and

(B) by striking out "in-State bank holding company" and inserting in lieu thereof "in-State holding company".

SEC. 503. BRIDGE BANKS.

(a) ESTABLISHMENT OF BRIDGE BANKS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) in subsection (h) by striking out "(h) As soon as" and inserting in lieu thereof "(h) NEW BANKS.—(1) As soon as";

(2) by redesignating subsections (i), (j), (k), and (l) as paragraphs (2), (3), (4), and (5) of subsection (h), respectively; and

(3) by inserting after subsection (h)(5) (as redesignated by paragraph (2)) the following new subsection:

"(i) BRIDGE BANKS.—

"(1) ESTABLISHMENT.—When an insured bank is closed, the Corporation, in the Corporation's discretion and subject to the conditions established in paragraph (2), may establish a bridge bank to—

"(A) assume the deposits of the closed bank;

"(B) assume such other liabilities of the closed bank as the Corporation, in the Corporation's discretion, may determine to be appropriate;

"(C) purchase such assets of the closed bank as the Corporation, in the Corporation's discretion, may determine to be appropriate; and

"(D) perform any other temporary function which the Corporation may prescribe in accordance with this Act.

"(2) CONDITIONS.—A bridge bank may be established under paragraph (1) only if the Board of Directors determines that—

"(A) the amount which is reasonably necessary to organize and operate such bridge bank will not exceed the amount which is reasonably necessary to save the cost of liquidating, including paying the insured accounts of, the closed bank or banks;

"(B) the continued operation of such insured bank is essential to provide adequate banking services in the community where such bank is located; or

"(C) that the continued operation of such insured bank is in the best interest of the depositors of the closed bank and the public.

"(3) TRANSFER OF ASSETS AND LIABILITIES.—

"(A) IN GENERAL.—Upon the organization of a bridge bank pursuant to this subsection, the Corporation, as receiver, or any other receiver appointed with respect to the closed insured bank may, subject to the approval of any such transfer by a court of competent jurisdiction, transfer any assets and liabilities of the closed insured bank to the bridge bank.

"(B) INTENT OF CONGRESS RELATING TO CONTINUING OPERATIONS.—It is the intent of the Congress that, in order to prevent unnecessary hardship or losses to the customers of the closed bank with respect to which a bridge bank is established, especially creditworthy farmers, small businesses, and households, the Corporation should—

"(i) continue to honor commitments made by the closed bank to creditworthy customers, and

"(ii) not interrupt or terminate adequately secured loans which are transferred under subparagraph (A) and are being repaid by the debtor in accordance with the terms of the loan instrument.

"(4) ORGANIZATION.—

"(A) ARTICLES OF ASSOCIATION.—The articles of association and the organization certificate of a bridge bank shall be executed by representatives designated by the Corporation.

"(B) INSURED NATIONAL BANK.—Each bridge bank shall be a national bank and shall be insured from the time of the organization of the bridge bank.

"(C) MANAGEMENT.—Each bridge bank shall be under the management of a board of directors consisting of 5 members appointed by the Board of Directors of the Corporation.

"(5) POWERS OF BRIDGE BANKS.—Each bridge bank established under this subsection shall have all corporate powers of, and be subject to the same provisions of law as, a national bank, except that—

"(A) the Corporation may—

"(i) remove the directors of any bridge bank;

"(ii) fix the compensation of members of the board of directors of any bridge bank; and

"(iii) waive any requirement established under section 5145, 5146, 5147, 5148, or 5149 of the Revised Statutes (relating to directors of national banks) or section 31 of the Banking Act of 1933 which would otherwise be applicable with respect to directors of a bridge bank by operation of paragraph (4)(B);

12 USC 71-75.
12 USC 71a.

"(B) the Corporation may indemnify the directors of a bridge bank on such terms as the Corporation determines to be appropriate;

"(C) no requirement under section 5138 of the Revised Statutes or any other provision of law relating to the capital of a national bank shall apply with respect to any bridge bank;

12 USC 51.

"(D) the Comptroller of the Currency may establish a limitation on the extent to which any person may become indebted to any bridge bank without regard to the amount of the bank's capital or surplus;

"(E) the board of directors of the bridge bank shall elect a chairperson who shall also serve in the position of chief executive officer;

"(F) no bridge bank shall be required to purchase stock of any Federal Reserve bank; and

"(G) the Comptroller of the Currency may waive any requirement for a fidelity bond.

"(6) CAPITAL.—

"(A) NO CAPITAL REQUIRED.—The Corporation shall not be required to—

"(i) issue capital stock on behalf of any bridge bank established under this subsection; or

"(ii) purchase any capital stock of any bridge bank.

"(B) OPERATING FUNDS IN LIEU OF CAPITAL.—Upon the organization of a bridge bank, and thereafter as the Board of Directors may in its discretion deem necessary or advisable, the Corporation shall promptly make available to the bridge bank, upon such terms and conditions and in such form and amounts as the Board of Directors may prescribe, sufficient funds for the bridge bank to operate.

"(C) AUTHORITY TO ISSUE CAPITAL STOCK.—Whenever in the judgment of the Board of Directors it is desirable to do so, the Corporation shall cause capital stock of any bridge bank to be issued and offered for sale on such terms and conditions as the Corporation determines to be appropriate and in an amount sufficient (in the discretion of the Corporation) to make possible the conduct of the business of the bridge bank on a sound basis.

"(7) NO FEDERAL STATUS.—

"(A) AGENCY STATUS.—A bridge bank is not an agency, establishment, or instrumentality of the United States.

"(B) EMPLOYEE STATUS.—Directors, officers, employees, or agents of the bridge bank are not officers or employees of the United States for purposes of title 5, United States Code, or any other provision of law.

"(8) ASSISTANCE AUTHORIZED.—The Corporation may, in its discretion, provide assistance under section 13(c) to facilitate the sale or merger of the bridge bank with another insured depository institution in the same manner and to the same extent as such assistance may be provided under such section with respect to a closed insured bank.

12 USC 1873.

"(9) ACQUISITION BY OUT-OF-STATE BANK HOLDING COMPANY.—Any depository institution, including an out-of-State bank, or any out-of-State holding company may acquire and retain the shares or assets of, or otherwise acquire and retain a bridge bank which has assumed the insured deposits of one or more closed banks which had total assets aggregating $500,000,000 or more (determined in the manner provided in section 13(f)(11) at the time such insured bank was closed) in the same manner and to the same extent as such depository institution or such out-of-State holding company may acquire a closed insured bank under section 13(f)(2).

"(10) TERMINATION OF BRIDGE BANK.—

"(A) IN GENERAL.—A bridge bank shall terminate upon the occurrence of the earliest of the following:

"(i) The bridge bank merges or consolidates with another bank that is not a bridge bank.

"(ii) The bridge bank sells all or substantially all of the stock of the bridge bank other than to the Corporation or to another bridge bank.

"(iii) A holding company or another bank that is not a bridge bank assumes all, or substantially all of the deposits or other liabilities of a bridge bank.

"(iv) A period of 2 years following the date the bridge bank was organized expires without any other disposition of the assets and liabilities of the bank having occurred.

"(B) EXTENSION ALLOWED FOR 1 YEAR.—If the Board of Directors finds, after consultation with the Comptroller of the Currency, that an extension of time for winding up the affairs of the bank is in the best interest of the depositors of the closed bank and the public, the Corporation may extend the time period specified in subparagraph (A)(iv) for not to exceed one year.

"(11) 2 OR MORE BANKS.—The Corporation, in the Corporation's discretion, may establish a bridge bank under this subsection to assume the deposits of, assume any other liabilities of, and purchase any assets of 2 or more closed banks.".

(b) DEFINITIONS.—Section 3(i) of the Federal Deposit Insurance Act (12 U.S.C. 1813(i)) is amended to read as follows:

"(i) NEW BANK AND BRIDGE BANK DEFINED.—

"(1) NEW BANK.—The term 'new bank' means a new national bank, other than a bridge bank, organized by the Corporation in accordance with section 11(h).

Ante, p. 629.

"(2) BRIDGE BANK.—The term 'bridge bank' means a new national bank organized by the Corporation in accordance with section 11(i).".

SEC. 504. CONVERSIONS.

(a) AMENDMENT TO THE NATIONAL HOUSING ACT.—Section 403 of the National Housing Act (12 U.S.C. 1726) is amended by adding at the end thereof the following:

"(e) If, upon application, and pursuant to a plan of conversion to an institution of a type eligible to be an insured institution, the Corporation, in its discretion, determines to grant insurance of accounts to a savings bank that is an insured bank (as the term 'insured bank' is defined in section 3(h) of the Federal Deposit Insurance Act), such insurance shall become effective at such time as the Corporation stipulates, at which time such institution automatically shall lose its status as such an insured bank. No change of deposit insurance agencies from the Federal Deposit Insurance Corporation to the Corporation shall be treated, for the purposes of section 18(i) of the Federal Deposit Insurance Act, as involving a conversion to a noninsured bank or institution, except that the Corporation shall provide the Federal Deposit Insurance Corporation with notification of any application that, if granted, would involve such a change of deposit insurance agencies, shall consult with the Corporation before disposing of the application, and shall provide the Federal Deposit Insurance Corporation with notification of the determination with respect to such application.".

Infra.

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) SECTION 18(c) APPLICABILITY.—Section 18(c)(12) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(12)) is amended to read as follows:

"(12) The provisions of this subsection shall not apply to any transaction where the acquiring, assuming, or resulting institution is an insured Federal savings bank or an institution insured by the

Federal Savings and Loan Insurance Corporation, except that any insured bank involved in the transaction shall notify the Corporation in writing at least 30 days prior to consummation of the transaction and, if any approval by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation is required in connection therewith, such approving authority shall provide the Corporation with notification of the application for approval, shall consult with the Corporation before disposing of the application, and shall provide notification to the Corporation of the determination with respect to said application.".

(2) Section 18(i) Applicability.—Section 18(i) of such Act is amended by adding at the end thereof the following:

Ante, p. 632.

"(5) Nothing in this subsection shall apply to a conversion of an insured bank to an insured institution pursuant to section 403(e) of the National Housing Act (12 U.S.C. 1726(e)).".

SEC. 505. FEDERAL DEPOSITORY INSTITUTIONS REGULATORY AGENCIES NOT SUBJECT TO APPORTIONMENT OF FUNDS PROVISIONS.

(a) Federal Deposit Insurance Corporation.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by adding at the end thereof the following:

"(9) Apportionment.—Notwithstanding any other provision of law, amounts received pursuant to any assessment under this section and any other amounts received by the Corporation shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.".

(b) The Comptroller of the Currency.—The second paragraph of section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by inserting after the fifth sentence the following: "Such funds shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.".

31 USC 1501 *et seq.*

(c) The Federal Savings and Loan Insurance Corporation.—Section 404 of the National Housing Act (12 U.S.C. 1727) is amended by adding at the end thereof the following:

"(k) Apportionment.—Notwithstanding any other provision of law, amounts received by the Corporation pursuant to any assessment under this Act, deposits required under this section and any other moneys received by the Corporation shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.".

(d) The Federal Home Loan Bank Board.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 19 (12 U.S.C. 1439) the following:

"SEC. 19A. APPORTIONMENT.

12 USC 1439-1.

"Notwithstanding any other provision of law, amounts received pursuant to any assessment under this Act and any other moneys received by the Board shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.".

(e) The National Credit Union Administration.—Title I of the Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding at the end thereof the following:

"SEC. 128. APPORTIONMENT.

12 USC 1772b.

"Notwithstanding any other provision of law, funds received by the Board pursuant to any method provided by this Act, and interest, dividend, or other income thereon, shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.". 31 USC 1501 *et seq.*

SEC. 506. FEDERAL DEPOSITORY INSTITUTIONS REGULATORY AGENCIES NOT SUBJECT TO SEQUESTRATION.

(a) IN GENERAL.—Paragraph (1) of section 255(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended— 2 USC 905.

(1) by inserting after the item relating to compensation of the President the following new item:

"Comptroller of the Currency;";

(2) by inserting after the item relating to the exchange stabilization fund the following new items:

"Federal Deposit Insurance Corporation;

"Federal Home Loan Bank Board;

"Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation;"; and

(3) by inserting after the item relating to intragovernmental funds the following new items:

"National Credit Union Administration;

"National Credit Union Administration, central liquidity facility;

"National Credit Union Administration, credit union share insurance fund;".

(b) CERTAIN EXPENSES.—Section 256(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new paragraph: 2 USC 906.

"(4) Notwithstanding any other provision of law, this subsection shall not apply with respect to the following:

"(A) Comptroller of the Currency.

"(B) Federal Deposit Insurance Corporation.

"(C) Federal Home Loan Bank Board.

"(D) Federal Savings and Loan Insurance Corporation.

"(E) National Credit Union Administration.

"(F) National Credit Union Administration, central liquidity facility.".

SEC. 507. LIQUIDATION PROCEEDINGS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (i) (as added by section 503(a)(3) of this title) the following new subsection:

"(j) CONDITIONS APPLICABLE TO LIQUIDATION PROCEEDINGS.—

"(1) CONSIDERATION OF LOCAL ECONOMIC IMPACT REQUIRED.—The Corporation shall fully consider the adverse economic impact on local communities, including businesses and farms, of actions to be taken by it during the administration and liquidation of loans of a closed bank.

"(2) ACTIONS TO ALLEVIATE ADVERSE ECONOMIC IMPACT TO BE CONSIDERED.—The actions which the Corporation shall consider include the release of proceeds from the sale of products and services for family living and business expenses and shortening the undue length of the decisionmaking process for the acceptance of offers of settlement contingent upon third party financing.

"(3) GUIDELINES REQUIRED.—The Corporation shall adopt and publish procedures and guidelines to minimize adverse economic effects caused by its actions on individual debtors in the community.".

SEC. 508. CAPITAL POOLS.

(a) Findings.—The Congress hereby finds that—

(1) the Federal Deposit Insurance Corporation has the statutory authority to engage in open bank assistance for failing banks under section 13(c) of the Federal Deposit Insurance Act to minimize losses to the insurance fund and to provide for the stability of the community;

12 USC 1873.

(2) communities in depressed regions of the Nation have had increasing difficulty in raising capital to infuse into locally operated, failing banks;

(3) States have the authority to establish capital pools to supplement Federal Deposit Insurance Corporation funds and outside capital in arranging open banks assistance plans; and

(4) it is not in the public interest to have a fire sale of assets acquired by the Federal Deposit Insurance Corporation as a part of their acquisitions of nonperforming loans of failed banks.

(b) Sense of the Congress.—It is the sense of the Congress that the Federal Deposit Insurance Corporation should—

(1) exercise its discretionary authority to work with States which authorize capital pools described in subsection (a)(3) to save community banks during this time of great economic distress in certain regions of the country; and

(2) use its discretionary authority to negotiate sale of loans in the Corporation's capacity as receiver for a closed insured bank to banks in the area in which such closed bank is located in order to prevent further asset devaluation.

SEC. 509. PERMANENT EXTENSION OF CERTAIN TEMPORARY PROVISIONS OF LAW; 5-YEAR EXTENSION OF NET WORTH CERTIFICATES.

(a) Permanent Extension.—Part D of title I of the Garn-St Germain Depository Institutions Act of 1982 is repealed.

12 USC 1464 note.

(b) 5-Year Extension of Net Worth Certificates.—Section 206(a) of such Act (12 U.S.C. 1729 note) is amended by striking out "October 13, 1986" and inserting in lieu thereof "October 13, 1991".

12 USC 1729, 1823.

(c) Prior Amendments Not Effective.—No amendment made by part D of title I or section 206 of the Garn-St Germain Depository Institutions Act of 1982, as in effect before the date of the enactment of this Act, to any other provision of law shall be deemed to have taken effect before the date of the enactment of this Act and any such provision of law shall be in effect as if no such amendment had been made before such date of enactment.

12 USC 1464 note.

12 USC 1729, 1823.

TITLE VI—EXPEDITED FUNDS AVAILABILITY

Expedited Funds Availability Act.
12 USC 4001 note.

SEC. 601. SHORT TITLE.

This title may be cited as the "Expedited Funds Availability Act".

SEC. 602. DEFINITIONS.

12 USC 4001.

For purposes of this title—

(1) ACCOUNT.—The term "account" means a demand deposit account or other similar transaction account at a depository institution.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) BUSINESS DAY.—The term "business day" means any day other than a Saturday, Sunday, or legal holiday.

(4) CASH.—The term "cash" means United States coins and currency, including Federal Reserve notes.

(5) CASHIER'S CHECK.—The term "cashier's check" means any check which—

(A) is drawn on a depository institution;

(B) is signed by an officer or employee of such depository institution; and

(C) is a direct obligation of such depository institution.

(6) CERTIFIED CHECK.—The term "certified check" means any check with respect to which a depository institution certifies that—

(A) the signature on the check is genuine; and

(B) such depository institution has set aside funds which—

(i) are equal to the amount of the check; and

(ii) will be used only to pay such check.

(7) CHECK.—The term "check" means any negotiable demand draft drawn on or payable through an office of a depository institution located in the United States. Such term does not include noncash items.

(8) CHECK CLEARINGHOUSE ASSOCIATION.—The term "check clearinghouse association" means any arrangement by which participant depository institutions exchange deposited checks on a local basis, including an entire metropolitan area, without using the check processing facilities of the Federal Reserve System.

(9) CHECK PROCESSING REGION.—The term "check processing region" means the geographical area served by a Federal Reserve bank check processing center or such larger area as the Board may prescribe by regulations.

(10) CONSUMER ACCOUNT.—The term "consumer account" means any account used primarily for personal, family, or household purposes.

(11) DEPOSITORY CHECK.—The term "depository check" means any cashier's check, certified check, teller's check, and any other functionally equivalent instrument as determined by the Board.

(12) DEPOSITORY INSTITUTION.—The term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act. Such term also includes an office, branch, or agency of a foreign bank located in the United States.

12 USC 461.

(13) LOCAL ORIGINATING DEPOSITORY INSTITUTION.—The term "local originating depository institution" means any originating depository institution which is located in the same check processing region as the receiving depository institution.

(14) NONCASH ITEM.—The term "noncash item" means—

(A) a check or other demand item to which a passbook, certificate, or other document is attached;

(B) a check or other demand item which is accompanied by special instructions, such as a request for special advise of payment or dishonor; or

(C) any similar item which is otherwise classified as a noncash item in regulations of the Board.

(15) NONLOCAL ORIGINATING DEPOSITORY INSTITUTION.—The term "nonlocal originating depository institution" means any originating depository institution which is not a local depository institution.

(16) PROPRIETARY ATM.—The term "proprietary ATM" means an automated teller machine which is—

(A) located—

(i) at or adjacent to a branch of the receiving depository institution; or

(ii) in close proximity, as defined by the Board, to a branch of the receiving depository institution; or

(B) owned by, operated exclusively for, or operated by the receiving depository institution.

(17) ORIGINATING DEPOSITORY INSTITUTION.—The term "originating depository institution" means the branch of a depository institution on which a check is drawn.

(18) NONPROPRIETARY ATM.—The term "nonproprietary ATM" means an automated teller machine which is not a proprietary ATM.

(19) PARTICIPANT.—The term "participant" means a depository institution which—

(A) is located in the same geographic area as that served by a check clearinghouse association; and

(B) exchanges checks through the check clearinghouse association, either directly or through an intermediary.

(20) RECEIVING DEPOSITORY INSTITUTION.—The term "receiving depository institution" means the branch of a depository institution or the proprietary ATM in which a check is first deposited.

(21) STATE.—The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands.

(22) TELLER'S CHECK.—The term "teller's check" means any check issued by a depository institution and drawn on another depository institution.

(23) UNITED STATES.—The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(24) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.

(25) WIRE TRANSFER.—The term "wire transfer" has such meaning as the Board shall prescribe by regulations.

SEC. 603. EXPEDITED FUNDS AVAILABILITY SCHEDULES.

12 USC 4002.

(a) NEXT BUSINESS DAY AVAILABILITY FOR CERTAIN DEPOSITS.—

(1) CASH DEPOSITS; WIRE TRANSFERS.—Except as provided in subsection (e) and in section 604, in any case in which—

(A) any cash is deposited in an account at a receiving depository institution staffed by individuals employed by such institution, or

(B) funds are received by a depository institution by wire transfer for deposit in an account at such institution,

such cash or funds shall be available for withdrawal not later than the business day after the business day on which such cash is deposited or such funds are received for deposit.

State and local governments.

(2) Government checks; certain other checks.—Funds deposited in an account at a depository institution by check shall be available for withdrawal not later than the business day after the business day on which such funds are deposited in the case of—

(A) a check which—

(i) is drawn on the Treasury of the United States; and

(ii) is endorsed only by the person to whom it was issued;

(B) a check which—

(i) is drawn by a State;

(ii) is deposited in a receiving depository institution which is located in such State and is staffed by individuals employed by such institution;

(iii) is deposited with a special deposit slip which indicates it is a check drawn by a State; and

(iv) is endorsed only by the person to whom it was issued;

(C) a check which—

(i) is drawn by a unit of general local government;

(ii) is deposited in a receiving depository institution which is located in the same State as such unit of general local government and is staffed by individuals employed by such institution;

(iii) is deposited with a special deposit slip which indicates it is a check drawn by a unit of general local government; and

(iv) is endorsed only by the person to whom it was issued;

(D) the first $100 deposited by check or checks on any one business day;

(E) a check deposited in a branch of a depository institution and drawn on the same or another branch of the same depository institution if both such branches are located in the same State or the same check processing region;

(F) a cashier's check, certified check, teller's check, or depository check which—

(i) is deposited in a receiving depository institution which is staffed by individuals employed by such institution;

(ii) is deposited with a special deposit slip which indicates it is a cashier's check, certified check, teller's check, or depository check, as the case may be; and

(iii) is endorsed only by the person to whom it was issued.

(b) Permanent Schedule.—

(1) Availability of funds deposited by local checks.—Subject to paragraph (3) of this subsection, subsections (a)(2), (d), and (e) of this section, and section 604, not more than 1 business day shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository institution and

the business day on which the funds involved are available for withdrawal.

(2) AVAILABILITY OF FUNDS DEPOSITED BY NONLOCAL CHECKS.—Subject to paragraph (3) of this subsection, subsections (a)(2), (d), and (e) of this section, and section 604, not more than 4 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution and the business day on which such funds are available for withdrawal.

(3) TIME PERIOD ADJUSTMENTS FOR CASH WITHDRAWAL OF CERTAIN CHECKS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), funds deposited in an account in a depository institution by check (other than a check described in subsection (a)(2)) shall be available for cash withdrawal not later than the business day after the business day on which such funds otherwise are available under paragraph (1) or (2).

(B) 5 P.M. CASH AVAILABILITY.—Not more than $400 (or the maximum amount allowable in the case of a withdrawal from an automated teller machine but not more than $400) of funds deposited by one or more checks to which this paragraph applies shall be available for cash withdrawal not later than 5 o'clock post meridian of the business day on which such funds are available under paragraph (1) or (2). If funds deposited by checks described in both paragraph (1) and paragraph (2) become available for cash withdrawal under this paragraph on the same business day, the limitation contained in this subparagraph shall apply to the aggregate amount of such funds.

(C) $100 AVAILABILITY.—Any amount available for withdrawal under this paragraph shall be in addition to the amount available under subsection (a)(2)(D).

(4) APPLICABILITY.—This subsection shall apply with respect to funds deposited by check in an account at a depository institution on or after September 1, 1990, except that the Board may, by regulation, make this subsection or any part of this subsection applicable earlier than September 1, 1990.

(c) TEMPORARY SCHEDULE.—

(1) AVAILABILITY OF LOCAL CHECKS.—

(A) IN GENERAL.—Subject to subparagraph (B) of this paragraph, subsections (a)(2), (d), and (e) of this section, and section 604, not more than 2 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository institution and the business day on which such funds are available for withdrawal.

(B) TIME PERIOD ADJUSTMENT FOR CASH WITHDRAWAL OF CERTAIN CHECKS.—

(i) IN GENERAL.—Except as provided in clause (ii), funds deposited in an account in a depository institution by check drawn on a local depository institution that is not a participant in the same check clearinghouse association as the receiving depository institution (other than a check described in subsection (a)(2)) shall be available for cash withdrawal not later than the business day after the business day on which such funds otherwise are available under subparagraph (A).

(ii) 5 P.M. CASH AVAILABILITY.—Not more than $400 (or the maximum amount allowable in the case of a withdrawal from an automated teller machine but not more than $400) of funds deposited by one or more checks to which this subparagraph applies shall be available for cash withdrawal not later than 5 o'clock post meridian of the business day on which such funds are available under subparagraph (A).

(iii) $100 AVAILABILITY.—Any amount available for withdrawal under this subparagraph shall be in addition to the amount available under subsection (a)(2)(D).

(2) AVAILABILITY OF NONLOCAL CHECKS.—Subject to subsections (a)(2), (d), and (e) of this section and section 604, not more than 6 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution and the business day on which such funds are available for withdrawal.

(3) APPLICABILITY.—This subsection shall apply with respect to funds deposited by check in an account at a depository institution after August 31, 1988, and before September 1, 1990, except as may be otherwise provided under subsection (b)(4).

(d) TIME PERIOD ADJUSTMENTS.—

Regulations.

(1) REDUCTION GENERALLY.—Notwithstanding any other provision of law, the Board shall, by regulation, reduce the time periods established under subsections (b), (c), and (e) to as short a time as possible and equal to the period of time achievable under the improved check clearing system for a receiving depository institution to reasonably expect to learn of the nonpayment of most items for each category of checks.

(2) EXTENSION FOR CERTAIN DEPOSITS IN NONCONTIGUOUS STATES OR TERRITORIES.—Notwithstanding any other provision of law, any time period established under subsection (b), (c), or (e) shall be extended by 1 business day in the case of any deposit which is both—

Alaska.
Hawaii.
Puerto Rico.
Virgin Islands.

(A) deposited in an account at a depository institution which is located in Alaska, Hawaii, Puerto Rico, or the Virgin Islands; and

(B) deposited by a check drawn on an originating depository institution which is not located in the same State, commonwealth, or territory as the receiving depository institution.

(e) DEPOSITS AT AN ATM.—

(1) NONPROPRIETARY ATM—TEMPORARY SCHEDULE.—

(A) IN GENERAL.—Not more than 6 business days shall intervene between the business day a deposit described in subparagraph (B) is made at a nonproprietary automated teller machine (for deposit in an account at a depository institution) and the business day on which funds from such deposit are available for withdrawal.

(B) DEPOSITS DESCRIBED IN THIS PARAGRAPH.—A deposit is described in this subparagraph if it is—

(i) a cash deposit;

(ii) a deposit made by a check described in subsection (a)(2);

(iii) a deposit made by a check drawn on a local originating depository institution (other than a check described in subsection (a)(2)); or

(iv) a deposit made by a check drawn on a nonlocal originating depository institution (other than a check described in subsection (a)(2)).

(C) APPLICABILITY.—This paragraph shall apply with respect to funds deposited at a nonproprietary automated teller machine after August 31, 1988, and before September 1, 1990.

(2) NONPROPRIETARY ATM—PERMANENT SCHEDULE.—

(A) CASH, GOVERNMENT CHECKS, AND LOCAL CHECKS.—Not more than 1 business day shall intervene between the business day on which a deposit described in paragraph (1)(B) (i), (ii), or (iii) is made at a nonproprietary automated teller machine (for deposit in an account at a depository institution) and the business day on which funds from such deposit are available for withdrawal.

(B) NONLOCAL CHECKS.—Not more than 4 business days shall intervene between the business day a deposit described in paragraph (1)(B)(iv) is made at a nonproprietary automated teller machine (for deposit in an account at a depository institution) and the business day on which funds from such deposit are available for withdrawal.

(C) DETERMINATION OF "LOCAL ORIGINATING DEPOSITORY INSTITUTION".—For the purpose of this paragraph, a check is drawn on a local originating depository institution if that depository institution is located in the same check processing region as the receiving nonproprietary ATM.

(D) APPLICABILITY.—This paragraph shall apply with respect to funds deposited at a nonproprietary automated teller machine on or after September 1, 1990.

(3) PROPRIETARY ATM—TEMPORARY AND PERMANENT SCHEDULES.—The provisions of subsections (a), (b), and (c) shall apply with respect to any funds deposited at a proprietary automated teller machine for deposit in an account at a depository institution.

(4) STUDY AND REPORT ON ATM'S.—The Board shall, either directly or through the Consumer Advisory Council, establish and maintain a dialogue with depository institutions and their suppliers on the computer software and hardware available for use by automated teller machines, and shall, not later than September 1 of each of the first 3 calendar years beginning after the date of the enactment of this title, report to the Congress regarding such software and hardware and regarding the potential for improving the processing of automated teller machine deposits.

(f) CHECK RETURN; NOTICE OF NONPAYMENT.—No provision of this section shall be construed as requiring that, with respect to all checks deposited in a receiving depository institution—

(1) such checks be physically returned to such depository institution; or

(2) any notice of nonpayment of any such check be given to such depository institution within the times set forth in subsection (a), (b), (c), or (e) or in the regulations issued under any such subsection.

12 USC 4003.

SEC. 604. SAFEGUARD EXCEPTIONS.

(a) NEW ACCOUNTS.—Notwithstanding section 603, in the case of any account established at a depository institution by a new depositor, the following provisions shall apply with respect to any deposit in such account during the 30-day period (or such shorter period as the Board may establish) beginning on the date such account is established—

(1) NEXT BUSINESS DAY AVAILABILITY OF CASH AND CERTAIN ITEMS.—Except as provided in paragraph (3), in the case of—

(A) any cash deposited in such account;

(B) any funds received by such depository institution by wire transfer for deposit in such account;

(C) any funds deposited in such account by cashier's check, certified check, teller's check, depository check, or traveler's check; and

(D) any funds deposited by a government check which is described in subparagraph (A), (B), or (C) of section 603(a)(2),

such cash or funds shall be available for withdrawal on the business day after the business day on which such cash or funds are deposited or, in the case of a wire transfer, on the business day after the business day on which such funds are received for deposit.

(2) AVAILABILITY OF OTHER ITEMS.—In the case of any funds deposited in such account by a check (other than a check described in subparagraph (C) or (D) of paragraph (1)), the availability for withdrawal of such funds shall not be subject to the provisions of section 603(b), 603(c), or paragraphs (1) and (2) of section 603(e).

(3) LIMITATION RELATING TO CERTAIN CHECKS IN EXCESS OF $5,000.—In the case of funds deposited in such account during such period by checks described in subparagraph (C) or (D) of paragraph (1) the aggregate amount of which exceeds $5,000—

(A) paragraph (1) shall apply only with respect to the first $5,000 of such aggregate amount; and

(B) not more than 8 business days shall intervene between the business day on which any such funds are deposited and the business day on which such excess amount shall be available for withdrawal.

(b) LARGE OR REDEPOSITED CHECKS; REPEATED OVERDRAFTS.—The Board may, by regulation, establish reasonable exceptions to any time limitation established under subsection (b), (c), or (e) of section 603 for—

(1) the amount of deposits by one or more checks that exceeds the amount of $5,000 in any one day;

(2) checks that have been returned unpaid and redeposited; and

(3) deposit accounts which have been overdrawn repeatedly.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—In accordance with regulations which the Board shall prescribe, subsections (a)(2)(F), (b), (c), and (e) of section 603 shall not apply with respect to any check deposited in an account at a depository institution if the receiving depository institution has reasonable cause to believe that the check is uncollectible from the originating depository institution. For purposes of the preceding sentence, reasonable cause to believe requires the existence of facts which would cause a well-

grounded belief in the mind of a reasonable person. Such reasons shall be included in the notice required under subsection (f).

(2) Basis for determination.—No determination under this subsection may be based on any class of checks or persons.

(3) Overdraft fees.—If the receiving depository institution determines that a check deposited in an account is a check described in paragraph (1), the receiving depository institution shall not assess any fee for any subsequent overdraft with respect to such account, if—

(A) the depositor was not provided with the written notice required under subsection (f) (with respect to such determination) at the time the deposit was made;

(B) the overdraft would not have occurred but for the fact that the funds so deposited are not available; and

(C) the amount of the check is collected from the originating depository institution.

(4) Compliance.—Each agency referred to in section 610(a) shall monitor compliance with the requirements of this subsection in each regular examination of a depository institution and shall describe in each report to the Congress the extent to which this subsection is being complied with. For the purpose of this paragraph, each depository institution shall retain a record of each notice provided under subsection (f) as a result of the application of this subsection.

(d) Emergency Conditions.—Subject to such regulations as the Board may prescribe, subsections (b), (c), and (e) of section 603 shall not apply to funds deposited by check in any receiving depository institution in the case of—

(1) any interruption of communication facilities;

(2) suspension of payments by another depository institution;

(3) any war; or

(4) any emergency condition beyond the control of the receiving depository institution,

if the receiving depository institution exercises such diligence as the circumstances require.

(e) Prevention of Fraud Losses.—

(1) In general.—The Board may, by regulation or order, suspend the applicability of this title, or any portion thereof, to any classification of checks if the Board determines that—

(A) depository institutions are experiencing an unacceptable level of losses due to check-related fraud, and

(B) suspension of this title, or such portion of this title, with regard to the classification of checks involved in such fraud is necessary to diminish the volume of such fraud.

(2) Sunset provision.—No regulation prescribed or order issued under paragraph (1) shall remain in effect for more than 45 days (excluding Saturdays, Sundays, legal holidays, or any day either House of Congress is not in session).

(3) Report to congress.—

(A) Notice of each suspension.—Within 10 days of prescribing any regulation or issuing any order under paragraph (1), the Board shall transmit a report of such action to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(B) CONTENTS OF REPORT.—Each report under subparagraph (A) shall contain—

(i) the specific reason for prescribing the regulation or issuing the order;

(ii) evidence considered by the Board in making the determination under paragraph (1) with respect to such regulation or order; and

(iii) specific examples of the check-related fraud giving rise to such regulation or order.

(f) NOTICE OF EXCEPTION; AVAILABILITY WITHIN REASONABLE TIME.—

(1) IN GENERAL.—If any exception contained in this section (other than subsection (a)) applies with respect to funds deposited in an account at a depository institution—

(A) the depository institution shall provide notice in the manner provided in paragraph (2) of—

(i) the day the funds shall be made available for withdrawal; and

(ii) the reason the exception was invoked; and

(B) except where other time periods are specifically provided in this title, the availability of the funds deposited shall be governed by the policy of the receiving depository institution, but shall not exceed a reasonable period of time as determined by the Board.

(2) TIME FOR NOTICE.—The notice required under paragraph (1)(A) with respect to a deposit to which an exception contained in this section applies shall be made by the time provided in the following subparagraphs:

(A) In the case of a deposit made in person by the depositor at the receiving depository institution, the depository institution shall immediately provide such notice in writing to the depositor.

(B) In the case of any other deposit (other than a deposit described in subparagraph (C)), the receiving depository institution shall mail the notice to the depositor not later than the close of the next business day following the business day on which the deposit is received.

(C) In the case of a deposit to which subsection (d) or (e) applies, notice shall be provided by the depository institution in accordance with regulations of the Board.

(3) SUBSEQUENT DETERMINATIONS.—If the facts upon which the determination of the applicability of an exception contained in subsection (b) or (c) to any deposit only become known to the receiving depository institution after the time notice is required under paragraph (2) with respect to such deposit, the depository institution shall mail such notice to the depositor as soon as practicable, but not later than the first business day following the day such facts become known to the depository institution.

12 USC 4004.

SEC. 605. DISCLOSURE OF FUNDS AVAILABILITY POLICIES.

(a) NOTICE FOR NEW ACCOUNTS.—Before an account is opened at a depository institution, the depository institution shall provide written notice to the potential customer of the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into the customer's account.

(b) PREPRINTED DEPOSIT SLIPS.—All preprinted deposit slips that a depository institution furnishes to its customers shall contain a summary notice, as prescribed by the Board in regulations, that deposited items may not be available for immediate withdrawal.

(c) MAILING OF NOTICE.—

(1) FIRST MAILING AFTER ENACTMENT.—In the first regularly scheduled mailing to customers occurring after the effective date of this section, but not more than 60 days after such effective date, each depository institution shall send a written notice containing the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into such customer's account, unless the depository institution has provided a disclosure which meets the requirements of this section before such effective date.

(2) SUBSEQUENT CHANGES.—A depository institution shall send a written notice to customers at least 30 days before implementing any change to the depository institution's policy with respect to when customers may withdraw funds deposited into consumer accounts, except that any change which expedites the availability of such funds shall be disclosed not later than 30 days after implementation.

(3) UPON REQUEST.—Upon the request of any person, a depository institution shall provide or send such person a written notice containing the specific policy of such depository institution with respect to when a customer may withdraw funds deposited into a customer's account.

(d) POSTING OF NOTICE.—

(1) SPECIFIC NOTICE AT MANNED TELLER STATIONS.—Each depository institution shall post, in a conspicuous place in each location where deposits are accepted by individuals employed by such depository institution, a specific notice which describes the time periods applicable to the availability of funds deposited in a consumer account.

(2) GENERAL NOTICE AT AUTOMATED TELLER MACHINES.—In the case of any automated teller machine at which any funds are received for deposit in an account at any depository institution, the Board shall prescribe, by regulations, that the owner or operator of such automated teller machine shall post or provide a general notice that funds deposited in such machine may not be immediately available for withdrawal.

(e) NOTICE OF INTEREST PAYMENT POLICY.—If a depository institution described in section 606(b) begins the accrual of interest or dividends at a later date than the date described in section 606(a) with respect to all funds, including cash, deposited in an interest-bearing account at such depository institution, any notice required to be provided under subsections (a) and (c) shall contain a written description of the time at which such depository institution begins to accrue interest or dividends on such funds.

(f) MODEL DISCLOSURE FORMS.—

(1) PREPARED BY BOARD.—The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this section and to aid customers by utilizing readily understandable language.

(2) USE OF FORMS TO ACHIEVE COMPLIANCE.—A depository institution shall be deemed to be in compliance with the requirements of this section if such institution—

(A) uses any appropriate model form or clause as published by the Board, or

(B) uses any such model form or clause and changes such form or clause by—

(i) deleting any information which is not required by this title; or

(ii) rearranging the format.

(3) VOLUNTARY USE.—Nothing in this title requires the use of any such model form or clause prescribed by the Board under this subsection.

Federal Register, publication.

(4) NOTICE AND COMMENT.—Model disclosure forms and clauses shall be adopted by the Board only after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

12 USC 4005.

SEC. 606. PAYMENT OF INTEREST.

(a) IN GENERAL.—Except as provided in subsection (b) or (c) and notwithstanding any other provision of law, interest shall accrue on funds deposited in an interest-bearing account at a depository institution beginning not later than the business day on which the depository institution receives provisional credit for such funds.

(b) SPECIAL RULE FOR CREDIT UNIONS.—Subsection (a) shall not apply to an account at a depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act if the depository institution—

12 USC 461.

(1) begins the accrual of interest or dividends at a later date than the date described in subsection (a) with respect to all funds, including cash, deposited in such account; and

(2) provides notice of the interest payment policy in the manner required under section 605(e).

(c) EXCEPTION FOR CHECKS RETURNED UNPAID.—No provision of this title shall be construed as requiring the payment of interest or dividends on funds deposited by a check which is returned unpaid.

12 USC 4006.

SEC. 607. MISCELLANEOUS PROVISIONS.

(a) AFTER-HOURS DEPOSITS.—For purposes of this title, any deposit which is made on a Saturday, Sunday, legal holiday, or after the close of business on any business day shall be deemed to have been made on the next business day.

(b) AVAILABILITY AT START OF BUSINESS DAY.—Except as provided in subsections (b)(3) and (c)(1)(B) of section 603, if any provision of this title requires that funds be available for withdrawal on any business day, such funds shall be available for withdrawal at the start of such business day.

(c) EFFECT ON POLICIES OF DEPOSITORY INSTITUTIONS.—No provision of this title shall be construed as—

(1) prohibiting a depository institution from making funds available for withdrawal in a shorter period of time than the period of time required by this title; or

(2) affecting a depository institution's right—

(A) to accept or reject a check for deposit;

(B) to revoke any provisional settlement made by the depository institution with respect to a check accepted by such institution for deposit;

(C) to charge back the depositor's account for the amount of such check; or

(D) to claim a refund of such provisional credit.

(d) PROHIBITION ON FREEZING CERTAIN FUNDS IN AN ACCOUNT.—In any case in which a check is deposited in an account at a depository institution and the funds represented by such check are not yet available for withdrawal pursuant to this title, the depository institution may not freeze any other funds in such account (which are otherwise available for withdrawal pursuant to this title) solely because the funds so deposited are not yet available for withdrawal.

(e) EMPLOYEE TRAINING ON AND COMPLIANCE WITH THE REQUIREMENTS OF THIS TITLE.—Each depository institution shall—

(1) take such actions as may be necessary fully to inform each employee (who performs duties subject to the requirements of this title) of the requirements of this title; and

(2) establish and maintain procedures reasonably designed to assure and monitor employee compliance with such requirements.

SEC. 608. EFFECT ON STATE LAW.

12 USC 4007.

(a) IN GENERAL.—Any law or regulation of any State in effect on September 1, 1989, which requires that funds deposited or received for deposit in an account at a depository institution chartered by such State be made available for withdrawal in a shorter period of time than the period of time provided in this title or in regulations prescribed by the Board under this title (as in effect on September 1, 1989) shall—

(1) supersede the provisions of this title and any regulations by the Board to the extent such provisions relate to the time by which funds deposited or received for deposit in an account shall be available for withdrawal; and

(2) apply to all federally insured depository institutions located within such State.

(b) OVERRIDE OF CERTAIN STATE LAWS.—Except as provided in subsection (a), this title and regulations prescribed under this title shall supersede any provision of the law of any State, including the Uniform Commercial Code as in effect in such State, which is inconsistent with this title or such regulations.

SEC. 609. REGULATIONS AND REPORTS BY BOARD.

12 USC 4008.

(a) IN GENERAL.—After notice and opportunity to submit comment in accordance with section 553(c) of title 5, United States Code, the Board shall prescribe regulations—

(1) to carry out the provisions of this title;

(2) to prevent the circumvention or evasion of such provisions; and

(3) to facilitate compliance with such provisions.

(b) REGULATIONS RELATING TO IMPROVEMENT OF CHECK PROCESSING SYSTEM.—In order to improve the check processing system, the Board shall consider (among other proposals) requiring, by regulation, that—

(1) depository institutions be charged based upon notification that a check or similar instrument will be presented for payment;

(2) the Federal Reserve banks and depository institutions provide for check truncation;

(3) depository institutions be provided incentives to return items promptly to the depository institution of first deposit;

(4) the Federal Reserve banks and depository institutions take such actions as are necessary to automate the process of returning unpaid checks;

(5) each depository institution and Federal Reserve bank—

(A) place its endorsement, and other notations specified in regulations of the Board, on checks in the positions specified in such regulations; and

(B) take such actions as are necessary to—

(i) automate the process of reading endorsements; and

(ii) eliminate unnecessary endorsements;

(6) within one business day after an originating depository institution is presented a check (for more than such minimum amount as the Board may prescribe)—

(A) such originating depository institution determines whether it will pay such check; and

(B) if such originating depository institution determines that it will not pay such check, such originating depository institution directly notify the receiving depository institution of such determination;

(7) regardless of where a check is cleared initially, all returned checks be eligible to be returned through the Federal Reserve System;

(8) Federal Reserve banks and depository institutions participate in the development and implementation of an electronic clearinghouse process to the extent the Board determines, pursuant to the study under subsection (f), that such a process is feasible; and

(9) originating depository institutions be permitted to return unpaid checks directly to, and obtain reimbursement for such checks directly from, the receiving depository institution.

(c) REGULATORY RESPONSIBILITY OF BOARD FOR PAYMENT SYSTEM.—

(1) RESPONSIBILITY FOR PAYMENT SYSTEM.—In order to carry out the provisions of this title, the Board of Governors of the Federal Reserve System shall have the responsibility to regulate—

(A) any aspect of the payment system, including the receipt, payment, collection, or clearing of checks; and

(B) any related function of the payment system with respect to checks.

(2) REGULATIONS.—The Board shall prescribe such regulations as it may determine to be appropriate to carry out its responsibility under paragraph (1).

(d) REPORTS.—

(1) IMPLEMENTATION PROGRESS REPORTS.—

(A) REQUIRED REPORTS.—The Board shall transmit a report to both Houses of the Congress not later than 18, 30, and 48 months after the date of the enactment of this title.

(B) CONTENTS OF REPORT.—Each such report shall describe—

(i) the actions taken and progress made by the Board to implement the schedules established in section 603, and

(ii) the impact of this title on consumers and depository institutions.

(2) EVALUATION OF TEMPORARY SCHEDULE REPORT.—

(A) Report required.—The Board shall transmit a report to both Houses of the Congress not later than 2 years after the date of the enactment of this title regarding the effects the temporary schedule established under section 603(c) have had on depository institutions and the public.

(B) Contents of report.—Such report shall also assess the potential impact the implementation of the schedule established in section 603(b) will have on depository institutions and the public, including an estimate of the risks to and losses of depository institutions and the benefits to consumers. Such report shall also contain such recommendations for legislative or administrative action as the Board may determine to be necessary.

(3) Comptroller general evaluation report.—Not later than 6 months after section 603(b) takes effect, the Comptroller General of the United States shall transmit a report to the Congress evaluating the implementation and administration of this title.

(e) Consultation.—In prescribing regulations under subsections (a) and (b), the Board shall consult with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board.

(f) Electronic Clearinghouse Study.—

(1) Study required.—The Board shall study the feasibility of modernizing and accelerating the check payment system through the development of an electronic clearinghouse process utilizing existing telecommunications technology to avoid the necessity of actual presentment of the paper instrument to a payor institution before such institution is charged for the item.

(2) Consultation; factors to be studied.—In connection with the study required under paragraph (1), the Board shall—

(A) consult with appropriate experts in telecommunications technology; and

(B) consider all practical and legal impediments to the development of an electronic clearinghouse process.

(3) Report required.—The Board shall report its conclusions to the Congress within 9 months of the date of the enactment of this title.

SEC. 610. ADMINISTRATIVE ENFORCEMENT. 12 USC 4009.

(a) Administrative Enforcement.—Compliance with the requirements imposed under this title, including regulations prescribed by and orders issued by the Board of Governors of the Federal Reserve System under this title, shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of— 12 USC 1818.

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board of Governors of the Federal Reserve System; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and section 17 of the Federal 12 USC 1464. 12 USC 1730.

12 USC 1437. Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

12 USC 1751. (3) the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any Federal credit union or insured credit union.

(b) ADDITIONAL POWERS.—

(1) VIOLATION OF THIS TITLE TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to its powers under any provision of law specifically referred to in subsection (a) of this section, each of the agencies referred to in such subsection may exercise, for purposes of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(c) ENFORCEMENT BY THE BOARD.—

(1) IN GENERAL.—Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a) of this section, the Board of Governors of the Federal Reserve System shall enforce such requirements.

(2) ADDITIONAL REMEDY.—If the Board determines that—

(A) any depository institution which is not a depository institution described in subsection (a), or

(B) any other person subject to the authority of the Board under this title, including any person subject to the authority of the Board under section 605(d)(2) or 609(c),

has failed to comply with any requirement imposed by this title or by the Board under this title, the Board may issue an order prohibiting any depository institution, any Federal Reserve bank, or any other person subject to the authority of the Board from engaging in any activity or transaction which directly or indirectly involves such noncomplying depository institution or person (including any activity or transaction involving the receipt, payment, collection, and clearing of checks and any related function of the payment system with respect to checks).

(d) PROCEDURAL RULES.—The authority of the Board to prescribe regulations under this title does not impair the authority of any other agency designated in this section to make rules regarding its own procedures in enforcing compliance with requirements imposed under this title.

12 USC 4010.

SEC. 611. CIVIL LIABILITY.

(a) CIVIL LIABILITY.—Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this title or any regulation prescribed under this title with respect to any person other than another depository institution is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) CLASS ACTION AWARDS.—In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) BONA FIDE ERRORS.—

(1) GENERAL RULE.—A depository institution may not be held liable in any action brought under this section for a violation of this title if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) EXAMPLES.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a depository institution's obligation under this title is not a bona fide error.

(d) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) RELIANCE ON BOARD RULINGS.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board of Governors of the Federal Reserve System, notwithstanding the fact that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) AUTHORITY TO ESTABLISH RULES REGARDING LOSSES AND LIABILITY AMONG DEPOSITORY INSTITUTIONS.—The Board is authorized to impose on or allocate among depository institutions the risks of loss and liability in connection with any aspect of the payment system, including the receipt, payment, collection, or clearing of checks, and any related function of the payment system with respect to checks. Liability under this subsection shall not exceed the amount of the check giving rise to the loss or liability, and, where there is bad faith, other damages, if any, suffered as a proximate consequence of any act or omission giving rise to the loss or liability.

SEC. 612. PARITY IN CLEARING.

(a) IN GENERAL.—Section 11A of the Federal Reserve Act (12 U.S.C. 248a) is amended by adding at the end thereof the following:

"(e) All depository institutions, as defined in section 19(b)(1) (12 U.S.C. 461(b)(1)), may receive for deposit and as deposits any evidences of transaction accounts, as defined by section 19(b)(1) (12 U.S.C. 461(b)(1)) from other depository institutions, as defined in section 19(b)(1) (12 U.S.C. 461(b)(1)) or from any office of any Federal Reserve bank without regard to any Federal or State law restricting the number or the physical location or locations of such depository institutions.".

12 USC 248a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this title.

12 USC 4001 note.

SEC. 613. EFFECTIVE DATES.

(a) DATE OF ENACTMENT.—Except as provided in subsection (b), this title shall take effect on the date of the enactment of this title.

(b) 1 YEAR AFTER DATE OF ENACTMENT.—Sections 603, 604, 605, 606, 610, and 611 shall take effect on September 1, 1988.

Credit Union Amendments of 1987.
12 USC 1751 note.

TITLE VII—CREDIT UNION AMENDMENTS

SEC. 701. SHORT TITLE.

This title may be cited as the "Credit Union Amendments of 1987".

SEC. 702. SECOND MORTGAGE AND HOME IMPROVEMENT LOANS.

Section 107(5)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(ii)) is amended by striking out "fifteen years" and all that follows and inserting in lieu thereof "15 years or any longer term which the Board may allow;".

SEC. 703. OWNERSHIP INTEREST.

Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by inserting ", representing equity," after "payments".

SEC. 704. FAITHFUL PERFORMANCE.

(a) FINANCIAL OFFICER.—Section 112 of the Federal Credit Union Act (12 U.S.C. 1761a) is amended by striking out the third sentence and inserting in lieu thereof the following: "The board shall elect from their number a financial officer who shall give adequate fidelity coverage in accordance with section 113(2) of this Act.".

(b) ADEQUATE FIDELITY COVERAGE.—Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

> "(2) provide adequate fidelity coverage for officers and employees having custody of or handling funds according to regulations issued by the Board;".

SEC. 705. MEMBERSHIP OFFICERS.

Section 113(1) of the Federal Credit Union Act (12 U.S.C. 1761b(1)) is amended by striking out "of the board of directors" and inserting in lieu thereof "of the credit union".

SEC. 706. NONPARTICIPATION.

Section 118 of the Federal Credit Union Act (12 U.S.C. 1764) is amended—

(1) by striking out "Subject to" in subsection (a) and inserting in lieu thereof "Except as provided in"; and

(2) by inserting "and enforce" after "adopt" in subsection (b).

SEC. 707. PROPERTY ACQUISITION FLEXIBILITY.

Section 120(i)(2) of the Federal Credit Union Act (12 U.S.C. 1766(i)(2)) is amended—

(1) by inserting after "reimbursement," the following: "acquire and dispose of, by lease or purchase, real or personal property, without regard to the provisions of any other law applicable to executive or independent agencies of the United States,"; and

(2) by inserting after "this Act" the following: ", in accordance with the rules and regulations or policies established by the Board not inconsistent with this Act".

SEC. 708. TREATMENT OF NCUAB FUNDS.

Title I of the Federal Credit Union Act is amended by adding at the end thereof the following:

"SEC. 129. TRUST FUND.

12 USC 1772c.

"Notwithstanding any other provision of law, all moneys of the Board shall be treated as trust funds for the purpose of section 256(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985. This section is effective for fiscal year 1986 and every fiscal year thereafter.".

Ante, p. 634.

SEC. 709. TECHNICAL AND CLARIFYING AMENDMENTS; REMOVAL AND PROHIBITION AUTHORITY.

Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended—

(1) in paragraph (1), by striking out "director, officer, or committee member" each time it appears and inserting in lieu thereof "director, officer, committee member, or employee";

(2) in paragraph (2), by striking out "director, officer, or committee member" each place it appears and inserting in lieu thereof "director, officer, committee member, or employee";

(3) in paragraph (2), by striking out "any other person" and inserting in lieu thereof "any agent or other person"; and

(4) in paragraph (2), by inserting "employee, agent," before "or other person".

SEC. 710. EFFECT OF REMOVAL OR SUSPENSION.

Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended by adding at the end thereof the following:

"(7)(A) Any person who, pursuant to this subsection, is removed, suspended, or prohibited from participation in the conduct of the affairs of an insured credit union shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of any insured institution, any bank holding company or subsidiary of a bank holding company, any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, and any savings and loan holding company or subsidiary of a savings and loan holding com-

12 USC 1701. pany (as those terms are defined in the National Housing Act), and any institution chartered by and subject to regulation by the Farm Credit Administration without the prior written approval of the appropriate Federal regulatory agency.

"(B) As used in subsection (g), the term 'insured institution' means an insured credit union or a depository institution whose accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.".

SEC. 711. IMPOSITION OF CONSERVATORSHIP.

Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(C) there is a willful violation of a cease-and-desist order which has become final; or

"(D) there is concealment of books, papers, records, or assets of the credit union or refusal to submit books, papers, records, or affairs of the credit union for inspection to any examiner or to any lawful agent of the Board.".

SEC. 712. REDUCTION IN STATE COMMENT WAITING PERIOD.

Section 206(h)(2)(B) of the Federal Credit Union Act (12 U.S.C. 1786(h)(2)(B)) is amended by striking out "ninety" and inserting in lieu thereof "30".

SEC. 713. AUTHORITY AS CONSERVATOR.

Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8) The conservator shall have all the powers of the members, the directors, the officers, and the committees of the credit union and shall be authorized to operate the credit union in its own name or to conserve its assets in the manner and to the extent authorized by the Board.".

SEC. 714. LIQUIDATION PROCEEDINGS.

(a) APPLICATION FOR SHOW CAUSE ORDER.—Section 207(a)(1) of the Federal Credit Union Act (12 U.S.C. 1787(a)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end thereof the following:

"(B) Not later than 10 days after the date on which the Board closes a credit union for liquidation pursuant to paragraph (1), or accepts appointment as liquidating agent pursuant to subsection (b), such insured credit union may apply to the United States district court for the judicial district in which the principal office of such insured credit union is located or the United States District Court for the District of Columbia, for an order requiring the Board to show cause why it should not be prohibited from continuing such liquidation. Except as otherwise provided in this subparagraph, no court may take any action for or toward the removal of any liquidating agent or, except at the instance of the Board, restrain or affect the exercise of powers or functions of a liquidating agent.".

(b) LIQUIDATIONS SUBJECT TO REGULATION OF THE BOARD.—Section 208(c) of the Federal Credit Union Act (12 U.S.C. 1788(c)) is redesignated as subsection (j) of section 207 (12 U.S.C. 1787) and is amended by striking out "subject to the regulation of the court or other public body having jurisdiction over the matter" and inserting in lieu thereof "subject only to the regulation of the Board, or, in cases where the Board has been appointed liquidating agent solely by a public authority having jurisdiction over the matter other than said Board, subject only to the regulation of such public authority".

(c) CONFORMING AMENDMENT.—Section 208(d) of the Federal Credit Union Act (12 U.S.C. 1788(d)) is redesignated as section 208(c).

SEC. 715. TRANSFER OF FTC JURISDICTION TO NCUAB.

(a) IN GENERAL.—

(1) Sections 5(a)(2) and 6(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2) and 46(a)) are amended by inserting immediately after "section 18(f)(3)," the following: "Federal credit unions described in section 18(f)(4),".

15 USC 57a.

(2) Section 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)) is amended by inserting immediately after "section 18(f)(3)," the following "Federal credit unions described in section 18(f)(4),".

(b) INVESTIGATIONS OF FOREIGN TRADE CONDITIONS; REPORTS.—The second proviso in section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended—

(1) by inserting immediately after "section 18(f)(3)," the following: "Federal credit unions described in section 18(f)(4),"; and

(2) by inserting immediately after "in business as a savings and loan institution," the following: "in business as a Federal credit union,".

(c) REGULATIONS TO BE PRESCRIBED BY NCUAB.—

(1) The second sentence of section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended by inserting immediately after "paragraph (3))" the following: "and the National Credit Union Administration Board (with respect to Federal credit unions described in paragraph (4))".

(2) The last sentence of section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended—

(A) by striking "either such" and inserting in lieu thereof "any such";

(B) by inserting "or Federal credit unions described in paragraph (4)," immediately after "paragraph (3)," each place it appears therein; and

(C) by inserting immediately after "with respect to banks" the following: ", savings and loan institutions or Federal credit unions".

(3) Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting immediately after paragraph (3) the following:

"(4) Compliance with regulations prescribed under this subsection shall be enforced with respect to Federal credit unions under sections 120 and 206 of the Federal Credit Union Act (12 U.S.C. 1766 and 1786).".

SEC. 716. ASSETS WHICH MAY BE PLEDGED.

(a) In General.—Section 121 of the Federal Credit Union Act (12 U.S.C. 1767) is amended by adding at the end thereof the following new subsection:

State and local governments.
Indians.

"(b) Any Federal credit union, upon the deposit with it of any funds by the Federal Government, an Indian tribe, or any State or local government or political subdivision thereof as otherwise authorized by this Act, is authorized to pledge any of its assets securing the payment of the funds so deposited.".

(b) Conforming Amendment.—Section 121 of the Federal Credit Union Act (12 U.S.C. 1767) is amended by striking out "Each" in the first sentence and inserting in lieu thereof "(a) Each".

TITLE VIII—LOAN LOSS AMORTIZATION

SEC. 801. LOAN LOSS AMORTIZATION FOR AGRICULTURAL BANKS.

Ante, p. 623.

Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by adding at the end thereof the following:

"(j) Loan Loss Amortization for Certain Banks.—

"(1) Eligibility.—The appropriate Federal banking agency shall permit an agricultural bank to take the actions referred to in paragraph (2) if it finds that—

Fraud.

"(A) there is no evidence that fraud or criminal abuse on the part of the bank led to the losses referred to in paragraph (2); and

"(B) the agricultural bank has a plan to restore its capital, not later than the close of the amortization period established under paragraph (2), to a level prescribed by the appropriate Federal banking agency.

"(2) Seven-year loss amortization.—(A) Any loss on any qualified agricultural loan that an agricultural bank would otherwise be required to show on its annual financial statement for any year between December 31, 1983, and January 1, 1992, may be amortized on its financial statements over a period of not to exceed 7 years, as provided in regulations issued by the appropriate Federal banking agency.

Real property.

"(B) An agricultural bank may reappraise any real estate or other property, real or personal, that it acquired coincident to the making of a qualified agricultural loan and that it owned on January 1, 1983, and any such additional property that it acquires prior to January 1, 1992. Any loss that such bank would otherwise be required to show on its annual financial statements as the result of any such reappraisal may be amortized on its financial statements over a period of not to exceed 7 years, as provided in regulations issued by the appropriate Federal banking agency.

"(3) Regulations.—Not later than 90 days after the date of enactment of this subsection, the appropriate Federal banking agency shall issue regulations implementing this subsection with respect to banks that it supervises, including regulations implementing the capital restoration requirement of paragraph (1)(B).

"(4) Definitions.—As used in this subsection—

"(A) the term 'agricultural bank' means a bank—

"(i) the deposits of which are insured by the Federal Deposit Insurance Corporation;

"(ii) which is located in an area the economy of which is dependent on agriculture;

"(iii) which has assets of $100,000,000 or less; and

"(iv) which has—

"(I) at least 25 percent of its total loans in qualified agricultural loans; or

"(II) fewer than 25 percent of its total loans in qualified agricultural loans but which the appropriate Federal banking agency or State bank commissioner recommends to the Corporation for eligibility under this section, or which the Corporation, on its motion, deems eligible; and

"(B) the term 'qualified agricultural loan' means a loan made to finance the production of agricultural products or livestock in the United States, a loan secured by farmland or farm machinery, or such other category of loans as the appropriate Federal banking agency may deem eligible.

"(5) MAINTENANCE OF PORTFOLIO.—As a condition of eligibility under this subsection, the agricultural bank must agree to maintain in its loan portfolio a percentage of agricultural loans which is not lower than the percentage of such loans in its loan portfolio on January 1, 1986.".

TITLE IX—FULL FAITH AND CREDIT OF FEDERALLY INSURED DEPOSITORY INSTITUTIONS

SEC. 901. REAFFIRMATION OF SECURITY OF FUNDS DEPOSITED IN FEDERALLY INSURED DEPOSITORY INSTITUTIONS.

(a) FINDINGS.—The Congress finds and declares that—

(1) since the 1930's, the American people have relied upon Federal deposit insurance to ensure the safety and security of their funds in federally insured depository institutions; and

(2) the safety and security of such funds is an essential element of the American financial system.

(b) SENSE OF CONGRESS.—In view of the findings and declarations contained in subsection (a), it is the sense of the Congress that it should reaffirm that deposits up to the statutorily prescribed amount in federally insured depository institutions are backed by the full faith and credit of the United States.

TITLE X—GOVERNMENT CHECKS

SEC. 1001. REPORT ON DIFFICULTY IN CASHING TREASURY CHECKS.

Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and transmit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the extent to which individuals who receive Treasury checks have difficulty cashing such checks.

SEC. 1002. TIME LIMIT ON PAYMENT OF TREASURY CHECKS.

Section 3328 of title 31, United States Code, is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) TIME LIMIT ON TREASURY CHECKS.—

"(1) IN GENERAL.—Except as provided in sections 3329 and 3330 of this title—

31 USC 3329, 3330.

"(A) the Secretary shall not be required to pay a Treasury check issued on or after the effective date of this section unless it is negotiated to a financial institution within 12 months after the date on which the check was issued; and

"(B) the Secretary shall not be required to pay a Treasury check issued before the effective date of this section unless it is negotiated to a financial institution within 12 months after such effective date.

"(2) DEFERRAL PENDING SETTLEMENT.—Notwithstanding the time limitations imposed by paragraph (1), if the Secretary is on notice of a question of law or fact about whether a Treasury check is properly payable when the check is presented for payment, the Secretary may defer payment on such check until the Comptroller General settles the question.

"(3) Nothing in this subsection shall be construed to affect the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued."; and

(2) by adding at the end thereof the following:

"(f) AUTHORITY TO DECLINE PAYMENT.—Nothing in this section limits the authority of the Secretary to decline payment of a Treasury check after first examination thereof at the Treasury.".

SEC. 1003. CANCELLATION OF TREASURY CHECKS.

Chapter 33 of title 31, United States Code, is amended by adding at the end of subchapter II the following new section:

"§ 3334. Cancellation and proceeds distribution of Treasury checks

"(a) IN GENERAL.—(1) The Secretary shall provide monthly to each agency that authorizes the issuance of Treasury checks a list of those checks issued for such agency on or after such effective date that have not been paid and have become more than 12 months old during the preceding month, beginning with the fourteenth month following the effective date of this section.

"(2) Such checks shall be canceled by the Secretary and the proceeds thereof shall be returned to the agency concerned and credited to the appropriation or fund account initially charged for the payment.

"(b) CHECKS ISSUED BEFORE EFFECTIVE DATE.—(1) Not later than 18 months after the effective date of this section, the Secretary shall identify and cancel all Treasury checks issued before such effective date that have not been paid in accordance with section 3328 of this title.

"(2) The proceeds from checks canceled pursuant to paragraph (1) shall be applied to eliminate the balances in accounts that represent uncollectible accounts receivable and other costs associated with the payment of checks and check claims by the Department of the Treasury on behalf of all payment certifying agencies. Any remaining proceeds shall be deposited to the miscellaneous receipts of the Treasury.

"(c) NO EFFECT ON UNDERLYING OBLIGATION.—Nothing in this section shall be construed to affect the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.".

SEC. 1004. LIMITATION ON RECLAMATION ACTIONS AND CLAIMS.

(a) IN GENERAL.—Section 3712(a) of title 31, United States Code, is amended to read as follows:

"(a) CLAIMS OVER FORGED OR UNAUTHORIZED ENDORSEMENTS.— Fraud.

"(1) PERIOD FOR CLAIMS.—If the Secretary of the Treasury determines that a Treasury check has been paid over a forged or unauthorized endorsement, the Secretary may reclaim the amount of such check from the presenting bank or any other endorser that has breached its guarantee of endorsements prior to—

"(A) the end of the 1-year period beginning on the date of payment; or

"(B) the expiration of the 180-day period beginning on the close of the period described in subparagraph (A) if a timely claim is received under section 3702. *Infra.*

"(2) CIVIL ACTIONS.—(A) Except as provided in subparagraph (B), the United States may bring a civil action to enforce the liability of an endorser, transferor, depository, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or any disbursing official or agent not later than 1 year after a check or warrant is presented to the drawee for payment.

"(B) If the United States has given an endorser written notice of a claim against the endorser within the time allowed by subparagraph (A), the 1-year period for bringing a civil action on that claim under subparagraph (A) shall be extended by 3 years.

"(3) EFFECT ON AGENCY AUTHORITY.—Nothing in this subsection shall be construed to limit the authority of any agency under subchapter II of chapter 37 of this title.". 31 USC 3711.

(b) CLAIMS PRESENTED TO AGENCIES.—Section 3702(c) of title 31, United States Code, is amended to read as follows:

"(c) ONE-YEAR LIMIT FOR CHECK CLAIMS.—(1) Any claim on account of a Treasury check shall be barred unless it is presented to the agency that authorized the issuance of such check within 1 year after the date of issuance of the check or the effective date of this subsection, whichever is later.

"(2) Nothing in this subsection affects the underlying obligation of the United States, or any agency thereof, for which a Treasury check was issued.".

SEC. 1005. REGULATIONS.

31 USC 3328 note.

The Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary deems necessary to implement the amendments made by sections 1002, 1003, and 1004, including the recertification of Treasury checks which have been canceled or for which a claim has been asserted or barred.

SEC. 1006. EFFECTIVE DATE.

31 USC 3328 note.

The amendments made by sections 1002, 1003, and 1004 shall become effective 6 months after the date of enactment of this Act or on such later date as the Secretary of the Treasury may prescribe in regulations.

TITLE XI—INTEREST TO CERTAIN DEPOSITORS

SEC. 1101. INTEREST TO CERTAIN DEPOSITORS.

(a) Payment of Interest Required.—Notwithstanding any other provision of law, the Federal Deposit Insurance Corporation shall pay interest in accordance with the requirements of subsection (b) on nonnegotiable certificates (commonly referred to as "yellow certificates") which—

New York.

(1) were issued by the Golden Pacific National Bank of New York, New York, before such bank was declared to be insolvent by the Comptroller of the Currency on June 21, 1985; and

(2) have been determined to be insured deposits (as such term is defined in section 3(m)(1) of the Federal Deposit Insurance Act) in any judicial action or agency proceeding.

12 USC 1813.

(b) Computation of Interest.—Interest required to be paid under subsection (a) with respect to any certificate described in such subsection shall be computed—

(1) on the principal amount of that portion of such certificate which was determined to be an insured deposit;

New York.

(2) at the statutory rate of interest in effect under the law of the State of New York; and

(3) for the period beginning on June 21, 1985, and ending on the date on which the holder of such certificate, or the holder's representative, receives the payment of deposit insurance on account of such certificate from the Federal Deposit Insurance Corporation.

TITLE XII—MISCELLANEOUS PROVISIONS

SEC. 1201. HIGH YIELD BOND STUDY.

(a) In General.—The Comptroller General, in consultation with the Securities and Exchange Commission, the Federal Home Loan Bank Board, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Savings and Loan Insurance Corporation, the Federal Deposit Insurance Corporation, the Secretary of the Treasury, and the Secretary of Labor shall study on a comparative basis to other types of investments made by federally insured institutions the issuance of and investment in high yield, noninvestment grade bonds during the 5 years prior to the date of enactment of this Act, including—

(1) the identity and rating (as determined by Moody's, Standard and Poor's, or other nationally recognized bond rating house) of the issuers of these bonds;

(2) the identity of the major purchasers of these bonds, including but not limited to federally insured depository institutions;

(3) the percentage of the total amount of high yield, noninvestment grade bonds that are issued as a method of financing corporate takeovers;

(4) the identity of the purchasers including, but not limited to, federally insured depository institutions that invest in high

yield, noninvestment grade bonds that are issued as a method of financing corporate takeovers;

(5) the purposes for which high yield, noninvestment grade bonds are issued other than for financing corporate takeovers;

(6) a summary and analysis of the adequacy of current State and Federal laws that regulate investment in high yield, noninvestment grade bonds, by investors including, but not limited to, federally insured depository institutions and pension funds; and

(7) a review of the impact of the issuance of and investment in high yield, noninvestment grade bonds upon corporate debt as it relates to Federal monetary policy.

(b) OTHER TYPES OF DIRECT INVESTMENT.—In preparing this study, the Comptroller General, in consultation with the aforementioned Federal agencies, shall also examine all other types of direct investments made by Federally insured institutions and the effect these investments have had on Federal insurance funds.

(c) PUBLIC HEARING.—In addition to the collection of information through surveys, public document review, interviews, and other information-gathering methods, at least one joint public hearing shall be held during the course of conducting the study.

(d) REPORTING DATE.—The Comptroller General shall transmit a report containing the results of the study under this section to the Congress not later than 6 months after the date of enactment of this Act.

SEC. 1202. STUDY OF COMPETITIVE ISSUES IN THE PAYMENTS MECHANISM.

(a) IN GENERAL.—The Comptroller General, in coordination and consultation with the Board of Governors of the Federal Reserve System, shall conduct a study of—

(1) the Federal Reserve System's exemption from the imposition of presentment fees;

(2) the impact of the imposition of presentment fees on the efficiency of the check collection system; and

(3) whether the Federal Reserve System requires check clearinghouses to provide services to Federal Reserve banks and whether Federal Reserve banks should pay check clearinghouses for any such services.

(b) REPORTING DATE.—The Comptroller General shall submit its report to Congress not later than 6 months after the date of enactment of this Act.

SEC. 1203. STUDY AND REPORTS CONCERNING DIRECT INVESTMENTS.

12 USC 1437 note.

(a) STUDY REQUIRED.—The Federal Home Loan Bank Board shall conduct a study of the effect of direct investment activities on insured institutions, including comparative analyses of the effect of direct investment activities on—

(1) different sized insured institutions;

(2) State chartered insured institutions;

(3) federally chartered insured institutions; and

(4) insured institutions in each of the Supervisory Examinations Rating Classifications.

(b) REPORT REQUIRED.—Not later than 18 months after the date of enactment of this Act, the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report containing the findings and conclusions of the Board with respect to the study required under subsection (a), including—

(1) the findings and conclusions of the Board concerning the losses to the insurance fund and the degree to which such losses were the result of direct investment activities with respect to each of the classes of institutions described in subsection (a); and

(2) a comparison of the effects of direct investment activities prior to April 16, 1987, and the effect of such activities on or after April 16, 1987, for each of the classes of institutions described in subsection (a) and the losses to the insurance fund as a result of such activities.

(c) PRIOR REPORTS TO CONGRESS ON CHANGES TO DIRECT INVESTMENT REGULATIONS.—

(1) IN GENERAL.—Not less than 90 days before final approval is given by the Federal Home Loan Bank Board to any regulation which repeals or modifies (or has the effect of repealing or modifying) any regulation limiting direct investment activities, the Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the proposed regulation and the reasons for the proposed regulation, including the effect of such regulation on the insurance fund.

(2) PROSPECTIVE APPLICATION OF RULE.—Paragraph (1) shall not apply with respect to Board Resolution Numbered 87-215 and Board Resolution Numbered 87-215A.

(d) DIRECT INVESTMENT ACTIVITY DEFINED.—For purposes of this section, the term "direct investment activities" means activities which are limited under Board Resolution Numbered 87-215 and Board Resolution Numbered 87-215A.

12 USC 3806.

SEC. 1204. ADJUSTABLE RATE MORTGAGE CAPS.

(a) IN GENERAL.—Any adjustable rate mortgage loan originated by a creditor shall include a limitation on the maximum interest rate that may apply during the term of the mortgage loan.

(b) REGULATIONS.—The Board of Governors of the Federal Reserve System shall prescribe regulations to carry out the purposes of this section.

15 USC 1601 note.
15 USC 1607.
15 USC 1640.

(c) ENFORCEMENT.—Any violation of this section shall be treated as a violation of the Truth in Lending Act and shall be subject to administrative enforcement under section 108 or civil damages under section 130 of such Act, or both.

(d) DEFINITIONS.—For the purpose of this section—

(1) the term "creditor" means a person who regularly extends credit for personal, family, or household purposes; and

(2) the term "adjustable rate mortgage loan" means any loan secured by a lien on a one- to four-family dwelling unit, including a condominium unit, cooperative housing unit, or mobile home, where the loan is made pursuant to an agreement under which the creditor may, from time to time, adjust the rate of interest.

(e) EFFECTIVE DATE.—This section shall take effect upon the expiration of 120 days after the date of enactment of this Act.

SEC. 1205. SEPARABILITY OF PROVISIONS.

12 USC 226 note.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Approved August 10, 1987.

LEGISLATIVE HISTORY—H.R. 27:

HOUSE REPORTS: No. 100-62 (Comm. on Banking, Finance and Urban Affairs) and
No. 100-261 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 133 (1987):
May 5, considered and passed House.
May 14, considered and passed Senate, amended.
June 11, House disagreed to Senate amendments.
Aug. 3, House agreed to conference report.
Aug. 4, Senate agreed to conference report.

○

Public Law 100-87
100th Congress

Joint Resolution

Aug. 11, 1987
[S.J. Res. 121]

Designating August 11, 1987, as "National Neighborhood Crime Watch Day".

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level;

Whereas neighborhood crime watch groups can contribute to the Nation's war on drugs by helping to prevent their communities from becoming markets for drug dealers;

Whereas citizens across America will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 9 o'clock postmeridian on August 11, 1987, with their neighbors in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 11, 1987, is designated as "National Neighborhood Crime Watch Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved August 11, 1987.

LEGISLATIVE HISTORY—S.J. Res. 121:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
Aug. 6, considered and passed House.

○

Public Law 100-88
100th Congress

Joint Resolution

Designating the month of August 1987 as "National Child Support Enforcement Month".

Aug. 13, 1987
[H.J. Res. 313]

Whereas significant progress has been made toward improving laws and regulations dealing with child support enforcement by the States;

Whereas the provisions of part D of title IV of the Social Security Act have provided a needed response in alleviating problems that exist within and among States as to legal rights and financial needs of their citizens;

42 USC 651.

Whereas the child support program's ultimate goal is to reduce financial deprivation among America's children by ensuring that the responsibility of support rests with the responsible parent, thereby diminishing the need for welfare dependency by women and children;

Whereas the dedicated service of family support enforcement personnel, the judiciary, and the legal community has contributed to increased child support collections, paternity establishments, and the location of absent parents; and

Whereas the growth and success of child support programs have resulted from and continue to rely on increased cooperation of Federal, State, and local agencies: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of August 1987 is designated as "National Child Support Enforcement Month", and the President is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Approved August 13, 1987.

LEGISLATIVE HISTORY—H.J. Res. 313:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 6, considered and passed House.
Aug. 7, considered and passed Senate.

○

PUBLIC LAW 100-89—AUG. 18, 1987

YSLETA DEL SUR PUEBLO AND ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS RESTORATION ACT

91-139 0 - 87 (89)

Public Law 100-89
100th Congress

An Act

Aug. 18, 1987
[H.R. 318]

To provide for the restoration of the Federal trust relationship and Federal services and assistance to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act.
25 USC 731 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act".

25 USC 731 note.

SEC. 2. REGULATIONS.

The Secretary of the Interior or his designated representative may promulgate such regulations as may be necessary to carry out the provisions of this Act.

TITLE I—YSLETA DEL SUR PUEBLO RESTORATION

25 USC 1300g.

SEC. 101. DEFINITIONS.

For purposes of this title—

(1) the term "tribe" means the Ysleta del Sur Pueblo (as so designated by section 102);

(2) the term "Secretary" means the Secretary of the Interior or his designated representative;

(3) the term "reservation" means lands within El Paso and Hudspeth Counties, Texas—

(A) held by the tribe on the date of the enactment of this title;

(B) held in trust by the State or by the Texas Indian Commission for the benefit of the tribe on such date;

(C) held in trust for the benefit of the tribe by the Secretary under section 105(g)(2); and

(D) subsequently acquired and held in trust by the Secretary for the benefit of the tribe.

(4) the term "State" means the State of Texas;

(5) the term "Tribal Council" means the governing body of the tribe as recognized by the Texas Indian Commission on the date of enactment of this Act, and such tribal council's successors; and

(6) the term "Tiwa Indians Act" means the Act entitled "An Act relating to the Tiwa Indians of Texas." and approved April 12, 1968 (82 Stat. 93).

25 USC 1300g-1.

SEC. 102. REDESIGNATION OF TRIBE.

The Indians designated as the Tiwa Indians of Ysleta, Texas, by the Tiwa Indians Act shall, on and after the date of the enactment of this title, be known and designated as the Ysleta del Sur Pueblo.

Any reference in any law, map, regulation, document, record, or other paper of the United States to the Tiwa Indians of Ysleta, Texas, shall be deemed to be a reference to the Ysleta del Sur Pueblo.

SEC. 103. RESTORATION OF THE FEDERAL TRUST RELATIONSHIP; FEDERAL SERVICES AND ASSISTANCE.

25 USC 1300g-2.

(a) FEDERAL TRUST RELATIONSHIP.—The Federal trust relationship between the United States and the tribe is hereby restored. The Act of June 18, 1934 (48 Stat. 984), as amended, and all laws and rules of law of the United States of general application to Indians, to nations, tribes, or bands of Indians, or to Indian reservations which are not inconsistent with any specific provision contained in this title shall apply to the members of the tribe, the tribe, and the reservation.

25 USC 461.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—All rights and privileges of the tribe and members of the tribe under any Federal treaty, statute, Executive order, agreement, or under any other authority of the United States which may have been diminished or lost under the Tiwa Indians Act are hereby restored.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law, the tribe and the members of the tribe shall be eligible, on and after the date of the enactment of this title, for all benefits and services furnished to federally recognized Indian tribes.

(d) EFFECT ON PROPERTY RIGHTS AND OTHER OBLIGATIONS.—Except as otherwise specifically provided in this title, the enactment of this title shall not affect any property right or obligation or any contractual right or obligation in existence before the date of the enactment of this title or any obligation for taxes levied before such date.

SEC. 104. STATE AND TRIBAL AUTHORITY.

25 USC 1300g-3.

(a) STATE AUTHORITY.—Nothing in this Act shall affect the power of the State of Texas to enact special legislation benefiting the tribe, and the State is authorized to perform any services benefiting the tribe that are not inconsistent with the provisions of this Act.

Contracts.
Grants.

(b) TRIBAL AUTHORITY.—The Tribal Council shall represent the tribe and its members in the implementation of this title and shall have full authority and capacity—

(1) to enter into contracts, grant agreements, and other arrangements with any Federal department or agency, and

(2) to administer or operate any program or activity under or in connection with any such contract, agreement, or arrangement, to enter into subcontracts or award grants to provide for the administration of any such program or activity, or to conduct any other activity under or in connection with any such contract, agreement, or arrangement.

SEC. 105. PROVISIONS RELATING TO TRIBAL RESERVATION.

25 USC 1300g-4.

(a) FEDERAL RESERVATION ESTABLISHED.—The reservation is hereby declared to be a Federal Indian reservation for the use and benefit of the tribe without regard to whether legal title to such lands is held in trust by the Secretary.

(b) CONVEYANCE OF LAND BY STATE.—The Secretary shall—

(1) accept any offer from the State to convey title to any land within the reservation held in trust on the date of enactment of this Act by the State or by the Texas Indian Commission for the benefit of the tribe to the Secretary, and

(2) hold such title, upon conveyance by the State, in trust for the benefit of the tribe.

(c) CONVEYANCE OF LAND BY TRIBE.—At the written request of the Tribal Council, the Secretary shall—

(1) accept conveyance by the tribe of title to any land within the reservation held by the tribe on the date of enactment of this Act to the Secretary, and

(2) hold such title, upon such conveyance by the tribe, in trust for the benefit of the tribe.

(d) APPROVAL OF DEED BY ATTORNEY GENERAL.—Notwithstanding any other provision of law or regulation, the Attorney General of the United States shall approve any deed or other instrument which conveys title to land within El Paso or Hudspeth Counties, Texas, to the United States to be held in trust by the Secretary for the benefit of the tribe.

(e) PERMANENT IMPROVEMENTS AUTHORIZED.—Notwithstanding any other provision of law or rule of law, the Secretary or the tribe may erect permanent improvements, improvements of substantial value, or any other improvement authorized by law on the reservation without regard to whether legal title to such lands has been conveyed to the Secretary by the State or the tribe.

(f) CIVIL AND CRIMINAL JURISDICTION WITHIN RESERVATION.—The State shall exercise civil and criminal jurisdiction within the boundaries of the reservation as if such State had assumed such jurisdiction with the consent of the tribe under sections 401 and 402 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes." and approved April 11, 1968 (25 U.S.C. 1321, 1322).

(g) ACQUISITION OF LAND BY THE TRIBE AFTER ENACTMENT.—

(1) Notwithstanding any other provision of law, the Tribal Council may, on behalf of the tribe—

(A) acquire land located within El Paso County, or Hudspeth County, Texas, after the date of enactment of this Act and take title to such land in fee simple, and

(B) lease, sell, or otherwise dispose of such land in the same manner in which a private person may do so under the laws of the State.

(2) At the written request of the Tribal Council, the Secretary may—

(A) accept conveyance to the Secretary by the Tribal Council (on behalf of the tribe) of title to any land located within El Paso County, or Hudspeth County, Texas, that is acquired by the Tribal Council in fee simple after the date of enactment of this Act, and

(B) hold such title, upon such conveyance by the Tribal Council, in trust for the benefit of the tribe.

25 USC 1300g-5.

SEC. 106. TIWA INDIANS ACT REPEALED.

82 Stat. 93.

The Tiwa Indians Act is hereby repealed.

25 USC 1300g-6.

SEC. 107. GAMING ACTIVITIES.

(a) IN GENERAL.—All gaming activities which are prohibited by the laws of the State of Texas are hereby prohibited on the reservation and on lands of the tribe. Any violation of the prohibition provided in this subsection shall be subject to the same civil and criminal penalties that are provided by the laws of the State of Texas. The provisions of this subsection are enacted in accordance with the tribe's request in Tribal Resolution No. T.C.-02-86 which was approved and certified on March 12, 1986.

(b) NO STATE REGULATORY JURISDICTION.—Nothing in this section shall be construed as a grant of civil or criminal regulatory jurisdiction to the State of Texas.

(c) JURISDICTION OVER ENFORCEMENT AGAINST MEMBERS.—Notwithstanding section 105(f), the courts of the United States shall have exclusive jurisdiction over any offense in violation of subsection (a) that is committed by the tribe, or by any member of the tribe, on the reservation or on lands of the tribe. However, nothing in this section shall be construed as precluding the State of Texas from bringing an action in the courts of the United States to enjoin violations of the provisions of this section.

SEC. 108. TRIBAL MEMBERSHIP.

25 USC 1300g-7.

(a) IN GENERAL.—The membership of the tribe shall consist of—

(1) the individuals listed on the Tribal Membership Roll approved by the tribe's Resolution No. TC-5-84 approved December 18, 1984, and approved by the Texas Indian Commission's Resolution No. TIC-85-005 adopted on January 16, 1985; and

(2) a descendant of an individual listed on that Roll if the descendant—

(i) has ⅛ degree or more of Tigua-Ysleta del Sur Pueblo Indian blood, and

(ii) is enrolled by the tribe.

(b) REMOVAL FROM TRIBAL ROLL.—Notwithstanding subsection (a)—

(1) the tribe may remove an individual from tribal membership if it determines that the individual's enrollment was improper; and

(2) the Secretary, in consultation with the tribe, may review the Tribal Membership Roll.

TITLE II—ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS

SEC. 201. DEFINITIONS.

25 USC 731.

For purposes of this title—

(1) the term "tribe" means the Alabama and Coushatta Indian Tribes of Texas (considered as one tribe in accordance with section 202);

(2) the term "Secretary" means the Secretary of the Interior or his designated representative;

(3) the term "reservation" means the Alabama and Coushatta Indian Reservation in Polk County, Texas, comprised of—

(A) the lands and other natural resources conveyed to the State of Texas by the Secretary pursuant to the provisions of section 1 of the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Alabama and Coushatta Tribes of Indians of Texas, and the individual members thereof; and for other purposes." and approved August 23, 1954 (25 U.S.C. 721);

(B) the lands and other natural resources purchased for and deeded to the Alabama Indians in accordance with an act of the legislature of the State of Texas approved February 3, 1854; and

(C) lands subsequently acquired and held in trust by the Secretary for the benefit of the tribe;

(4) the term "State" means the State of Texas;

(5) the term "constitution and bylaws" means the constitution and bylaws of the tribe which were adopted on June 16, 1971; and

(6) the term "Tribal Council" means the governing body of the tribe under the constitution and bylaws.

25 USC 732.

SEC. 202. ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS CONSIDERED AS ONE TRIBE.

The Alabama and Coushatta Indian Tribes of Texas shall be considered as one tribal unit for purposes of this title and any other law or rule of law of the United States.

25 USC 733.

SEC. 203. RESTORATION OF THE FEDERAL TRUST RELATIONSHIP; FEDERAL SERVICES AND ASSISTANCE.

(a) FEDERAL TRUST RELATIONSHIP.—The Federal recognition of the tribe and of the trust relationship between the United States and the tribe is hereby restored. The Act of June 18, 1934 (48 Stat. 984), as amended, and all laws and rules of law of the United States of general application to Indians, to nations, tribes, or bands of Indians, or to Indian reservations which are not inconsistent with any specific provision contained in this title shall apply to the members of the tribe, the tribe, and the reservation. 25 USC 461.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—All rights and privileges of the tribe and members of the tribe under any Federal treaty, Executive order, agreement, statute, or under any other authority of the United States which may have been diminished or lost under the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Alabama and Coushatta Tribes of Indians of Texas, and the individual members thereof; and for other purposes" and approved August 23, 1954, are hereby restored and such Act shall not apply to the tribe or to members of the tribe after the date of the enactment of this title. 25 USC 721.

(c) FEDERAL BENEFITS AND SERVICES.—Notwithstanding any other provision of law, the tribe and the members of the tribe shall be eligible, on and after the date of the enactment of this title, for all benefits and services furnished to federally recognized Indian tribes.

(d) EFFECT ON PROPERTY RIGHTS AND OTHER OBLIGATIONS.—Except as otherwise specifically provided in this title, the enactment of this title shall not affect any property right or obligation or any contractual right or obligation in existence before the date of the enactment of this title or any obligation for taxes levied before such date.

25 USC 734.

SEC. 204. STATE AND TRIBAL AUTHORITY.

(a) STATE AUTHORITY.—Nothing in this Act shall affect the power of the State of Texas to enact special legislation benefitting the tribe, and the State is authorized to perform any services benefitting the tribe that are not inconsistent with the provisions of this Act.

(b) CURRENT CONSTITUTION AND BYLAWS TO REMAIN IN EFFECT.—Subject to the provisions of section 203(a) of this Act, the constitution and bylaws of the tribe on file with the Committee on Interior and Insular Affairs is hereby declared to be approved for the purposes of section 16 of the Act of June 18, 1934 (48 Stat. 987; 25

U.S.C. 476) except that all reference to the Texas Indian Commission shall be considered as reference to the Secretary of the Interior.

(c) AUTHORITY AND CAPACITY OF TRIBAL COUNCIL.—No provision contained in this title shall affect the power of the Tribal Council to take any action under the constitution and bylaws described in subsection (b). The Tribal Council shall represent the tribe and its members in the implementation of this title and shall have full authority and capacity—

Contracts.
Grants.

(1) to enter into contracts, grant agreements, and other arrangements with any Federal department or agency;

(2) to administer or operate any program or activity under or in connection with any such contract, agreement, or arrangement, to enter into subcontracts or award grants to provide for the administration of any such program or activity, or to conduct any other activity under or in connection with any such contract, agreement, or arrangement; and

(3) to bind any tribal governing body selected under any new constitution adopted in accordance with section 205 as the successor in interest to the Tribal Council.

SEC. 205. ADOPTION OF NEW CONSTITUTION AND BYLAWS.

25 USC 735.

Upon written request of the tribal council, the Secretary shall hold an election for the members of the tribe for the purpose of adopting a new constitution and bylaws in accordance with section 16 of the Act of June 18, 1934 (25 U.S.C. 476).

SEC. 206. PROVISIONS RELATING TO TRIBAL RESERVATION.

25 USC 736.

(a) FEDERAL RESERVATION ESTABLISHED.—The reservation is hereby declared to be a Federal Indian reservation for the use and benefit of the tribe without regard to whether legal title to such lands is held in trust by the Secretary.

(b) CONVEYANCE OF LAND BY STATE.—The Secretary shall—

(1) accept any offer from the State to convey title to any lands held in trust by the State or the Texas Indian Commission for the benefit of the tribe to the Secretary, and

(2) shall hold such title, upon conveyance by the State, in trust for the benefit of the tribe.

(c) CONVEYANCE OF LAND BY TRIBE.—At the written request of the Tribal Council, the Secretary shall—

(1) accept conveyance by the tribe of title to any lands within the reservation which are held by the tribe to the Secretary, and

(2) hold such title, upon such conveyance by the tribe, in trust for the benefit of the tribe.

(d) APPROVAL OF DEED BY ATTORNEY GENERAL.—Notwithstanding any other provision of law or regulation, the Attorney General of the United States shall approve any deed or other instrument from the State or the tribe which conveys title to lands within the reservation to the United States.

(e) PERMANENT IMPROVEMENTS AUTHORIZED.—Notwithstanding any other provision of law or rule of law, the Secretary or the tribe may erect permanent improvements, improvements of substantial value, or any other improvement authorized by law on the reservation without regard to whether legal title to such lands has been conveyed to the Secretary by the State or the tribe.

(f) CIVIL AND CRIMINAL JURISDICTION WITHIN RESERVATION.—The State shall exercise civil and criminal jurisdiction within the boundaries of the reservation as if such State had assumed such jurisdiction with the consent of the tribe under sections 401 and 402 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" and approved April 11, 1968 (25 U.S.C. 1321, 1322).

25 USC 737.

SEC. 207. GAMING ACTIVITIES.

(a) In General.—All gaming activities which are prohibited by the laws of the State of Texas are hereby prohibited on the reservation and on lands of the tribe. Any violation of the prohibition provided in this subsection shall be subject to the same civil and criminal penalties that are provided by the laws of the State of Texas. The provisions of this subsection are enacted in accordance with the tribe's request in Tribal Resolution No. T.C.-86-07 which was approved and certified on March 10, 1986.

(b) No State Regulatory Jurisdiction.—Nothing in this section shall be construed as a grant of civil or criminal regulatory jurisdiction to the State of Texas.

(c) Jurisdiction Over Enforcement Against Members.—Notwithstanding section 206(f), the courts of the United States shall have exclusive jurisdiction over any offense in violation of subsection (a) that is committed by the tribe, or by any member of the tribe, on the reservation or on lands of the tribe. However, nothing in this section shall be construed as precluding the State of Texas from bringing an action in the courts of the United States to enjoin violations of the provisions of this section.

Approved August 18, 1987.

LEGISLATIVE HISTORY—H.R. 318:

HOUSE REPORTS: No. 100-36 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-90 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Apr. 21, considered and passed House.
  July 23, considered and passed Senate, amended.
  Aug. 3, House concurred in Senate amendments.

○

Public Law 100-90
100th Congress

An Act

To amend title 39, United States Code, to extend to certain officers and employees of the United States Postal Service the same procedural and appeal rights with respect to certain adverse personnel actions as are afforded under title 5, United States Code, to Federal employees in the competitive service.

Aug. 18, 1987
[H.R. 348]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1005(a) of title 39, United States Code, is amended by adding at the end thereof the following:

"(4)(A) Subchapter II of chapter 75 of title 5 shall apply— 5 USC 7511.

"(i) to any preference eligible in the Postal Service who is an employee within the meaning of section 7511(a)(1)(B) of such title; and

"(ii) to any other individual who—

"(I) is in the position of a supervisor or a management employee in the Postal Service, or is an employee of the Postal Service engaged in personnel work in other than a purely nonconfidential clerical capacity; and

"(II) has completed 1 year of current continuous service in the same or similar positions.

"(B)(i) The second sentence of paragraph (2) of this subsection applies with respect to the provisions of subparagraph (A) of this paragraph, to the extent that such provisions relate to preference eligibles.

"(ii) The provisions of subparagraph (A) of this paragraph shall not, to the extent that such provisions relate to an individual under clause (ii) of such subparagraph, be modified by any program developed under section 1004 of this title.". 39 USC 1004.

Effective date. 39 USC 1005 note.

(b)(1) The amendment made by subsection (a) shall be effective after the expiration of the 30-day period beginning on the date of the enactment of this Act.

(2) An action which is commenced under section 1005(a)(1)(B) of title 39, United States Code, before the effective date of the amendment made by subsection (a) shall not abate by reason of the enactment of this Act. Determinations with respect to any such action shall be made as if this Act had not been enacted.

Approved August 18, 1987.

LEGISLATIVE HISTORY—H.R. 348 (S. 541):

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 3, considered and passed House.
July 28, considered and passed Senate, amended.
Aug. 3, House concurred in Senate amendment.

○

PUBLIC LAW 100-91—AUG. 18, 1987

AIRCRAFT ALTITUDE OVER NATIONAL PARK SYSTEM UNITS, STUDY

91-139 O - 87 (91)

Public Law 100-91
100th Congress

An Act

Aug. 18, 1987
[H.R. 921]

To require the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over national park system units.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 1a-1 note.

SECTION 1. STUDY OF PARK OVERFLIGHTS.

(a) STUDY BY PARK SERVICE.—The Secretary of the Interior (hereinafter referred to as the "Secretary"), acting through the Director of the National Park Service, shall conduct a study to determine the proper minimum altitude which should be maintained by aircraft when flying over units of the National Park System. The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration (hereinafter referred to as the "Administrator"), shall provide technical assistance to the Secretary in carrying out the study.

(b) GENERAL REQUIREMENTS OF STUDY.—The study shall identify any problems associated with overflight by aircraft of units of the National Park System and shall provide information regarding the types of overflight which may be impacting on park unit resources. The study shall distinguish between the impacts caused by sightseeing aircraft, military aircraft, commercial aviation, general aviation, and other forms of aircraft which affect such units. The study shall identify those park system units, and portions thereof, in which the most serious adverse impacts from aircraft overflights exist.

Safety.
Pollution.
Alaska.

(c) SPECIFIC REQUIREMENTS.—The study under this section shall include research at the following units of the National Park System: Cumberland Island National Seashore, Yosemite National Park, Hawaii Volcanoes National Park, Haleakala National Park, Glacier National Park, and Mount Rushmore National Memorial, and at no less than four additional units of the National Park System, excluding all National Park System units in the State of Alaska. The research at each such unit shall provide information and an evaluation regarding each of the following:

(1) the impacts of aircraft noise on the safety of the park system users, including hikers, rock-climbers, and boaters;

(2) the impairment of visitor enjoyment associated with flights over such units of the National Park System;

(3) other injurious effects of overflights on the natural, historical, and cultural resources for which such units were established; and

(4) the values associated with aircraft flights over such units of the National Park System in terms of visitor enjoyment, the protection of persons or property, search and rescue operations and firefighting.

Such research shall evaluate the impact of overflights by both fixed-wing aircraft and helicopters. The research shall include an evaluation of the differences in noise levels within such units of the

National Park System which are associated with flight by commonly used aircraft at different altitudes. The research shall apply only to overflights and shall not apply to landing fields within, or adjacent to, such units.

(d) REPORT TO CONGRESS.—The Secretary shall submit a report to the Congress within 3 years after the enactment of this Act containing the results of the study carried out under this section. Such report shall also contain recommendations for legislative and regulatory action which could be taken regarding the information gathered pursuant to paragraphs (1) through (4) of subsection (c). Before submission to the Congress, the Secretary shall provide a draft of the report and recommendations to the Administrator for review. The Administrator shall review such report and recommendations and notify the Secretary of any adverse effects which the implementation of such recommendations would have on the safety of aircraft operations. The Administrator shall consult with the Secretary to resolve issues relating to such adverse effects. The final report shall include a finding by the Administrator that implementation of the recommendations of the Secretary will not have adverse effects on the safety of aircraft operations, or if the Administrator is unable to make such finding, a statement by the Administrator of the reasons he believes the Secretary's recommendations will have an adverse effect on the safety of aircraft operations.

Safety.

(e) FAA REVIEW OF RULES.—The Administrator shall review current rules and regulations pertaining to flights of aircraft over units of the National Park System at which research is conducted under subsection (c) and over any other such units at which such a review is determined necessary by the Administrator or is requested by the Secretary. In the review under this subsection, the Administrator shall determine whether changes are needed in such rules and regulations on the basis of aviation safety. Not later than 180 days after the identification of the units of the National Park System for which research is to be conducted under subsection (c), the Administrator shall submit a report to Congress containing the results of the review along with recommendations for legislative and regulatory action which are needed to implement any such changes.

Reports.

(f) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the studies and review under this section.

Appropriation authorization.

SEC. 2. FLIGHTS OVER YOSEMITE AND HALEAKALA DURING STUDY AND REVIEW.

16 USC 1a-1 note.

(a) YOSEMITE NATIONAL PARK.—During the study and review periods provided in subsection (c), it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude of less than 2,000 feet over the surface of Yosemite National Park. For purposes of this subsection, the term "surface" refers to the highest terrain within the park which is within 2,000 feet laterally of the route of flight and with respect to Yosemite Valley such term refers to the upper-most rim of the valley.

(b) HALEAKALA NATIONAL PARK.—During the study and review periods provided in subsection (c), it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude below 9,500 feet above mean sea level over the surface of any of the following areas in Haleakala National Park: Haleakala

Crater, Crater Cabins, the Scientific Research Reserve, Halemauu Trail, Kaupo Gap Trail, or any designated tourist viewpoint.

(c) STUDY AND REVIEW PERIODS.—For purposes of subsections (a) and (b), the study period shall be the period of the time after the date of enactment of this Act and prior to the submission of the report under section 1. The review period shall comprise a 2-year period for Congressional review after the submission of the report to Congress.

(d) EXCEPTIONS.—The prohibitions contained in subsections (a) and (b) shall not apply to any of the following:

(1) emergency situations involving the protection of persons or property, including aircraft;

(2) search and rescue operations;

(3) flights for purposes of firefighting or for required administrative purposes; and

(4) compliance with instructions of an air traffic controller.

(e) ENFORCEMENT.—For purposes of enforcement, the prohibitions contained in subsections (a) and (b) shall be treated as requirements established pursuant to section 307 of the Federal Aviation Act of 1958. To provide information to pilots regarding the restrictions established under this Act, the Administrator shall provide public notice of such restrictions in appropriate Federal Aviation Administration publications as soon as practicable after the enactment of this Act.

Public information.
49 USC app. 1348.

SEC. 3. GRAND CANYON NATIONAL PARK.

Safety.
Pollution.
16 USC 1a–1 note.

(a) Noise associated with aircraft overflights at the Grand Canyon National Park is causing a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users.

(b) RECOMMENDATIONS.—

(1) SUBMISSION.—Within 30 days after the enactment of this Act, the Secretary shall submit to the Administrator recommendations regarding actions necessary for the protection of resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The recommendations shall provide for substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight. Except as provided in subsection (c), the recommendations shall contain provisions prohibiting the flight of aircraft below the rim of the Canyon, and shall designate flight free zones. Such zones shall be flight free except for purposes of administration and for emergency operations, including those required for the transportation of persons and supplies to and from Supai Village and the lands of the Havasupai Indian Tribe of Arizona. The Administrator, after consultation with the Secretary, shall define the rim of the Canyon in a manner consistent with the purposes of this paragraph.

Indians.
Arizona.

(2) IMPLEMENTATION.—Not later than 90 days after receipt of the recommendations under paragraph (1) and after notice and opportunity for hearing, the Administrator shall prepare and issue a final plan for the management of air traffic in the air space above the Grand Canyon. The plan shall, by appropriate regulation, implement the recommendations of the Secretary

without change unless the Administrator determines that implementing the recommendations would adversely affect aviation safety. If the Administrator determines that implementing the recommendations would adversely affect aviation safety, he shall, not later than 60 days after making such determination, in consultation with the Secretary and after notice and opportunity for hearing, review the recommendations consistent with the requirements of paragraph (1) to eliminate the adverse effects on aviation safety and issue regulations implementing the revised recommendations in the plan. In addition to the Administrator's authority to implement such regulations under the Federal Aviation Act of 1958, the Secretary may enforce the appropriate requirements of the plan under such rules and regulations applicable to the units of the National Park System as he deems appropriate.

Regulations.

49 USC app. 1301 note.

(3) REPORT.—Within 2 years after the effective date of the plan required by subsection (b)(2), the Secretary shall submit to the Congress a report discussing—

(A) whether the plan has succeeded in substantially restoring the natural quiet in the park; and

(B) such other matters, including possible revisions in the plan, as may be of interest.

The report shall include comments by the Administrator regarding the effect of the plan's implementation on aircraft safety.

(c) HELICOPTER FLIGHTS OF RIVER RUNNERS.—Subsection (b) shall not prohibit the flight of helicopters—

Indians.

(1) which fly a direct route between a point on the north rim outside of the Grand Canyon National Park and locations on the Hualapai Indian Reservation (as designated by the Tribe); and

(2) whose sole purpose is transporting individuals to or from boat trips on the Colorado River and any guide of such a trip.

SEC. 4. BOUNDARY WATERS CANOE AREA WILDERNESS.

16 USC 1a-1 note.

The Administrator shall conduct surveillance of aircraft flights over the Boundary Waters Canoe Area Wilderness as authorized by the Act of October 21, 1978 (92 Stat. 1649-1659) for a period of not less than 180 days beginning within 60 days of enactment of this Act. In addition to any actions the Administrator may take as a result of such surveillance, he shall provide a report to the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation of the United States House of Representatives and to the Committee on Energy and Natural Resources and the Committee on Commerce, Science, and Transportation of the United States Senate. Such report is to be submitted within 30 days of completion of the surveillance activities. Such report shall include but not necessarily be limited to information on the type and frequency of aircraft using the airspace over the Boundary Waters Canoe Area Wilderness.

Reports.

SEC. 5. ASSESSMENT OF NATIONAL FOREST SYSTEM WILDERNESS OVERFLIGHTS.

16 USC 1a-1 note.

(a) ASSESSMENT BY FOREST SERVICE.—The Chief of the Forest Service (hereinafter referred to as the "Chief") shall conduct an assessment to determine what, if any, adverse impacts to wilderness resources are associated with overflights of National Forest System wilderness areas. The Administrator of the Federal Aviation Administration shall provide technical assistance to the Chief in carrying out the assessment. Such assessment shall apply only to overflight of wilderness areas and shall not apply to aircraft flights or landings adjacent to National Forest System wilderness units. The assessment shall not apply to any National Forest System wilderness units in the State of Alaska.

Alaska.

(b) REPORT TO CONGRESS.—The Chief shall submit a report to Congress within 2 years after enactment of this Act containing the results of the assessments carried out under this section.

Appropriation authorization.

(c) AUTHORIZATION.—Effective October 1, 1987, there are authorized to be appropriated such sums as may be necessary to carry out the assessment under this section.

16 USC 1a-1 note.

SEC. 6. CONSULTATION WITH FEDERAL AGENCIES.

In conducting the study and the assessment required by this Act, the Secretary of the Interior and the Chief of the Forest Service shall consult with other Federal agencies that are engaged in an analysis of the impacts of aircraft overflights over federally-owned land.

Approved August 18, 1987.

LEGISLATIVE HISTORY—H.R. 921:

HOUSE REPORTS: No. 100-69, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-97 (Comm. on Energy and Natural Resources) and No. 100-125 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
May 4, considered and passed House.
July 28, considered and passed Senate, amended.
Aug. 3, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
Aug. 18, Presidential statement.

○

Public Law 100-92
100th Congress

An Act

To designate the United States Post Office Building located in St. Charles, Illinois, as the "John E. Grotberg Post Office Building".

Aug. 18, 1987
[H.R. 1403]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office Building located at 1405 West Main Street in St. Charles, Illinois, is hereby designated as the "John E. Grotberg Post Office Building". Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "John E. Grotberg Post Office Building".

Public buildings and grounds.

CLARIFICATION RELATING TO CONSIDERATION OF PRE-1987 SERVICE AS AN AIR TRAFFIC CONTROLLER FOR RETIREMENT PURPOSES

Aircraft and air carriers.

SEC. 2. (a) For purposes of subchapter III of chapter 83 of title 5, United States Code, and chapter 84 of such title—

5 USC 8332 note.
5 USC 8331, 8401 *et seq.*

(1) service as an air traffic controller shall, with respect to any annuity which is based on a separation from service, or death, occurring on or after January 1, 1987, include any service as an air traffic controller whether performed before, on, or after January 1, 1987; and

(2) the Office of Personnel Management shall accept the certification of the Secretary, or the designee of the Secretary, in determining the amount of any service performed by an individual as an air traffic controller.

(b) For purposes of this section—

(1) the term "air traffic controller" has the meaning given such term by section 2109(1) of title 5, United States Code, as amended by section 207(b) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 594); and

(2) the term "Secretary" has the meaning given such term by section 2109(2) of title 5, United States Code.

Approved August 18, 1987.

LEGISLATIVE HISTORY—H.R. 1403:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Apr. 27, considered and passed House.
July 30, considered and passed Senate, amended.
Aug. 3, House concurred in Senate amendment.

PUBLIC LAW 100-93—AUG. 18, 1987

MEDICARE AND MEDICAID PATIENT AND PROGRAM PROTECTION ACT OF 1987

91-139 O - 87 -- 1 (93)

Public Law 100-93
100th Congress

An Act

Aug. 18, 1987

[H.R. 1444]

To amend titles XI, XVIII, and XIX of the Social Security Act to protect beneficiaries under the health care programs of that Act from unfit health care practitioners, and otherwise to improve the antifraud provisions relating to those programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Medicare and Medicaid Patient and Program Protection Act of 1987.
42 USC 1305 note.

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare and Medicaid Patient and Program Protection Act of 1987".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.
Sec. 2. Exclusion from medicare and State health care programs.
Sec. 3. Civil monetary penalties.
Sec. 4. Criminal penalties for acts involving medicare and State health care programs.
Sec. 5. Information concerning sanctions taken by State licensing authorities against health care practitioners and providers.
Sec. 6. Obligation of health care practitioners and providers.
Sec. 7. Exclusion under the medicaid program.
Sec. 8. Miscellaneous and conforming amendments.
Sec. 9. Clarification of medicaid moratorium provisions of Deficit Reduction Act of 1984.
Sec. 10. Limitation of liability of medicare beneficiaries with respect to services furnished by excluded individuals and entities.
Sec. 11. Definition of person with ownership or control interest.
Sec. 12. Conditional approval of renal dialysis facilities.
Sec. 13. Amendment relating to fraud involving medicare supplemental insurance.
Sec. 14. Standards for anti-kickback provisions.
Sec. 15. Effective dates.

SEC. 2. EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128 (42 U.S.C. 1320a-7) is amended to read as follows:

"EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS

42 USC 1395.

"SEC. 1128. (a) MANDATORY EXCLUSION.—The Secretary shall exclude the following individuals and entities from participation in any program under title XVIII and shall direct that the following individuals and entities be excluded from participation in any State health care program (as defined in subsection (h)):

"(1) CONVICTION OF PROGRAM-RELATED CRIMES.—Any individual or entity that has been convicted of a criminal offense related to the delivery of an item or service under title XVIII or under any State health care program.

42 USC 1395.

"(2) CONVICTION RELATING TO PATIENT ABUSE.—Any individual or entity that has been convicted, under Federal or State law, of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care item or service.

"(b) PERMISSIVE EXCLUSION.—The Secretary may exclude the following individuals and entities from participation in any program under title XVIII and may direct that the following individuals and entities be excluded from participation in any State health care program:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

"(2) CONVICTION RELATING TO OBSTRUCTION OF AN INVESTIGATION.—Any individual or entity that has been convicted, under Federal or State law, in connection with the interference with or obstruction of any investigation into any criminal offense described in paragraph (1) or in subsection (a).

Drugs and drug abuse.

"(3) CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted, under Federal or State law, of a criminal offense relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

"(4) LICENSE REVOCATION OR SUSPENSION.—Any individual or entity—

"(A) whose license to provide health care has been revoked or suspended by any State licensing authority, or who otherwise lost such a license, for reasons bearing on the individual's or entity's professional competence, professional performance, or financial integrity, or

"(B) who surrendered such a license while a formal disciplinary proceeding was pending before such an authority and the proceeding concerned the individual's or entity's professional competence, professional performance, or financial integrity.

"(5) EXCLUSION OR SUSPENSION UNDER FEDERAL OR STATE HEALTH CARE PROGRAM.—Any individual or entity which has been suspended or excluded from participation, or otherwise sanctioned, under—

"(A) any Federal program, including programs of the Department of Defense or the Veterans' Administration, involving the provision of health care, or

"(B) a State health care program,

for reasons bearing on the individual's or entity's professional competence, professional performance, or financial integrity.

"(6) CLAIMS FOR EXCESSIVE CHARGES OR UNNECESSARY SERVICES AND FAILURE OF CERTAIN ORGANIZATIONS TO FURNISH MEDICALLY NECESSARY SERVICES.—Any individual or entity that the Secretary determines—

"(A) has submitted or caused to be submitted bills or requests for payment (where such bills or requests are

42 USC 1395.

based on charges or cost) under title XVIII or a State health care program containing charges (or, in applicable cases, requests for payment of costs) for items or services furnished substantially in excess of such individual's or entity's usual charges (or, in applicable cases, substantially in excess of such individual's or entity's costs) for such items or services, unless the Secretary finds there is good cause for such bills or requests containing such charges or costs;

"(B) has furnished or caused to be furnished items or services to patients (whether or not eligible for benefits under title XVIII or under a State health care program) substantially in excess of the needs of such patients or of a quality which fails to meet professionally recognized standards of health care;

"(C) is—

Contracts.
42 USC 1396b.
42 USC 1396.

"(i) a health maintenance organization (as defined in section 1903(m)) providing items and services under a State plan approved under title XIX, or

42 USC 1396n.

"(ii) an entity furnishing services under a waiver approved under section 1915(b)(1),

and has failed substantially to provide medically necessary items and services that are required (under law or the contract with the State under title XIX) to be provided to individuals covered under that plan or waiver, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals; or

42 USC 1395mm.

"(D) is an entity providing items and services as an eligible organization under a risk-sharing contract under section 1876 and has failed substantially to provide medically necessary items and services that are required (under law or such contract) to be provided to individuals covered under the risk-sharing contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals.

Post, pp. 686-688.
Post, p. 689.

"(7) FRAUD, KICKBACKS, AND OTHER PROHIBITED ACTIVITIES.—Any individual or entity that the Secretary determines has committed an act which is described in section 1128A or section 1128B.

"(8) ENTITIES CONTROLLED BY A SANCTIONED INDIVIDUAL.—Any entity with respect to which the Secretary determines that a person—

42 USC 1320a-3.

"(A)(i) with an ownership or control interest (as defined in section 1124(a)(3)) in that entity, or

Post, p. 692.

"(ii) who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of that entity—

is a person—

"(B)(i) who has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

"(ii) against whom a civil monetary penalty has been assessed under section 1128A; or

"(iii) who has been excluded from participation under a program under title XVIII or under a State health care program.

"(9) FAILURE TO DISCLOSE REQUIRED INFORMATION.—Any entity that did not fully and accurately make any disclosure required by section 1124 or section 1126.

"(10) Failure to supply requested information on subcontractors and suppliers.—Any disclosing entity (as defined in section 1124(a)(2)) that fails to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to the entity by the Secretary or by the State agency administering or supervising the administration of a State health care program— 42 USC 1320a-3.

"(A) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom the entity has had, during the previous 12 months, business transactions in an aggregate amount in excess of $25,000, or

"(B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between the entity and any wholly owned supplier or between the entity and any subcontractor.

"(11) Failure to supply payment information.—Any individual or entity furnishing items or services for which payment may be made under title XVIII or a State health care program that fails to provide such information as the Secretary or the appropriate State agency finds necessary to determine whether such payments are or were due and the amounts thereof, or has refused to permit such examination of its records by or on behalf of the Secretary or that agency as may be necessary to verify such information. 42 USC 1395.

"(12) Failure to grant immediate access.—Any individual or entity that fails to grant immediate access, upon reasonable request (as defined by the Secretary in regulations) to any of the following:

"(A) To the Secretary, or to the agency used by the Secretary, for the purpose specified in the first sentence of section 1864(a) (relating to compliance with conditions of participation or payment). 42 USC 1395aa.

"(B) To the Secretary or the State agency, to perform the reviews and surveys required under State plans under paragraphs (26), (31), and (33) of section 1902(a) and under section 1903(g). 42 USC 1396a. 42 USC 1396b.

"(C) To the Inspector General of the Department of Health and Human Services, for the purpose of reviewing records, documents, and other data necessary to the performance of the statutory functions of the Inspector General.

"(D) To a State medicaid fraud control unit (as defined in section 1903(q)), for the purpose of conducting activities described in that section.

"(13) Failure to take corrective action.—Any hospital that fails to comply substantially with a corrective action required under section 1886(f)(2)(B). Health care facilities. 42 USC 1395ww.

"(14) Default on health education loan or scholarship obligations.—Any individual who the Secretary determines is in default on repayments of scholarship obligations or loans in connection with health professions education made or secured, in whole or in part, by the Secretary and with respect to whom the Secretary has taken all reasonable steps available to the Secretary to secure repayment of such obligations or loans, except that (A) the Secretary shall not exclude pursuant to this paragraph a physician who is the sole community physician or sole source of essential specialized services in a community if a State requests that the physician not be excluded, and (B) the Secretary shall take into account, in determining whether to exclude any other physician pursuant to this paragraph, access of beneficiaries to physician services for which payment may be made under title XVIII or XIX.

42 USC 1395, 1396.

Post, p. 686.

"(c) NOTICE, EFFECTIVE DATE, AND PERIOD OF EXCLUSION.—(1) An exclusion under this section or under section 1128A shall be effective at such time and upon such reasonable notice to the public and to the individual or entity excluded as may be specified in regulations consistent with paragraph (2).

"(2)(A) Except as provided in subparagraph (B), such an exclusion shall be effective with respect to services furnished to an individual on or after the effective date of the exclusion.

"(B) Unless the Secretary determines that the health and safety of individuals receiving services warrants the exclusion taking effect earlier, an exclusion shall not apply to payments made under title XVIII or under a State health care program for—

"(i) inpatient institutional services furnished to an individual who was admitted to such institution before the date of the exclusion, or

"(ii) home health services and hospice care furnished to an individual under a plan of care established before the date of the exclusion,

until the passage of 30 days after the effective date of the exclusion.

"(3)(A) The Secretary shall specify, in the notice of exclusion under paragraph (1) and the written notice under section 1128A, the minimum period (or, in the case of an exclusion of an individual under subsection (b)(12), the period) of the exclusion.

"(B) In the case of an exclusion under subsection (a), the minimum period of exclusion shall be not less than five years, except that, upon the request of a State, the Secretary may waive the exclusion under subsection (a)(1) in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community. The Secretary's decision whether to waive the exclusion shall not be reviewable.

"(C) In the case of an exclusion of an individual under subsection (b)(12), the period of the exclusion shall be equal to the sum of—

"(i) the length of the period in which the individual failed to grant the immediate access described in that subsection, and

"(ii) an additional period, not to exceed 90 days, set by the Secretary.

"(d) NOTICE TO STATE AGENCIES AND EXCLUSION UNDER STATE HEALTH CARE PROGRAMS.—(1) Subject to paragraph (3), the Secretary shall exercise the authority under subsection (b) in a manner that results in an individual's or entity's exclusion from all the programs under title XVIII and all the State health care programs in which the individual or entity may otherwise participate.

"(2) The Secretary shall promptly notify each appropriate State agency administering or supervising the administration of each State health care program (and, in the case of an exclusion effected pursuant to subsection (a) and to which section 304(a)(5) of the Controlled Substances Act may apply, the Attorney General)—

21 USC 824.

"(A) of the fact and circumstances of each exclusion effected against an individual or entity under this section or section 1128A, and

Post, p. 686.

"(B) of the period (described in paragraph (3)) for which the State agency is directed to exclude the individual or entity from participation in the State health care program.

"(3)(A) Except as provided in subparagraph (B), the period of the exclusion under a State health care program under paragraph (2) shall be the same as any period of exclusion under a program under title XVIII.

42 USC 1395.

"(B) The Secretary may waive an individual's or entity's exclusion under a State health care program under paragraph (2) if the Secretary receives and approves a request for the waiver with respect to the individual or entity from the State agency administering or supervising the administration of the program.

"(e) NOTICE TO STATE LICENSING AGENCIES.—The Secretary shall—

"(1) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of an individual or entity excluded (or directed to be excluded) from participation under this section or section 1128A, of the fact and circumstances of the exclusion,

"(2) request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and

"(3) request that the State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to the request.

"(f) NOTICE, HEARING, AND JUDICIAL REVIEW.—(1) Subject to paragraph (2), any individual or entity that is excluded (or directed to be excluded) from participation under this section is entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

42 USC 405.

"(2) Unless the Secretary determines that the health or safety of individuals receiving services warrants the exclusion taking effect earlier, any individual or entity that is the subject of an adverse determination under subsection (b)(7) shall be entitled to a hearing by an administrative law judge (as provided under section 205(b)) on the determination under subsection (b)(7) before any exclusion based upon the determination takes effect.

"(3) The provisions of section 205(h) shall apply with respect to this section and sections 1128A and 1156 to the same extent as it is applicable with respect to title II.

42 USC 1320c-5.
42 USC 401.

"(g) APPLICATION FOR TERMINATION OF EXCLUSION.—(1) An individual or entity excluded (or directed to be excluded) from participation under this section or section 1128A may apply to the Secretary, in the manner specified by the Secretary in regulations and at the end of the minimum period of exclusion provided under subsection (c)(3) and at such other times as the Secretary may provide, for termination of the exclusion effected under this section or section 1128A.

"(2) The Secretary may terminate the exclusion if the Secretary determines, on the basis of the conduct of the applicant which occurred after the date of the notice of exclusion or which was unknown to the Secretary at the time of the exclusion, that—

"(A) there is no basis under subsection (a) or (b) or section 1128A(a) for a continuation of the exclusion, and *Infra.*

"(B) there are reasonable assurances that the types of actions which formed the basis for the original exclusion have not recurred and will not recur.

"(3) The Secretary shall promptly notify each appropriate State agency administering or supervising the administration of each State health care program (and, in the case of an exclusion effected pursuant to subsection (a) and to which section 304(a)(5) of the Controlled Substances Act may apply, the Attorney General) of the fact and circumstances of each termination of exclusion made under this subsection. 21 USC 824.

"(h) Definition of State Health Care Program.—For purposes of this section and sections 1128A and 1128B, the term 'State health care program' means— *Post,* p. 689.

"(1) a State plan approved under title XIX, 42 USC 1396.

"(2) any program receiving funds under title V or from an allotment to a State under such title, or 42 USC 701.

"(3) any program receiving funds under title XX or from an allotment to a State under such title. 42 USC 1397.

"(i) Convicted Defined.—For purposes of subsections (a) and (b), a physician or other individual is considered to have been 'convicted' of a criminal offense—

"(1) when a judgment of conviction has been entered against the physician or individual by a Federal, State, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged;

"(2) when there has been a finding of guilt against the physician or individual by a Federal, State, or local court;

"(3) when a plea of guilty or nolo contendere by the physician or individual has been accepted by a Federal, State, or local court; or

"(4) when the physician or individual has entered into participation in a first offender or other program where judgment of conviction has been withheld.".

SEC. 3. CIVIL MONETARY PENALTIES.

(a) Grounds for Imposition.—(1) Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended by striking "the Secretary determines" and all that follows through "; or" and inserting "the Secretary determines—

"(A) is for a medical or other item or service that the person knows or has reason to know was not provided as claimed,

"(B) is for a medical or other item or service and the person knows or has reason to know the claim is false or fraudulent,

"(C) is presented for a physician's service (or an item or service incident to a physician's service) by a person who knows or has reason to know that the individual who furnished (or supervised the furnishing of) the service—

"(i) was not licensed as a physician,

"(ii) was licensed as a physician, but such license had been obtained through a misrepresentation of material fact (including cheating on an examination required for licensing), or

"(iii) represented to the patient at the time the service was furnished that the physician was certified in a medical specialty by a medical specialty board when the individual was not so certified, or

"(D) is for a medical or other item or service furnished during a period in which the person was excluded under the program under which the claim was made pursuant to a determination by the Secretary under this section or under section 1128, 1156, 1160(b) (as in effect on September 2, 1982), 1862(d) (as in effect on the date of the enactment of the Medicare and Medicaid Patient and Program Protection Act of 1987), or 1866(b); or".

Ante, p. 680; 42 USC 1320c-5. 42 USC 1320c-9.

Post, pp. 692, 693.

(2) Section 1128A(a)(2) is amended—

(A) in subparagraph (B) by inserting "(or other requirement of a State plan under title XIX)" after "State agency", and

42 USC 1396.

(B) by inserting at the end "or (D) an agreement pursuant to section 1866(a)(1)(G), or".

(3) Subsection (a) of section 1128A is further amended—

(A) by inserting after paragraph (2) and before the end matter of such subsection the following new paragraph:

"(3) gives to any person, with respect to coverage under title XVIII of inpatient hospital services subject to the provisions of section 1886, information that he knows or has reason to know is false or misleading, and that could reasonably be expected to influence the decision when to discharge such person or another individual from the hospital;", and

42 USC 1395. *Post*, p. 693.

(B) in the matter following paragraph (3)—

(i) by inserting "(or, in cases under paragraph (3), $15,000 for each individual with respect to whom false or misleading information was given)" before the period at the end of the first sentence, and

(ii) by adding at the end thereof the following new sentence: "In addition the Secretary may make a determination in the same proceeding to exclude the person from participation in the programs under title XVIII and to direct the appropriate State agency to exclude the person from participation in any State health care program.".

(b) STATUTE OF LIMITATION ON ACTIONS.—Subsection (c)(1) of section 1128A (as redesignated by section 9313(c)(1)(D) of the Omnibus Budget Reconciliation Act of 1986) is amended by adding at the end the following new sentences: "The Secretary may not initiate an action under this section with respect to any claim later than six years after the date the claim was presented. The Secretary may initiate an action under this section by serving notice of the action in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure.".

28 USC app.

(c) CONFORMING AMENDMENT.—Subsections (c), (d), (g), and (h) of section 1128A are each amended by striking "penalty or assessment" and inserting "penalty, assessment, or exclusion" each place it appears.

(d) PRO-RATED PAYMENT OF RECOVERIES TO STATE AGENCIES.—Subsection (f)(1)(A) of section 1128A is amended by striking "equal to the State's share of the amount paid by the State agency" and inserting "bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid".

(e) NOTICE TO STATE AGENCIES.—Subsection (h) of section 1128A is further amended by inserting "the appropriate State agency or agencies administering or supervising the administration of State

Ante, p. 680.

health care programs (as defined in section 1128(h))," after "professional organization,".

(f) APPLICATION OF SUBPOENA POWER AND INJUNCTIVE POWERS.—Section 1128A is further amended by adding at the end the following new subsections:

Ante, p. 686.

42 USC 405.

"(j) The provisions of subsections (d) and (e) of section 205 shall apply with respect to this section to the same extent as they are applicable with respect to title II. The Secretary may delegate the authority granted by section 205(d) (as made applicable to this section) to the Inspector General of the Department of Health and Human Services for purposes of any investigation under this section.

"(k) Whenever the Secretary has reason to believe that any person has engaged, is engaging, or is about to engage in any activity which makes the person subject to a civil monetary penalty under this section, the Secretary may bring an action in an appropriate district court of the United States (or, if applicable, a United States court of any territory) to enjoin such activity, or to enjoin the person from concealing, removing, encumbering, or disposing of assets which may be required in order to pay a civil monetary penalty if any such penalty were to be imposed or to seek other appropriate relief.".

SEC. 4. CRIMINAL PENALTIES FOR ACTS INVOLVING MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) TECHNICAL AMENDMENTS.—Section 1909 (42 U.S.C. 1396h) is amended—

(1) by amending the heading to read as follows:

"CRIMINAL PENALTIES FOR ACTS INVOLVING MEDICARE OR STATE HEALTH CARE PROGRAMS";

(2) in subsection (a)(1), by striking "a State plan approved under this title" and inserting "a program under title XVIII or a State health care program (as defined in section 1128(h))";

42 USC 1395.

(3) in the matter in subsection (a) following paragraph (4), by striking "this title" the first place it appears and inserting "the program";

(4) in the last sentence of subsection (a), by striking "this title" the first place it appears and inserting "title XIX", and by striking "this title" the second place it appears and inserting "that title";

42 USC 1396.

(5) in paragraphs (1)(A), (1)(B), (2)(A), (2)(B), and (3)(A) of subsection (b), by striking "this title" and inserting "title XVIII or a State health care program" each place it appears;

(6) in subsection (b)(3)—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting "; and", and

(C) by adding at the end the following:

"(C) any amount paid by a vendor of goods or services to a person authorized to act as a purchasing agent for a group of individuals or entities who are furnishing services reimbursed under title XVIII or a State health care program if—

Contracts.

"(i) the person has a written contract, with each such individual or entity, which specifies the amount to be paid the person, which amount may be a fixed amount or a fixed percentage of the value of the purchases made by each such individual or entity under the contract, and

"(ii) in the case of an entity that is a provider of services (as defined in section 1861(u)), the person discloses (in such form and manner as the Secretary requires) to the entity and, upon request, to the Secretary the amount received from each such vendor with respect to purchases made by or on behalf of the entity."; 42 USC 1395x.

(7) in subsection (c), by striking "or home health agency (as those terms are employed in this title)" and inserting "home health agency, or other entity for which certification is required under title XVIII or a State health care program"; and 42 USC 1395.

(8) in subsection (d), by striking "this title" and inserting "title XIX" each place it appears. 42 USC 1396.

(b) CRIMINAL PENALTIES FOR PHYSICIAN MISREPRESENTATIONS.—Subsection (a) of such section is further amended—

(1) by striking "or" at the end of paragraph (3),

(2) by inserting "or" at the end of paragraph (4), and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) presents or causes to be presented a claim for a physician's service for which payment may be made under a program under title XVIII or a State health care program and knows that the individual who furnished the service was not licensed as a physician,". Claims.

(c) REDESIGNATION OF SECTION 1877(d) AS SECTION 1128B(e).—Subsection (d) of section 1877 (42 U.S.C. 1395nn) is redesignated as subsection (e) and is transferred and inserted in section 1909 at the end thereof. 42 USC 1396h.

(d) REDESIGNATION OF SECTION 1909 AS SECTION 1128B.—Section 1909, as amended by subsections (a), (b), and (c) of this section, is redesignated as section 1128B and is transferred to title XI and inserted immediately after section 1128A. 42 USC 1320a-7b. 42 USC 1301.

(e) REPEAL.—Section 1877 (other than subsection (d) thereof which was transferred under subsection (c) of this section) is repealed.

SEC. 5. INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS.

(a) MEDICAID PLAN REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended— *Post*, pp. 691, 694.

(1) by striking "and" at the end of paragraph (46),

(2) by striking the period at the end of the paragraph (47) added by section 9407(a) of the Omnibus Budget Reconciliation Act of 1986 and inserting a semicolon and transferring and inserting such paragraph after paragraph (46), 42 USC 1396a.

(3) by striking the period at the end of the paragraph (47) added by section 11005(b) of the Anti-Drug Abuse Act of 1986 and inserting "; and", by redesignating such paragraph as paragraph (48), and by transferring and inserting such paragraph after paragraph (47), and 42 USC 1396a.

(4) by inserting after paragraph (48) the following new paragraph:

"(49) provide that the State will provide information and access to certain information respecting sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 1921.". *Post*, p. 690.

42 USC 1396s. (b) INFORMATION REQUIRED.—Title XIX is amended by redesignating section 1921 as section 1922 and inserting after section 1920 the following new section:

"INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS

42 USC 1396r-2. *Ante*, p. 689; *post*, pp. 691, 694. "SEC. 1921. (a) INFORMATION REPORTING REQUIREMENT.—The requirement referred to in section 1902(a)(49) is that the State must provide for the following:

"(1) INFORMATION REPORTING SYSTEM.—The State must have in effect a system of reporting the following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State (or of a political subdivision thereof) responsible for the licensing of health care practitioners or entities:

"(A) Any adverse action taken by such licensing authority as a result of the proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or probation.

"(B) Any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the State or jurisdiction.

"(C) Any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.

"(2) ACCESS TO DOCUMENTS.—The State must provide the Secretary (or an entity designated by the Secretary) with access to such documents of the authority described in paragraph (1) as may be necessary for the Secretary to determine the facts and circumstances concerning the actions and determinations described in such paragraph for the purpose of carrying out this Act.

"(b) FORM OF INFORMATION.—The information described in subsection (a)(1) shall be provided to the Secretary (or to an appropriate private or public agency, under suitable arrangements made by the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of information) in such a form and manner as the Secretary determines to be appropriate in order to provide for activities of the Secretary under this Act and in order to provide, directly or through suitable arrangements made by the Secretary, information—

"(1) to agencies administering Federal health care programs, including private entities administering such programs under contract,

"(2) to licensing authorities described in subsection (a)(1),

"(3) to State agencies administering or supervising the administration of State health care programs (as defined in section 1128(h)), *Ante*, p. 680.

"(4) to utilization and quality control peer review organizations described in part B of title XI and to appropriate entities with contracts under section 1154(a)(4)(C) with respect to eligible organizations reviewed under the contracts, 42 USC 1320c. 42 USC 1320c-3.

"(5) to State medicaid fraud control units (as defined in section 1903(q)), 42 USC 1396b.

"(6) to hospitals and other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of 1986), with respect to physicians or other licensed health care practitioners that have entered (or may be entering) into an employment or affiliation relationship with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities (and such information shall be deemed to be disclosed pursuant to section 427 of, and be subject to the provisions of, that Act),

Health care facilities.
42 USC 11151.
42 USC 11137.

"(7) to the Attorney General and such other law enforcement officials as the Secretary deems appropriate, and

"(8) upon request, to the Comptroller General,

in order for such authorities to determine the fitness of individuals to provide health care services, to protect the health and safety of individuals receiving health care through such programs, and to protect the fiscal integrity of such programs.

"(c) Confidentiality of Information Provided.—The Secretary shall provide for suitable safeguards for the confidentiality of the information furnished under subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

"(d) Appropriate Coordination.—The Secretary shall provide for the maximum appropriate coordination in the implementation of subsection (a) of this section and section 422 of the Health Care Quality Improvement Act of 1986.".

42 USC 11132.

SEC. 6. OBLIGATION OF HEALTH CARE PRACTITIONERS AND PROVIDERS.

Section 1156 (42 U.S.C. 1320c-5) is amended—

(1) by striking "title XVIII" and "such title" in subsection (a) and inserting "this Act" in each instance, and

(2) by striking "title XVIII" in subsection (b) and inserting "this Act" each place it appears.

SEC. 7. EXCLUSION UNDER THE MEDICAID PROGRAM.

Section 1902 (42 U.S.C. 1396b) is amended by redesignating the subsection (l) added by section 3(b) of the Employment Opportunities for Disabled Americans Act as subsection (o) and by inserting after such subsection the following new subsection:

42 USC 1396a; *ante*, p. 689.

"(p)(1) In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the State plan under this title for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII under section 1128, 1128A, or 1866(b)(2).

42 USC 1395; *ante*, p. 680; 42 USC 1370a-7a, 1395cc.

"(2) In order for a State to receive payments for medical assistance under section 1903(a), with respect to payments the State makes to a health maintenance organization (as defined in section 1903(m)) or to an entity furnishing services under a waiver approved under section 1915(b)(1), the State must provide that it will exclude from participation, as such an organization or entity, any organization or entity that—

42 USC 1396b.
42 USC 1396n.

"(A) could be excluded under section 1128(b)(8) (relating to owners and managing employees who have been convicted of certain crimes or received other sanctions), or

"(B) has, directly or indirectly, a substantial contractual relationship (as defined by the Secretary) with an individual or entity that is described in section 1128(b)(8)(B).

Contracts.

"(3) As used in this subsection, the term 'exclude' includes the refusal to enter into or renew a participation agreement or the termination of such an agreement.".

SEC. 8. MISCELLANEOUS AND CONFORMING AMENDMENTS.

(a) MATERNAL AND CHILD HEALTH PROGRAM.—Section 504(b) (42 U.S.C. 704(b)) is amended—

(1) by striking "or" at the end of paragraph (4),

(2) by striking the period at the end of paragraph (5) and inserting "; or", and

(3) by adding at the end thereof the following new paragraph:

"(6) payment for any item or service (other than an emergency item or service) furnished—

"(A) by an individual or entity during the period when such individual or entity is excluded pursuant to section 1128 or section 1128A from participation in the program under this title, or

Ante, pp. 680, 686.

"(B) at the medical direction or on the prescription of a physician during the period when the physician is excluded pursuant to section 1128 or section 1128A from participation in the program under this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).".

(b) DISCLOSURE REQUIREMENTS.—(1) Subsection (a) of section 1126 (42 U.S.C. 1320a-5) is amended—

(A) in the first sentence, by striking "or other institution" and all that follows through the period at the end and inserting "or other entity (other than an individual practitioner or group of practitioners) shall be required to disclose to the Secretary or to the appropriate State agency the name of any person that is a person described in subparagraphs (A) and (B) of section 1128(b)(8).", and

(B) in the second sentence, by striking "institution, organization, or agency" and inserting "entity".

(2) Subsection (b) of such section is amended by striking "institution, organization, or agency" and inserting "entity" each place it appears.

(c) MEDICARE PAYMENTS.—(1) Section 1862 (42 U.S.C. 1395y) is amended—

(A) by repealing subsection (d), and

(B) by amending subsection (e) to read as follows:

"(e) No payment may be made under this title with respect to any item or service (other than an emergency item or service) furnished—

"(1) by an individual or entity during the period when such individual or entity is excluded pursuant to section 1128 or section 1128A from participation in the program under this title; or

"(2) at the medical direction or on the prescription of a physician during the period when he is excluded pursuant to section 1128 or section 1128A from participation in the program under this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).".

(2) Section 1842(j) (42 U.S.C. 1395u(j)) is amended—

(A) in paragraph (2)—

(i) by amending subparagraph (A) to read as follows:

"(A) excluding a physician from participation in the programs under this title for a period not to exceed 5 years, in accordance with the procedures of subsections (c), (f), and (g) of section 1128, or", and

Ante, p. 680.

(ii) by striking "barred from participation in the program" in the second sentence and inserting "excluded from participation in the programs"; and

(B) by striking "bar" in paragraph (3)(A) and inserting "exclude".

(3) Section 1862(h)(4) (42 U.S.C. 1395y(h)(4)) is amended by striking "paragraphs (2) and (3) of subsection (d)" and inserting "subsections (c), (f), and (g) of section 1128".

(4) Paragraph (3) of section 1886(f) (42 U.S.C. 1395ww(f)) is amended to read as follows:

"(3) The provisions of subsections (c) through (g) of section 1128 shall apply to determinations made under paragraph (2) in the same manner as they apply to exclusions effected under section 1128(b)(13).".

(d) TERMINATION OF PROVIDER AGREEMENTS UNDER MEDICARE.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3), and

(B) by redesignating paragraph (4) as paragraph (3);

(2) by amending subsection (b) to read as follows:

"(b)(1) A provider of services may terminate an agreement with the Secretary under this section at such time and upon such notice to the Secretary and the public as may be provided in regulations, except that notice of more than six months shall not be required.

"(2) The Secretary may refuse to enter into an agreement under this section or, upon such reasonable notice to the provider and the public as may be specified in regulations, may refuse to renew or may terminate such an agreement after the Secretary—

"(A) has determined that the provider fails to comply substantially with the provisions of the agreement, with the provisions of this title and regulations thereunder, or with a corrective action required under section 1886(f)(2)(B),

"(B) has determined that the provider fails substantially to meet the applicable provisions of section 1861, or

42 USC 1395x.

"(C) has excluded the provider from participation in a program under this title pursuant to section 1128 or section 1128A.

42 USC 1320a-7a.

"(3) A termination of an agreement or a refusal to renew an agreement under this subsection shall become effective on the same date and in the same manner as an exclusion from participation under the programs under this title becomes effective under section 1128(c).";

(3) in paragraphs (1) and (3) of subsection (c), by striking "an agreement filed under this title by a provider of services has been terminated by the Secretary" and inserting "the Secretary has terminated or has refused to renew an agreement under this title with a provider of services";

(4) by inserting "or nonrenewal" in subsection (c) after "termination" each place it appears; and

(5) by adding at the end the following new subsection:

"(h)(1) Except as provided in paragraph (2), an institution or agency dissatisfied with a determination by the Secretary that it is not a provider of services or with a determination described in subsection (b)(2) shall be entitled to a hearing thereon by the Secretary (after reasonable notice) to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

42 USC 405.

"(2) An institution or agency is not entitled to separate notice and opportunity for a hearing under both section 1128 and this section with respect to a determination or determinations based on the same underlying facts and issues.".

Ante, p. 680.

(e) CONFORMING AMENDMENT.—Section 1869 (42 U.S.C. 1395ff) is amended by striking subsection (c).

42 USC 1396a; *ante*, pp. 689, 691.

(f) MEDICAID PLAN REVISIONS.—Section 1902(a) (42 U.S.C. 1396b(a)) is amended—

(1) in paragraph (23), by inserting "subsection (g) and in" after "except as provided in",

(2) in paragraph (38), by striking "respectively, (A)" and all that follows up to the semicolon at the end and inserting "the information described in section 1128(b)(9)", and

(3) in paragraph (39)—

(A) by striking "bar" and inserting "exclude",

(B) by striking "person" and inserting "individual or entity" each place it appears, and

(C) by inserting "or section 1128A" after "section 1128".

(g) DENIAL OF FEDERAL FINANCIAL PARTICIPATION UNDER MEDICAID.—Paragraph (2) of section 1903(i) (42 U.S.C. 1396b(i)) is amended to read as follows:

"(2) with respect to any amount expended for an item or service (other than an emergency item or service) furnished—

"(A) under the plan by any individual or entity during any period when the individual or entity is excluded from participation in the State plan under this title pursuant to section 1128 or section 1128A, or

Ante, p. 689.

"(B) at the medical direction or on the prescription of a physician, during the period when such physician is excluded pursuant to section 1128 or section 1128A from participation in the program under this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).".

(h) MEDICAID CONFORMING AMENDMENTS.—(1) Subsection (n) of section 1903 (42 U.S.C. 1396b) is repealed.

(2) Paragraph (2) of section 1915(a) (42 U.S.C. 1396n(a)) is amended to read as follows:

"(2) Restricts for a reasonable period of time the provider or providers from which an individual (eligible for medical assistance for items or services under the State plan) can receive such items or services, if—

"(A) the State has found, after notice and opportunity for a hearing (in accordance with procedures established by the State), that the individual has utilized such items or services at a frequency or amount not medically necessary (as determined in accordance with utilization guidelines established by the State), and

"(B) under such restriction, individuals eligible for medical assistance for such services have reasonable access (taking into account geographic location and reasonable travel time) to such services of adequate quality.".

(i) TITLE XX.—Section 2005(a) (42 U.S.C. 1397d(a)) is amended—

(1) by striking "or" at the end of paragraph (7),

(2) by striking the period at the end of paragraph (8) and inserting "; or", and

(3) by adding at the end thereof the following new paragraph:

"(9) for payment for any item or service (other than an emergency item or service) furnished—

"(A) by an individual or entity during the period when such individual or entity is excluded pursuant to section 1128 or section 1128A from participation in the program under this title, or

Ante, pp. 680, 689.

"(B) at the medical direction or on the prescription of a physician during the period when the physician is excluded pursuant to section 1128 or section 1128A from participation in the program under this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).".

(j) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION TO MANUFACTURE, DISTRIBUTE, OR DISPENSE A CONTROLLED SUBSTANCE FOR ENTITIES EXCLUDED FROM THE MEDICARE PROGRAM.—Section 304(a) of the Controlled Substances Act (21 U.S.C. 824(a)) is amended—

(1) by striking "or" at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting "; or", and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) has been excluded (or directed to be excluded) from participation in a program pursuant to section 1128(a) of the Social Security Act.".

SEC. 9. CLARIFICATION OF MEDICAID MORATORIUM PROVISIONS OF DEFICIT REDUCTION ACT OF 1984.

State and local governments.
42 USC 1396a note.

Section 2373(c) of the Deficit Reduction Act of 1984 (Public Law 98-369; 98 Stat. 1112) is amended to read as follows:

42 USC 1396.
42 USC 1396a.

"(c)(1) The Secretary of Health and Human Services shall not take any compliance, disallowance, penalty, or other regulatory action against a State with respect to the moratorium period described in paragraph (2) by reason of such State's plan described in paragraph (5) under title XIX of the Social Security Act (including any part of the plan operating pursuant to section 1902(f) of such Act), or the operation thereunder, being determined to be in violation of clause (IV), (V), or (VI) of section 1902(a)(10)(A)(ii) or section 1902(a)(10)(C)(i)(III) of such Act on account of such plan's (or its operation) having a standard or methodology which the Secretary interprets as being less restrictive than the standard or methodology required under such section, provided that such plan (or its operation) does not make ineligible any individual who would be eligible but for the provisions of this subsection.

"(2) The moratorium period is the period beginning on October 1, 1981, and ending 18 months after the date on which the Secretary submits the report required under paragraph (3).

Reports.

"(3) The Secretary shall report to the Congress within 12 months after the date of the enactment of this Act with respect to the appropriateness, and impact on States and recipients of medical assistance, of applying standards and methodologies utilized in cash assistance programs to those recipients of medical assistance who do not receive cash assistance, and any recommendations for changes in such requirements.

"(4) No provision of law shall repeal or suspend the moratorium imposed by this subsection unless such provision specifically amends or repeals this subsection.

"(5) In this subsection, a State plan is considered to include—

"(A) any amendment or other change in the plan which is submitted by a State, or

"(B) any policy or guideline delineated in the Medicaid operation or program manuals of the State which are submitted by the State to the Secretary,

whether before or after the date of enactment of this Act and whether or not the amendment or change, or the operating or program manual was approved, disapproved, acted upon, or not acted upon by the Secretary.

"(6) During the moratorium period, the Secretary shall implement (and shall not change by any administrative action) the policy in effect at the beginning of such moratorium period with respect to—

"(A) the point in time at which an institutionalized individual must sell his home (in order that it not be counted as a resource); and

"(B) the time period allowed for sale of a home of any such individual,

who is an applicant for or recipient of medical assistance under the State plan as a medically needy individual (described in section 1902(a)(10)(C) of the Social Security Act) or as an optional categorically needy individual (described in section 1902(a)(10)(A)(ii) of such Act).".

Ante, pp. 689, 694.

SEC. 10. LIMITATION OF LIABILITY OF MEDICARE BENEFICIARIES WITH RESPECT TO SERVICES FURNISHED BY EXCLUDED INDIVIDUALS AND ENTITIES.

Title XVIII is amended by adding at the end the following new section:

"LIMITATION OF LIABILITY OF BENEFICIARIES WITH RESPECT TO SERVICES FURNISHED BY EXCLUDED INDIVIDUALS AND ENTITIES

Claims.
42 USC 1395aaa.

Ante, pp. 680, 689; 42 USC 1320c-5.
42 USC 1320c-9.

Ante, pp. 692, 693.

"SEC. 1890. Where an individual eligible for benefits under this title submits a claim for payment for items or services furnished by an individual or entity excluded from participation in the programs under this title, pursuant to section 1128, 1128A, 1156, 1160 (as in effect on September 2, 1982), 1862(d) (as in effect on the date of the enactment of the Medicare and Medicaid Patient and Program Protection Act of 1987), or 1866, and such beneficiary did not know or have reason to know that such individual or entity was so excluded, then, to the extent permitted by this title, and notwithstanding such exclusion, payment shall be made for such items or services. In each such case the Secretary shall notify the beneficiary of the exclusion of the individual or entity furnishing the items or services. Payment shall not be made for items or services furnished by an excluded individual or entity to a beneficiary after a reasonable time (as determined by the Secretary in regulations) after the Secretary has notified the beneficiary of the exclusion of that individual or entity.".

SEC. 11. DEFINITION OF PERSON WITH OWNERSHIP OR CONTROL INTEREST.

Section 1124(a)(3)(A)(ii) (42 U.S.C. 1320a-3(a)(3)(A)(ii)) is amended by striking "$25,000 or".

SEC. 12. CONDITIONAL APPROVAL OF RENAL DIALYSIS FACILITIES.

Section 1881 (42 U.S.C. 1395rr) is amended by adding at the end the following new subsection:

"(h)(1) In any case where the Secretary—

"(A) finds that a renal dialysis facility is not in substantial compliance with requirements for such facilities prescribed under subsection (b)(1)(A),

"(B) finds that the facility's deficiencies do not immediately jeopardize the health and safety of patients, and

"(C) has given the facility a reasonable opportunity to correct its deficiencies,

the Secretary may, in lieu of terminating approval of the facility, determine that payment under this title shall be made to the facility only for services furnished to individuals who were patients of the facility before the effective date of the notice.

"(2) The Secretary's decision to restrict payments under this subsection shall be made effective only after such notice to the public and to the facility as may be prescribed in regulations, and shall remain in effect until (A) the Secretary finds that the facility is in substantial compliance with the requirements under subsection (b)(1)(A), or (B) the Secretary terminates the agreement under this title with the facility.

"(3) A facility dissatisfied with a determination by the Secretary under paragraph (1) shall be entitled to a hearing thereon by the Secretary (after reasonable notice) to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).". 42 USC 405.

SEC. 13. AMENDMENT RELATING TO FRAUD INVOLVING MEDICARE SUPPLEMENTAL INSURANCE.

Section 1882(d)(1) (42 U.S.C. 1395ss(d)(1)) is amended by striking "knowingly or willfully" and inserting "knowingly and willfully".

SEC. 14. STANDARDS FOR ANTI-KICKBACK PROVISIONS.

42 USC 1320a-7b note.

(a) REGULATIONS.—The Secretary of Health and Human Services, in consultation with the Attorney General, not later than 1 year after the date of the enactment of this Act shall publish proposed regulations, and not later than 2 years after the date of the enactment of this Act shall promulgate final regulations, specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act. Any practices specified in regulations pursuant to the preceding sentence shall be in addition to the practices described in subparagraphs (A) through (C) of section 1128B(b)(3).

Ante, p. 689.
Ante, p. 680.

42 USC 1320a-7b.

(b) CRIMINAL VIOLATION.—Section 1128B(b)(3), as amended and redesignated by section 4 of this Act, is further amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting "; and", and

(3) by adding at the end thereof the following new subparagraph:

"(D) any payment practice specified by the Secretary in regulations promulgated pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987.".

42 USC 1320a-7 note.

SEC. 15. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsections (b), (c), (d), and (e), the amendments made by this Act shall become effective at the end of the fourteen-day period beginning on the date of the enactment of this Act and shall not apply to administrative proceedings commenced before the end of such period.

Ante, p. 680.

(b) MANDATORY MINIMUM EXCLUSIONS APPLY PROSPECTIVELY.—Section 1128(c)(3)(B) of the Social Security Act (as amended by this Act), which requires an exclusion of not less than five years in the case of certain exclusions, shall not apply to exclusions based on convictions occurring before the date of the enactment of this Act.

42 USC 1396.

(c) EFFECTIVE DATE FOR CHANGES IN MEDICAID LAW.—(1) The amendments made by sections 5 and 8(f) apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning more than thirty days after the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendment have been published by such date.

State and local governments.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(3) Subsection (j) of section 1128A of the Social Security Act (as added by section 3(f) of this Act) takes effect on the date of the enactment of this Act.

Claims.

(d) PHYSICIAN MISREPRESENTATIONS.—Clauses (ii) and (iii) of section 1128A(a)(1)(C) of the Social Security Act, as amended by section 3(a)(1) of this Act, apply to claims presented for services performed on or after the effective date specified in subsection (a), without regard to the date the misrepresentation of fact was made.

(e) CLARIFICATION OF MEDICAID MORATORIUM.—The amendments made by section 9 of this Act shall apply as though they were originally included in the enactment of section 2373(c) of the Deficit Reduction Act of 1984.

Ante, p. 695.

(f) TREATMENT OF CERTAIN DENIALS OF PAYMENT.—For purposes of section 1128(b)(8)(B)(iii) of the Social Security Act (as amended by section 2 of this Act), a person shall be considered to have been excluded from participation under a program under title XVIII if payment to the person has been denied under section 1862(d) of the Social Security Act, as in effect before the effective date specified in subsection (a).

42 USC 1395.

Ante, p. 692.

Approved August 18, 1987.

LEGISLATIVE HISTORY—H.R. 1444 (S. 661):

HOUSE REPORTS: No. 100-85, Pt. 1 (Comm. on Energy and Commerce) and Pt. 2 (Comm. on Ways and Means).
SENATE REPORTS: No. 100-109 accompanying S. 661 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 133 (1987):
- June 1, 2, considered and passed House.
- July 23, considered and passed Senate, amended, in lieu of S. 661.
- July 30, House concurred in Senate amendment.

○

PUBLIC LAW 100-94—AUG. 18, 1987

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE ACT, AMENDMENTS

91-139 - 0 - 87 - (94)

Public Law 100-94
100th Congress

An Act

Aug. 18, 1987
[H.R. 2309]

To amend the Christopher Columbus Quincentenary Jubilee Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Christopher Columbus Quincentenary Jubilee Act (Public Law 98-375; 98 Stat. 1257).

SEC. 2. ADDITIONAL NONVOTING PARTICIPANT.

98 Stat. 1257.

Section 3(c) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2)(A) For purposes of this paragraph, the term 'country or other political entity' means any country or territory or successor political entity listed under section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2707(b)).

President of U.S.

"(B) In addition to the individuals under paragraph (1), the President is authorized and requested to invite the government of any country or other political entity recommended under subparagraph (D) to appoint 1 individual to serve as a nonvoting participant under this paragraph.

"(C)(i) Not more than 1 country or other political entity may be represented under this paragraph at any time, and, except as provided in clause (ii), the term for which any such country or other entity may be so represented shall be 1 calendar year, beginning with calendar year 1988.

"(ii) In the year in which the Commission terminates, the term of appointment under this paragraph shall end on the Commission's termination date.

"(D) The Commission shall submit to the President, on an annual basis, the name of any country or other political entity which the Commission considers appropriate, except that—

"(i) no country or other political entity may be represented under this paragraph more than once; and

Bahamas.

"(ii) the first country to be recommended under this subparagraph shall be the Bahamas, which was the first place where Columbus landed in the course of his voyages of exploration.".

SEC. 3. OFFICIAL REPRESENTATION EXPENSES.

98 Stat. 1259.

Section 6 is amended by adding at the end the following:

"(f) In carrying out any functions or duties with respect to representatives of foreign governments, the Commission may, out of amounts available under section 7(a), expend not to exceed $7,500 in any calendar year.".

SEC. 4. INCREASE IN MAXIMUM DONATIONS ALLOWABLE.

Gifts and property.
98 Stat. 1260.

Section 7(a) is amended to read as follows:

"(a) The Commission may accept donations of money, property, or personal services, except that—

"(1) the aggregate amount of any donations which may be accepted from an individual in any year may not exceed $250,000; and

"(2) the aggregate amount of any donations which may be accepted from a foreign government, corporation, partnership, or other person (other than an individual) in any year may not exceed $1,000,000.".

SEC. 5. APPOINTMENT OF STAFF.

Section 8(b)(1) is amended to read as follows: 98 Stat. 1261.

"(1) appoint and fix the compensation of such additional personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that—

5 USC 5101 *et seq.*
5 USC 5331.
5 USC 5332.

"(A) not to exceed 20 staff members appointed under this paragraph may be paid out of amounts available under section 11, and any individual appointed to a position funded in such manner may not be paid at a rate in excess of the rate for grade GS-18 of the General Schedule; and

Post, p. 703.

"(B) any other staff member appointed under this paragraph may be paid out of amounts available under section 7(a), and any individual appointed to a position funded in such manner—

"(i) shall be so designated at the time of such individual's appointment; and

"(ii) shall not be considered an employee of the United States other than for purposes of—

"(I) chapter 81 of title 5, United States Code, relating to compensation for work injuries; 5 USC 8101 *et seq.*

"(II) chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest; and 18 USC 201 *et seq.*

"(III) chapter 171 of title 28, United States Code, relating to tort claims.". 28 USC 2671 *et seq.*

SEC. 6. ADVISORY COMMITTEE MEMBERS.

Section 9(b) is amended— 98 Stat. 1261.

(1) by inserting "(1)" after "(b)";

(2) by inserting ", except as provided in paragraph (2)," after "compensation, and"; and

(3) by adding at the end the following:

"(2)(A) Persons appointed to advisory committees under section 8(b)(2) may, while away from their homes or regular places of business in the performance of services for the Commission, be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

"(B) Any amount payable under subparagraph (A) shall be paid out of amounts available under section 7(a).".

SEC. 7. OFFICIAL LOGO.

98 Stat. 1262.

(a) IN GENERAL.—Section 10 is amended—

(1) by amending subsection (a) to read as follows:

"(a)(1) For the purpose of this section, the term 'Christopher Columbus Quincentenary Logo' means the symbol or mark designated by the Commission for use in connection with the commemoration of the quincentennial of the voyages of discovery of Christopher Columbus.

Marketing.

"(2) The Commission may, in accordance with rules and regulations which the Commission shall prescribe, authorize the manufacture, reproduction, use, sale, or distribution of the Christopher Columbus Quincentenary Logo.

"(3) The rules and regulations under paragraph (2) shall include provisions under which—

"(A) fees may be charged for any authorization under this subsection (including circumstances under which any such fee may be waived);

"(B) any authorization granted under this subsection shall not be subject to reassignment or transfer without approval by the Commission; and

"(C) any authorization granted under this subsection may be revoked or otherwise terminated.

"(4) Amounts charged under paragraph (3)(A) shall be available to the Commission.";

(2) in subsection (b)—

Marketing.

(A) by striking "or uses any such logos, symbols, or marks, or any facsimile thereof, or in such a manner as suggests any such logos, symbols, or marks," and inserting in lieu thereof "uses, sells, or distributes the Christopher Columbus Quincentenary Logo"; and

(B) by striking the second sentence thereof; and

(3) by adding at the end the following:

Federal Register, publication.

"(c)(1) Notice of designation under subsection (a)(1) shall be published in the Federal Register.

"(2) Any rules and regulations under subsection (a), and any penalty under subsection (b), shall apply only in the case of any symbol or mark for which the Commission publishes notice of designation under paragraph (1).".

(b) SAVINGS PROVISIONS.—(1) All rules and regulations issued by the Christopher Columbus Quincentenary Jubilee Commission in connection with section 10 of the Christopher Columbus Quincentenary Jubilee Act (as in effect before the enactment of this Act) shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed by the Commission.

(2) No suit, action, or other proceeding lawfully commenced before the amendments made by subsection (a) become effective shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.

SEC. 8. TERMINATION DATE.

Sections 11(a), 11(b), and 12(a) are each amended by striking "November 15, 1992" and inserting in lieu thereof "December 31, 1993". 98 Stat. 1262.

Approved August 18, 1987.

LEGISLATIVE HISTORY—H.R. 2309:

HOUSE REPORTS: No. 100-254 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 3, considered and passed House.
Aug. 5, considered and passed Senate.

○

WAMPANOAG TRIBAL COUNCIL OF GAY HEAD, INC., INDIAN CLAIMS SETTLEMENT ACT OF 1987

91-139 - 0 - 87 - (95)

Public Law 100-95
100th Congress

An Act

Aug. 18, 1987
[H.R. 2855]

To settle Indian land claims in the town of Gay Head, Massachusetts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Wampanoag Tribal Council of Gay Head, Inc., Indian Claims Settlement Act of 1987.
25 USC 1771 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wampanoag Tribal Council of Gay Head, Inc., Indian Claims Settlement Act of 1987".

25 USC 1771.

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY.

The Congress hereby finds and declares that—

(1) there is pending before the United States District Court for the District of Massachusetts a lawsuit that involves Indian claims to certain public lands within the town of Gay Head, Massachusetts;

(2) the pendency of this lawsuit has resulted in severe economic hardships for the residents of the town of Gay Head by clouding the titles to much of the land in the town, including land not involved in the lawsuit;

(3) the Congress shares with the Commonwealth of Massachusetts and the parties to the lawsuit a desire to remove all clouds on titles resulting from such Indian land claim;

(4) the parties to the lawsuit and others interested in settlement of Indian land claims within the Commonwealth of Massachusetts executed a Settlement Agreement which, to become effective, requires implementing legislation by the Congress of the United States and the General Court of the Commonwealth of Massachusetts;

(5) the town of Gay Head has agreed to contribute approximately 50 percent of the land involved in this settlement;

(6) the State of Massachusetts has agreed to provide up to $2,250,000 to be used for the purchase of land to be held in trust by the Secretary for the use and benefit of the Wampanoag Tribal Council of Gay Head, Inc.; and

(7) the Secretary has acknowledged the existence of the Wampanoag Tribal Council of Gay Head, Inc. as an Indian tribe and Congress hereby ratifies and confirms that existence as an Indian tribe with a government to government relationship with the United States.

25 USC 1771a.

SEC. 3. GAY HEAD INDIAN CLAIMS SETTLEMENT FUND.

(a) Fund Established.—There is hereby established within the Treasury of the United States a fund to be known as the "Wampanoag Tribal Council of Gay Head, Inc. Claims Settlement Fund". Amounts in the fund shall be available to the Secretary to carry out the purposes of this Act.

(b) AUTHORIZATION FOR APPROPRIATION.—There is hereby authorized to be appropriated $2,250,000 for such fund to remain available until expended.

(c) STATE CONTRIBUTION REQUIRED.—Amounts may be expended from the fund only upon deposit by the State of Massachusetts into the fund of an amount equal to that amount to be expended by the United States so that both the United States and the State of Massachusetts bear one-half of the cost of the acquisition of lands under section 6.

SEC. 4. APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF ABORIGINAL TITLE AND CLAIMS OF GAY HEAD INDIANS.

25 USC 1771b.

(a) APPROVAL OF PRIOR TRANSFERS.—(1) Any transfer before the date of the enactment of this Act of land or natural resources now located anywhere within the United States from, by, or on behalf of the Wampanoag Tribal Council of Gay Head, Inc., or (2) any transfer before the date of the enactment of this Act by, from, or on behalf of any Indian, Indian nation, or tribe or band of Indians, of any land or natural resources located anywhere within the town of Gay Head, Massachusetts, including any transfer pursuant to any statute of the State, and the incorporation of the town of Gay Head, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians (including the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), and all amendments thereto and all subsequent versions thereof). Any such transfer and any transfer in implementation of this Act, shall be deemed to have been made with the consent and approval of Congress as of the date of such transfer.

(b) EXTINGUISHMENT OF ABORIGINAL TITLE.—Any aboriginal title held by the Wampanoag Tribal Council of Gay Head, Inc. or any other entity presently or at any time in the past known as the Gay Head Indians, to any land or natural resources the transfer of which is consented to and approved in subsection (a) is considered extinguished as of the date of such transfer.

(c) EXTINGUISHMENT OF CLAIMS ARISING FROM PRIOR TRANSFERS OR EXTINGUISHMENT OF ABORIGINAL TITLE.—Any claim (including any claim for damages for use and occupancy) by the Wampanoag Tribal Council of Gay Head, Inc., the Gay Head Indians, or any other Indian, Indian nation, or tribe or band of Indians against the United States, any State or political subdivision of a State, or any other person which is based on—

(1) any transfer of land or natural resources which is consented to and approved in subsection (a), or

(2) any aboriginal title to land or natural resources the transfer of which is consented to and approved in subsection (b),

is extinguished as of the date of any such transfer.

(d) PERSONAL CLAIMS NOT AFFECTED.—No provision of this section shall be construed to offset or eliminate the personal claim of any individual Indian which is pursued under any law of general applicability that protects non-Indians as well as Indians.

SEC. 5. CONDITIONS PRECEDENT TO FEDERAL PURCHASE OF SETTLEMENT LANDS.

25 USC 1771c.

Federal Register, publication.

(a) INITIAL DETERMINATION OF STATE AND LOCAL ACTION.—No action shall be taken by the Secretary under section 6 before the

Secretary publishes notice in the Federal Register of the determination by the Secretary that—

(1) the Commonwealth of Massachusetts has enacted legislation which provides that—

(A) the town of Gay Head, Massachusetts, is authorized to convey to the Secretary to be held in trust for the Wampanoag Tribal Council of Gay Head, Inc. the public settlement lands and the Cook lands subject to the conditions and limitations set forth in the Settlement Agreement; and

(B) the Wampanoag Tribal Council of Gay Head, Inc. shall have the authority, after consultation with appropriate State and local officials, to regulate any hunting by Indians on the settlement lands that is conducted by means other than firearms or crossbow to the extent provided in, and subject to the conditions and limitations set forth in, the Settlement Agreement;

(2) the Wampanoag Tribal Council of Gay Head, Inc., has submitted to the Secretary an executed waiver or waivers of the claims covered by the Settlement Agreement all claims extinguished by this Act, and all claims arising because of the approval of transfers and extinguishment of titles and claims under this Act; and

(3) the town of Gay Head, Massachusetts, has authorized the conveyance of the public settlement lands and the Cook Lands to the Secretary in trust for the Wampanoag Tribal Council of Gay Head, Inc.

(b) Reliance Upon the Attorney General of Massachusetts.—In making the findings required in subsection (a) of this section, the Secretary may rely upon the opinion of the Attorney General of the Commonwealth of Massachusetts.

25 USC 1771d.

SEC. 6. PURCHASE AND TRANSFER OF SETTLEMENT LANDS.

(a) Purchase of Private Settlement Lands.—The Secretary is authorized and directed to expend, at the request of the Wampanoag Tribal Council of Gay Head, Inc., $2,125,000 to acquire the private settlement lands. At the request of the Wampanoag Tribal Council of Gay Head, Inc., the Secretary shall not purchase lots 705, 222, and 528 of the private settlement lands, but, at the request of the Wampanoag Tribal Council of Gay Head, Inc., the Secretary shall acquire in lieu thereof such other lands that are contiguous to the remaining private settlement lands. Upon the purchase of such contiguous lands, those lands shall be subject to the same restrictions and benefits as the private settlement lands.

(b) Payment for Survey and Appraisal.—The Secretary is authorized and directed to cause a survey of the public settlement lands to be made within 60 days of acquiring title to the public settlement lands. The Secretary shall reimburse the Native American Rights Fund and the Gay Head Taxpayers Association for an appraisal of the private settlement lands done by Paul O'Leary dated May 1, 1987. Such funds as may be necessary may be withdrawn from the Fund established in section 3(a) and may be used for the purpose of conducting the survey and providing reimbursement for the appraisal.

Paul O'Leary.

(c) Acquisition of Additional Lands.—The Secretary shall expend, at the request of the Wampanoag Tribal Council of Gay Head, Inc., any remaining funds not required by subsection (a) or (b) to acquire any additional lands that are contiguous to the private settlement lands. Any lands acquired pursuant to this section, and any other lands which are hereafter held in trust for the Wampanoag Tribal Council of Gay Head, Inc., any successor, or individual member, shall be subject to this Act, the Settlement Agreement and other applicable laws. Any after acquired land held in trust for the Wampanoag Tribal Council of Gay Head, Inc., any successor, or individual member, shall be subject to the same benefits and restrictions as apply to the most analogous land use described in the Settlement Agreement.

(d) TRANSFER AND SURVEY OF LAND TO WAMPANOAG TRIBAL COUNCIL.—Any right, title, or interest to lands acquired by the Secretary under this section, and the title to public settlement lands conveyed by the town of Gay Head, shall be held in trust for the Wampanoag Tribal Council of Gay Head, Inc. and shall be subject to this Act, the Settlement Agreement, and other applicable laws.

(e) PROCEEDINGS AUTHORIZED TO ACQUIRE OR TO PERFECT TITLE.—The Secretary is authorized to commence such condemnation proceedings as the Secretary may determine to be necessary—

(1) to acquire or perfect any right, title, or interest in any private settlement land, and

(2) to condemn any interest adverse to any ostensible owner of such land.

(f) PUBLIC SETTLEMENT LANDS HELD IN TRUST.—The Secretary is authorized to accept and hold in trust for the benefit of the Wampanoag Tribal Council of Gay Head, Inc. the public settlement lands as described in section 8(7) of this Act immediately upon the effective date of this Act.

(g) APPLICATION.—The terms of this section shall apply to land in the town of Gay Head. Any land acquired by the Wampanoag Tribal Council of Gay Head, Inc., that is located outside the town of Gay Head shall be subject to all the civil and criminal laws, ordinances, and jurisdiction of the Commonwealth of Massachusetts.

(h) SPENDING AUTHORITY.—Any spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974) provided in this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. 2 USC 651.

SEC. 7. JURISDICTION OVER SETTLEMENT LANDS; RESTRAINT ON ALIENATION.

25 USC 1771e.

(a) LIMITATION ON INDIAN JURISDICTION OVER SETTLEMENT LANDS.—The Wampanoag Tribal Council of Gay Head, Inc., shall not have any jurisdiction over nontribal members and shall not exercise any jurisdiction over any part of the settlement lands in contravention of this Act, the civil regulatory and criminal laws of the Commonwealth of Massachusetts, the town of Gay Head, Massachusetts, and applicable Federal laws.

(b) SUBSEQUENT HOLDER BOUND TO SAME TERMS AND CONDITIONS.—Any tribe or tribal organization which acquires any settlement land or any other land that may now or in the future be owned by or held in trust for any Indian entity in the town of Gay Head, Massachusetts, from the Wampanoag Tribal Council of Gay Head, Inc. shall hold such beneficial interest to such land subject to the same terms and conditions as are applicable to such lands when held by such council.

(c) Reservations of Right and Authority Relating to Settlement Lands.—No provision of this Act shall affect or otherwise impair—

(1) any authority to impose a lien or temporary seizure on the settlement lands as provided in the State Implementing Act;

(2) the authority of the Secretary to approve leases in accordance with the Act entitled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955 (25 U.S.C. 415 et seq.); or

(3) the legal capacity of the Wampanoag Tribal Council of Gay Head, Inc. to transfer the settlement lands to any tribal entity which may be organized as a successor in interest to Wampanoag Tribal Council of Gay Head, Inc. or to transfer—

(A) the right to use the settlement lands to its members,

(B) any easement for public or private purposes in accordance with the laws of the Commonwealth of Massachusetts or the ordinances of the town of Gay Head, Massachusetts, or

(C) title to the West Basin Strip to the town of Gay Head, Massachusetts, pursuant to the terms of the Settlement Agreement.

(d) Exemption From State Assessment.—Any land held in trust by the Secretary for the benefit of the Wampanoag Tribal Council of Gay Head, Inc. shall be exempt from taxation or lien or "in lieu of payment" or other assessment by the State or any political subdivision of the State to the extent provided by the Settlement Agreement: *Provided, however,* That such taxation or lien or "in lieu of payment" or other assessment will only apply to lands which are zoned and utilized as commercial: *Provided further,* That this section shall not be interpreted as restricting the Tribe from entering into an agreement with the town of Gay Head to reimburse such town for the delivery of specific public services on the tribal lands.

25 USC 1771f.

SEC. 8. DEFINITIONS.

For the purposes of this Act:

(1) Cook lands.—The term "Cook lands" means the lands described in paragraph (5) of the Settlement Agreement.

(2) Wampanoag tribal council of gay head, inc.—The term "Wampanoag Tribal Council of Gay Head, Inc." means the tribal entity recognized by the Secretary of the Interior as having a government to government relationship with the United States. The Wampanoag Tribal Council of Gay Head, Inc. is the sole and legitimate tribal entity which has a claim under the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), to land within the town of Gay Head. The membership of the Wampanoag Tribal Council of Gay Head, Inc., includes those 521 individuals who have been recognized by the Secretary of the Interior as being members of the Wampanoag Tribal Council of Gay Head, Inc., and such Indians of Gay Head ancestry as may be added from time to time by the governing body of the Wampanoag Tribal Council of Gay Head, Inc.: *Provided,* That nothing in this section shall prevent the voluntary withdrawal from membership in the Wampanoag Tribal Council of Gay Head, Inc., pursuant to procedures established by the Tribe. The governing body of the

Wampanoag Tribal Council of Gay Head, Inc. is hereby authorized to act on behalf of and bind the Wampanoag Tribal Council of Gay Head, Inc., in all matters related to carrying out this Act.

(3) FUND.—The term "fund" means the Wampanoag Tribal Council of Gay Head, Inc. Claims Settlement Fund established under section 3.

(4) LAND OR NATURAL RESOURCES.—The term "land or natural resources" means any real property or natural resources or any interest in or right involving any real property or natural resource, including but not limited to, minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(5) LAWSUIT.—The term "lawsuit" means the action entitled Wampanoag Tribal Council of Gay Head, and others versus Town of Gay Head, and others (C.A. No. 74-5826-McN (D. Mass.)).

(6) PRIVATE SETTLEMENT LANDS.—The term "private settlement lands" means approximately 177 acres of privately held land described in paragraph 6 of the Settlement Agreement.

(7) PUBLIC SETTLEMENT LANDS.—The term "public settlement lands" means the lands described in paragraph (4) of the Settlement Agreement.

(8) SETTLEMENT LANDS.—The term "settlement lands" means the private settlement lands and the public settlement lands.

(9) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(10) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the document entitled "Joint Memorandum of Understanding Concerning Settlement of the Gay Head, Massachusetts, Indian Land Claims," executed as of November 22, 1983, and renewed thereafter by representatives of the parties to the lawsuit, and as filed with the Secretary of the Commonwealth of Massachusetts.

(11) STATE IMPLEMENTING ACT.—The term "State implementing act" means legislation enacted by the Commonwealth of Massachusetts conforming to the requirements of this Act and the requirements of the Massachusetts Constitution.

(12) TRANSFER.—The term "transfer" includes—

(A) any sale, grant, lease, allotment, partition, or conveyance,

(B) any transaction the purpose of which is to effect a sale, grant, lease, allotment, partition, or conveyance, or

(C) any event or events that resulted in a change of possession or control of land or natural resources.

(13) WEST BASIN STRIP.—The term "West Basin Strip" means a strip of land along the West Basin which the Wampanoag Tribal Council is authorized to convey, under paragraph (11) of the Settlement Agreement, to the town of Gay Head.

SEC. 9. APPLICABILITY OF STATE LAW.

25 USC 1771g.

Except as otherwise expressly provided in this Act or in the State Implementing Act, the settlement lands and any other land that may now or hereafter be owned by or held in trust for any Indian tribe or entity in the town of Gay Head, Massachusetts, shall be subject to the civil and criminal laws, ordinances, and jurisdiction of the Commonwealth of Massachusetts and the town of Gay Head, Massachusetts (including those laws and regulations which prohibit or regulate the conduct of bingo or any other game of chance).

25 USC 1771h.

SEC. 10. LIMITATIONS OF ACTION; JURISDICTION.

Notwithstanding any other provision of law, any action to contest the constitutionality or validity under law of this Act shall be barred unless the complaint is filed within thirty days after the date of enactment of this Act. Exclusive original jurisdiction over any such action and any proceedings under section 6(e) is hereby vested in the United States District Court of the District of Massachusetts.

25 USC 1771 note.

SEC. 11. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), this Act shall take effect upon the date of enactment.

(b) Exception.—Section 4 shall take effect upon the date on which the title of all of the private settlement lands provided for in this Act to the Wampanoag Tribal Council of Gay Head, Inc. is transferred. The fact of such transfer, and the date thereof, shall be certified and recorded by the Secretary of the Commonwealth of Massachusetts.

25 USC 1771i.

SEC. 12. ELIGIBILITY.

For the purpose of eligibility for Federal services made available to members of federally recognized Indian tribes, because of their status as Indians, members of this tribe residing on Martha's Vineyard, Massachusetts, shall be deemed to be living on or near an Indian reservation.

Approved August 18, 1987.

LEGISLATIVE HISTORY—H.R. 2855:

HOUSE REPORTS: No. 100-238 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 28, considered and passed House.
Aug. 6, considered and passed Senate.

○

Public Law 100-96
100th Congress

Joint Resolution

To support a ceasefire in the Iran-Iraq war and a negotiated solution to the conflict.

Aug. 18, 1987
[H.J. Res. 216]

Whereas the conflict between Iran and Iraq has resulted in more than 400,000 fatalities on both sides, including tens of thousands of adolescents since its beginning in September 1980;

Whereas both sides have resorted to periodic attacks on the civilian population of the other country, including Iranian missile attacks on Baghdad and Iraqi Air Force bombing raids on Iranian population centers;

Whereas more than 75,000 prisoners of war are being held on both sides;

Whereas Iraq has resorted to the use of chemical weapons, in violation of its obligations under international law not to use such weapons;

Whereas attacks on neutral shipping in the Persian Gulf threaten to limit the access of the United States and its allies to oil supplies from the region;

Whereas Iranian troops continue to occupy Iraqi territory;

Whereas the possibility of a decisive Iranian breakthrough cannot be precluded as long as the war continues;

Whereas such a breakthrough would be destabilizing to a number of friendly countries in the region, which would be increasingly vulnerable as a result of an Iranian victory both to direct Iranian attacks and to Iranian sponsored subversion and terrorist activities;

Whereas a continuation of the conflict will inevitably lead to tens of thousands of additional casualties, including large numbers of civilians; and

Whereas the Iraqi Government has called for an immediate ceasefire and a negotiated solution to the conflict, including a withdrawal to the internationally recognized border: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSEQUENCES OF CONTINUATION OF IRAN-IRAQ WAR.

The Congress finds that continuation of the Iran-Iraq war—

(1) would produce unacceptable levels of death and destruction which would be incompatible with the humanitarian concerns and values of the American people; and

(2) could result in an Iranian breakthrough which would threaten the stability of the entire region and would not be in the strategic interests of the United States.

SEC. 2. SUPPORT FOR A CEASEFIRE AND A NEGOTIATED SOLUTION TO THE CONFLICT.

Accordingly, the policy of the United States Government shall be to support—

(1) a ceasefire and a negotiated solution to the Iran-Iraq conflict, including a withdrawal to the internationally recognized border, and

(2) the establishment of an international tribunal to investigate the origins of the conflict.

SEC. 3. INTERNATIONAL MEASURES IF NEGOTIATIONS AND CEASEFIRE REJECTED.

It is the sense of the Congress that if either party to the Iran-Iraq war rejects peace negotiations and an internationally sanctioned ceasefire, including a withdrawal to the internationally recognized border, the United States should support internationally approved political and economic measures against that country, and maintain existing limitations on trade.

Approved August 18, 1987.

LEGISLATIVE HISTORY—H.J. Res. 216:

CONGRESSIONAL RECORD, Vol. 133 (1987):
July 13, considered and passed House.
Aug. 7, considered and passed Senate.

○

Public Law 100-97
100th Congress

An Act

To provide grants to support excellence in minority health professions education.

Aug. 18, 1987
[S. 769]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Excellence in Minority Health Education and Care Act".

Excellence in Minority Health Education and Care Act.
42 USC 201 note.

FINDINGS AND PURPOSES

42 USC 295g-8a note.

SEC. 2. (a) The Congress makes the following findings:

(1) Minority health care needs are currently greater than the health care needs of the general population.

(2) While the number of health professionals has increased, there are still shortages of health professionals from minority groups and there has been a drop in the enrollment of minority individuals in some health professions education programs.

(3) Health professionals from minority groups have critical roles in serving low-income minority populations, particularly in inner-city areas and rural areas.

(4) Historically, minority schools have developed a special capacity to conduct activities to prepare health professionals to serve minority populations.

(5) Health professions schools which train a disproportionate number of minority students also provide a disproportionate amount of health care services to minority populations.

(6) A disproportionate number of minority students trained at the schools described in paragraph (5) choose to practice in underserved areas.

(7) In the United States—

(A) there are only 4 schools of medicine, 2 schools of dentistry, and 4 schools of pharmacy which focus predominantly on minority health professions education, and 40 percent of black physicians, 50 percent of all black dentists, and 25 percent of all black pharmacists have trained at one of those schools; and

(B) there is only 1 school of veterinary medicine which focuses predominantly on the training of minority students, and that school has trained 75 percent of all black veterinarians.

(b) The purposes of this Act are to—

(1) strengthen the national capacity to train minority students in the health professions; and

(2) support the health professions schools which have trained a significant number of the Nation's minority health professionals and enable those schools to supply health professionals to serve minority populations in underserved areas.

ASSISTANCE

SEC. 3. Part F of title VII of the Public Health Service Act is amended by inserting before section 788B the following new section:

"GRANTS FOR MINORITY EDUCATION

Schools and colleges.
42 USC 295g-8a.

"SEC. 788A. (a) The Secretary shall make grants to health professions schools to assist such schools in supporting programs of excellence in health professions education for minority individuals. A grant under this section shall be used by a health professions school to—

"(1) develop a plan to achieve institutional improvements, including financial independence, to enable such school to support programs of excellence in health professions education for minority individuals;

"(2) improve the capacity of such school to recruit and retain faculty;

Libraries.

"(3) provide improved access to the library and information resources of such school;

"(4) establish, strengthen, or expand programs to enhance the academic performance of students in such school;

"(5) establish, strengthen, or expand programs to increase the number and quality of applicants for admission to such school; and

"(6) develop curricula and carry out faculty training programs in order to enable such school to become, for the Nation's health care providers, a resource with respect to the health problems of minority communities, such as higher infant mortality rates and higher incidences of acquired immunodeficiency syndrome.

"(b) No grant may be made under this section unless an application therefor has been submitted to the Secretary at such time, in such form, and containing such information, as the Secretary may by regulation prescribe.

"(c) In order to be eligible for a grant under this section, a health professions school must—

42 USC 292a.

"(1) be a school described in section 701(4); and

Contracts.
42 USC 295g-8b.

"(2) have received a contract under section 788B for fiscal year 1987.

Appropriation authorization.

"(d) To carry out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991.".

Approved August 18, 1987.

LEGISLATIVE HISTORY—S. 769:

SENATE REPORTS: No. 100-110 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 21, considered and passed Senate.
Aug. 4, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
Aug. 18, Presidential statement.

○

Public Law 100-98
100th Congress

An Act

To designate the Federal building located at 330 Independence Avenue, SW, Washington, District of Columbia, as the "Wilbur J. Cohen Federal Building".

Aug. 18, 1987
[S. 1371]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 330 Independence Avenue, SW, Washington, District of Columbia, shall be known and designated as the "Wilbur J. Cohen Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference to such building in any law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "Wilbur J. Cohen Federal Building".

Approved August 18, 1987.

LEGISLATIVE HISTORY—S. 1371 (H.R. 2655):

HOUSE REPORTS: No. 100-269 accompanying H.R. 2655 (Comm. on Public Works and Transportation).

CONGRESSIONAL RECORD, Vol. 133 (1987):
July 7, considered and passed Senate.
Aug. 6, considered and passed House in lieu of H.R. 2655.

○

Public Law 100-99
100th Congress

An Act

Aug. 18, 1987
[S. 1577]

To extend certain protections under title 11 of the United States Code, the Bankruptcy Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 100-41 is amended by striking out "September 15, 1987" and inserting in lieu thereof "October 15, 1987".

Ante, p. 309.

Approved August 18, 1987.

LEGISLATIVE HISTORY—S. 1577:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 3, considered and passed Senate.
Aug. 6, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
Aug. 8, Presidential statement.

○

91-139 0 - 87 (99)

Public Law 100-100
100th Congress

An Act

To amend the Farm Disaster Assistance Act of 1987 to extend the reporting date for the ethanol cost effectiveness study.

Aug. 18, 1987
[S. 1597]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ETHANOL COST-EFFECTIVENESS STUDY.

(a) IN GENERAL.—Section 13(d) of the Farm Disaster Assistance Act of 1987 (Public Law 100-45; 101 Stat. 324) is amended by striking out "90 days" and inserting in lieu thereof "180 days".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on May 27, 1987.

Approved August 18, 1987.

LEGISLATIVE HISTORY—S. 1597:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 5, considered and passed Senate.
Aug. 7, considered and passed House.

○

Public Law 100-101
100th Congress

Joint Resolution

Aug. 18, 1987
[S.J. Res. 44]

To designate November 1987, as "National Diabetes Month".

Whereas diabetes is the third leading cause of death, killing more than all other diseases except cancer and cardiovascular diseases;

Whereas diabetes afflicts 11 million Americans and over five million of these individuals are not aware of their illness;

Whereas nearly $14,000,000,000 annually are spent on health care costs, disability payments and premature mortality costs due to diabetes;

Whereas up to 85 per centum of all cases of non-insulin dependent diabetes may be preventable through greater public understanding, awareness, and education;

Whereas diabetes is particularly prevalent among black, Hispanic, and Native Americans, and women;

Whereas diabetes is the number one cause of new blindness in people between the ages of twenty and seventy-four, and is a leading cause of kidney disease, heart disease, strokes, birth defects, and lower life expectancy, the severity of which all may be reduced through greater patient and public understanding, awareness, and education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1987 is designated as "National Diabetes Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate programs, ceremonies, and activities.

Approved August 18, 1987.

LEGISLATIVE HISTORY—S.J. Res. 44:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
Aug. 6, considered and passed House.

○

91-139 - 0 - 87 (101)

Public Law 100-102
100th Congress

Joint Resolution

To designate September 18, 1987, as "National POW/MIA Recognition Day".

Aug. 18, 1987
[S.J. Res. 49]

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;

Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many prisoners of war died from such treatment;

Whereas many Americans are still listed as missing and unaccounted for and the uncertainty surrounding their fates has caused their families to suffer acute hardship; and

Whereas the sacrifices of American prisoners of war and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 18, 1987, shall be designated as "National POW/MIA Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved August 18, 1987.

LEGISLATIVE HISTORY—S.J. Res. 49:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 24, considered and passed Senate.
Aug. 6, considered and passed House.

○

Public Law 100-103
100th Congress

Joint Resolution

Aug. 18, 1987
[S.J. Res. 87]

To designate November 17, 1987, as "National Community Education Day".

Whereas public education is a community enterprise, and everyone in the community has a stake in the mission of educating adults as well as the community's children;

Whereas local citizens have a right and a responsibility to be involved in deciding how the educational resources of the community should be used;

Whereas education reform should, in the words of A Nation at Risk, "focus on the goal of creating a Learning Society";

Whereas the goal of community education is to promote parental involvement, lifelong learning, and educational partnerships;

Whereas each community should promote the use of community resources in schools and colleges, citizen involvement in educational decisionmaking, the use of community resources to provide educational opportunities for learners of all ages and educational backgrounds, and interagency cooperation to assure effective use of limited resources; and

Whereas community education encourages the participation of all generations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 17, 1987, is designated as "National Community Education Day", and the President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved August 18, 1987.

LEGISLATIVE HISTORY—S.J. Res. 87:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
Aug. 6, considered and passed House.

○

Public Law 100-104
100th Congress

Joint Resolution

To designate October 6, 1987, as "German-American Day".

Aug. 18, 1987
[S.J. Res. 108]

Whereas the tricentennial of the arrival of the first German immigrants to the United States was celebrated on October 6, 1983;
Whereas such day was proclaimed by the President to be German-American Day in honor of the contributions made by German immigrants to the life and culture of the United States;
Whereas such contributions should be recognized and celebrated every year; and
Whereas the German-American Friendship Garden, symbolic of friendly relations between West Germany and the United States, will be dedicated in the District of Columbia in the near future: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 6, 1987, is designated as "German-American Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Approved August 18, 1987.

LEGISLATIVE HISTORY—S.J. Res. 108:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
Aug. 6, considered and passed House.

Public Law 100-105
100th Congress

Joint Resolution

Aug. 18, 1987
[S.J. Res. 109]

To designate the week beginning October 4, 1987, as "National School Yearbook Week".

Whereas educating the young people of the United States is essential in ensuring that the United States continues to make economic and cultural progress;

Whereas the communication of the educational achievements of students and educational institutions in the United States has a vital impact on the people of the United States;

Whereas school yearbooks provide vivid pictorial and editorial insights into such educational achievements;

Whereas the thousands of young people who produce school yearbooks each year receive significant editorial, photographic, and business experiences;

Whereas a recent study conducted by the American College Testing Program has shown that college freshmen who worked on a yearbook staff in high school have higher ACT composite scores, perform better on standardized college writing tests, and achieve higher grade point averages during their first year of college than freshmen with no high school yearbook experience;

Whereas school yearbooks provide valuable historical documents for educational institutions; and

Whereas school yearbooks have been an important part of the culture of the United States for approximately two centuries: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 4, 1987, is designated "National School Yearbook Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved August 18, 1987.

LEGISLATIVE HISTORY—S.J. Res. 109:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
Aug. 6, considered and passed House.

○

Public Law 100-106
100th Congress

Joint Resolution

To designate the month of October 1987, as "Lupus Awareness Month".

Aug. 18, 1987
[S.J. Res. 157]

Whereas Lupus Erythematosus is a disease of unknown cause that affects over five-hundred thousand people in the United States, 90 percent of whom are women in their childbearing years;

Whereas Lupus Erythematosus, though not a rare disease, is unfamiliar even to some physicians which may result in the disease being misdiagnosed or diagnosed too late;

Whereas Lupus Erythematosus in the most severe form can be fatal;

Whereas The Lupus Foundation of America, Inc., its constituent chapters, and other voluntary health organizations are established throughout the United States to serve and support victims of lupus and their families, encourage funding for research, and increase public awareness; and

Whereas the public and the Federal Government are not sufficiently aware of the incidence of Lupus Erythematosus: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1987, is designated as "Lupus Awareness Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Approved August 18, 1987.

LEGISLATIVE HISTORY--S.J. Res. 157:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
Aug. 6, considered and passed House.

○

PUBLIC LAW 100-107—AUG. 20, 1987

MALCOLM BALDRIGE NATIONAL QUALITY IMPROVEMENT ACT OF 1987

91-139 - 0 - 87 (107)

Public Law 100-107
100th Congress

An Act

Aug. 20, 1987
[H.R. 812]

To amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish the Malcolm Baldrige National Quality Award, with the objective of encouraging American business and other organizations to practice effective quality control in the provision of their goods and services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Malcolm Baldrige National Quality Improvement Act of 1987.
Decorations, medals, awards.
15 USC 3701 note.
15 USC 3711a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Malcolm Baldrige National Quality Improvement Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) the leadership of the United States in product and process quality has been challenged strongly (and sometimes successfully) by foreign competition, and our Nation's productivity growth has improved less than our competitors over the last two decades;

(2) American business and industry are beginning to understand that poor quality costs companies as much as 20 percent of sales revenues nationally, and that improved quality of goods and services goes hand in hand with improved productivity, lower costs, and increased profitability;

(3) strategic planning for quality and quality improvement programs, through a commitment to excellence in manufacturing and services, are becoming more and more essential to the well-being of our Nation's economy and our ability to compete effectively in the global marketplace;

(4) improved management understanding of the factory floor, worker involvement in quality, and greater emphasis on statistical process control can lead to dramatic improvements in the cost and quality of manufactured products;

(5) the concept of quality improvement is directly applicable to small companies as well as large, to service industries as well as manufacturing, and to the public sector as well as private enterprise;

(6) in order to be successful, quality improvement programs must be management-led and customer-oriented and this may require fundamental changes in the way companies and agencies do business;

(7) several major industrial nations have successfully coupled rigorous private sector quality audits with national awards giving special recognition to those enterprises the audits identify as the very best; and

(8) a national quality award program of this kind in the United States would help improve quality and productivity by—

(A) helping to stimulate American companies to improve quality and productivity for the pride of recognition while obtaining a competitive edge through increased profits,

(B) recognizing the achievements of those companies which improve the quality of their goods and services and providing an example to others,

(C) establishing guidelines and criteria that can be used by business, industrial, governmental, and other organizations in evaluating their own quality improvement efforts, and

(D) providing specific guidance for other American organizations that wish to learn how to manage for high quality by making available detailed information on how winning organizations were able to change their cultures and achieve eminence.

(b) PURPOSE.—It is the purpose of this Act to provide for the establishment and conduct of a national quality improvement program under which (1) awards are given to selected companies and other organizations in the United States that practice effective quality management and as a result make significant improvements in the quality of their goods and services, and (2) information is disseminated about the successful strategies and programs.

SEC. 3. ESTABLISHMENT OF THE MALCOLM BALDRIGE NATIONAL QUALITY AWARD PROGRAM.

15 USC 3712-3714.

(a) IN GENERAL.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by redesignating sections 16, 17, and 18 as sections 17, 18, and 19, respectively, and by inserting after section 15 the following new section:

"SEC. 16. MALCOLM BALDRIGE NATIONAL QUALITY AWARD.

15 USC 3711a.

"(a) ESTABLISHMENT.—There is hereby established the Malcolm Baldrige National Quality Award, which shall be evidenced by a medal bearing the inscriptions 'Malcolm Baldrige National Quality Award' and 'The Quest for Excellence'. The medal shall be of such design and materials and bear such additional inscriptions as the Secretary may prescribe.

President of U.S.

"(b) MAKING AND PRESENTATION OF AWARD.—(1) The President (on the basis of recommendations received from the Secretary), or the Secretary, shall periodically make the award to companies and other organizations which in the judgment of the President or the Secretary have substantially benefited the economic or social well-being of the United States through improvements in the quality of their goods or services resulting from the effective practice of quality management, and which as a consequence are deserving of special recognition.

President of U.S.

"(2) The presentation of the award shall be made by the President or the Secretary with such ceremonies as the President or the Secretary may deem proper.

"(3) An organization to which an award is made under this section, and which agrees to help other American organizations improve their quality management, may publicize its receipt of such award and use the award in its advertising, but it shall be ineligible to receive another such award in the same category for a period of 5 years.

"(c) CATEGORIES IN WHICH AWARD MAY BE GIVEN.—(1) Subject to paragraph (2), separate awards shall be made to qualifying organizations in each of the following categories—

"(A) Small businesses.

"(B) Companies or their subsidiaries.

"(C) Companies which primarily provide services.

"(2) The Secretary may at any time expand, subdivide, or otherwise modify the list of categories within which awards may be made as initially in effect under paragraph (1), and may establish separate awards for other organizations including units of government, upon a determination that the objectives of this section would be better served thereby; except that any such expansion, subdivision, modification, or establishment shall not be effective unless and until the Secretary has submitted a detailed description thereof to the Congress and a period of 30 days has elapsed since that submission.

"(3) Not more than two awards may be made within any subcategory in any year (and no award shall be made within any category or subcategory if there are no qualifying enterprises in that category or subcategory).

"(d) CRITERIA FOR QUALIFICATION.—(1) An organization may qualify for an award under this section only if it—

"(A) applies to the Director of the National Bureau of Standards in writing, for the award,

"(B) permits a rigorous evaluation of the way in which its business and other operations have contributed to improvements in the quality of goods and services, and

"(C) meets such requirements and specifications as the Secretary, after receiving recommendations from the Board of Overseers established under paragraph (2)(B) and the Director of the National Bureau of Standards, determines to be appropriate to achieve the objectives of this section.

In applying the provisions of subparagraph (C) with respect to any organization, the Director of the National Bureau of Standards shall rely upon an intensive evaluation by a competent board of examiners which shall review the evidence submitted by the organization and, through a site visit, verify the accuracy of the quality improvements claimed. The examination should encompass all aspects of the organization's current practice of quality management, as well as the organization's provision for quality management in its future goals. The award shall be given only to organizations which have made outstanding improvements in the quality of their goods or services (or both) and which demonstrate effective quality management through the training and involvement of all levels of personnel in quality improvement.

"(2)(A) The Director of the National Bureau of Standards shall, under appropriate contractual arrangements, carry out the Director's responsibilities under subparagraphs (A) and (B) of paragraph (1) through one or more broad-based nonprofit entities which are leaders in the field of quality management and which have a history of service to society.

"(B) The Secretary shall appoint a board of overseers for the award, consisting of at least five persons selected for their preeminence in the field of quality management. This board shall meet annually to review the work of the contractor or contractors and make such suggestions for the improvement of the award process as they deem necessary. The board shall report the results of the award activities to the Director of the National Bureau of Standards each

Reports.

year, along with its recommendations for improvement of the process.

"(e) INFORMATION AND TECHNOLOGY TRANSFER PROGRAM.—The Director of the National Bureau of Standards shall ensure that all program participants receive the complete results of their audits as well as detailed explanations of all suggestions for improvements. The Director shall also provide information about the awards and the successful quality improvement strategies and programs of the award-winning participants to all participants and other appropriate groups.

"(f) FUNDING.—The Secretary is authorized to seek and accept gifts from public and private sources to carry out the program under this section. If additional sums are needed to cover the full cost of the program, the Secretary shall impose fees upon the organizations applying for the award in amounts sufficient to provide such additional sums.

Gifts and property.

"(g) REPORT.—The Secretary shall prepare and submit to the President and the Congress, within 3 years after the date of the enactment of this section, a report on the progress, findings, and conclusions of activities conducted pursuant to this section along with recommendations for possible modifications thereof.".

(b) CONFORMING AMENDMENT.—Section 9(d) of such Act (15 U.S.C. 3708(d)) is amended by striking "or 16" and inserting in lieu thereof "16, or 17".

Approved August 20, 1987.

LEGISLATIVE HISTORY—H.R. 812:

HOUSE REPORTS: No. 100-96 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-143 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  June 8, considered and passed House.
  Aug. 5, considered and passed Senate, amended.
  Aug. 7, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
  Aug. 20, Presidential statement.

○

Public Law 100-108
100th Congress

An Act

Aug. 20, 1987
[H.R. 2971]

To provide continuing authority to the Secretary of Agriculture for recovering costs associated with cotton classing services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Uniform Cotton Classing Fees Act of 1987.
Agriculture and agricultural commodities.
7 USC 471 note.

SECTION 1. SHORT TITLE.

That this Act may be cited as the "Uniform Cotton Classing Fees Act of 1987".

SEC. 2. COTTON CLASSIFICATION SERVICES AND FEES.

Effective date.

Effective for the period beginning on the date of enactment of this Act and ending September 30, 1992, section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended—

(1) by amending the first sentence to read as follows: "Effective for the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990, September 30, 1991, and September 30, 1992, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers.";

(2) in the second sentence by striking out the proviso and inserting in lieu thereof the following: "*Provided,* That (1) the uniform per bale classification fee to be collected from producers, or their agents, for such classification service in any year shall be the uniform fee collected in the previous year, exclusive of adjustments to such fee made in the previous year under clauses (2), (3), and (4) of this proviso, and as may be adjusted by the percentage change in the Implicit Price Deflator for Gross National Product as indexed during the most recent twelve-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 per centum for every 100,000 running bales, or portion thereof, that the Secretary estimates will be produced in such crop year below the level of 12,500,000 running bales, or decreased by an amount not to exceed 1 per centum for every 100,000 running bales, or portion thereof, that the Secretary estimates will be produced in such crop year above the level of 12,500,000 running bales; (3) adjustments made under clause (2) shall not exceed 15 per centum, except when the Secretary estimates that income generated by fees, surcharges, and other sources of income will not provide an ending accumulated operating reserve for a fiscal year of at least 10 per centum of the estimated cost of operating the program; (4) if the Secretary projects an accumulated operating reserve at the end of a fiscal year of less than 25 per centum of the estimated cost of operating the program, the Secretary may

add a special surcharge, not to exceed 5 cents per bale, applicable to such fiscal year, to ensure sufficient funds are available; (5) notwithstanding the previous clauses, the Secretary, to the extent practicable, shall not establish a fee which, when combined with all other sources of revenue and adjusted for expenses, would result in a projected operating reserve of more than 25 per centum; (6) the Secretary should continue to recognize that central billing and collection can reduce administrative costs, and offer appropriate discounts where practicable; and (7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies, except that for fiscal year 1987, such announcement shall be made as soon as practicable following enactment of this proviso."; and

(3) in the third sentence by striking out "clauses (1) and (2)" and inserting in lieu thereof the following: "clauses (1), (2), and (3)".

SEC. 3. STUDY ON PROCESSING CERTAIN COTTON GRADES.

7 USC 473a note.

(a) STUDY.—The Secretary of Agriculture shall conduct a study, and perform such testing as necessary, of the differences between processing efficiency and product quality for Light Spotted and White grade cottons. The Secretary shall also conduct a survey and research to determine why an increasing proportion of the cotton crop is being classified as Light Spotted.

(b) REPORT.—Not later than October 1, 1988, the Secretary shall submit an initial report describing the results of the studies required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. A final report shall be submitted to such committees as soon as practicable after submission of the initial report.

Approved August 20, 1987.

LEGISLATIVE HISTORY—H.R. 2971:

HOUSE REPORTS: No. 100-242 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 27, considered and passed House.
Aug. 5, considered and passed Senate.

○

Public Law 100-109
100th Congress

An Act

Aug. 20, 1987
[H.R. 3085]

To amend the Water Resources Development Act of 1986 relating to the level of flood protection provided by the flood control project for Lock Haven, Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the undesignated paragraph under the heading "Lock Haven, Pennsylvania" in section 401(a) of the Water Resources Development Act of 1986 is amended by striking out ". The project shall be constructed to provide protection at least sufficient to prevent any future flood losses to the city of Lock Haven, Pennsylvania, from flooding equivalent to a level of flooding 50 percent greater than the level of flooding which occurred as a result of tropical storm Agnes in 1972." and inserting in lieu thereof the following: "with such modifications as are contained in the report of the District Engineer, Baltimore District, entitled 'General Design Memorandum, Phase II, Lock Haven Local Flood Protection Project, West Branch Susquehanna River and Bald Eagle Creek, Pennsylvania', dated May 1987.". 100 Stat. 4111.

Approved August 20, 1987.

LEGISLATIVE HISTORY—H.R. 3085:

HOUSE REPORTS: No. 100-272 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 6, considered and passed House.
Aug. 7, considered and passed Senate.

○

Public Law 100-110
100th Congress

Joint Resolution

Designating the week of September 13 through September 19, 1987, as "National Reye's Syndrome Awareness Week".

Aug. 20, 1987
[H.J. Res. 335]

Whereas Reye's Syndrome is a disease of unknown cause that swiftly strikes children, adolescents and adults recovering from a viral illness;

Whereas because Reye's Syndrome has no cure, over 30 percent of its victims die and another 15-25 percent are left with brain damage;

Whereas recent medical research has proven a link between the use of aspirin (salicylate) and the development of Reye's Syndrome;

Whereas the Surgeon General, the Center for Disease Control, the American Academy of Pediatrics and the National Reye's Syndrome Foundation have issued warnings against the use of aspirin for children and young adults recovering from influenza-like illnesses and chicken pox;

Whereas the symptoms of Reye's Syndrome are unfamiliar to most citizens and health professionals, and this lack of knowledge often leads to misdiagnosis and improper treatment;

Whereas the current reporting of cases does not provide a true count of the incidence of the disease since comprehensive records are not maintained throughout the United States and more cases are annually reported to the National Reye's Syndrome Foundation than to the Center for Disease Control;

Whereas the National Reye's Syndrome Foundation is a volunteer organization with affiliates established throughout the continental United States and is supported by thousands of volunteers;

Whereas the goals of the National Reye's Syndrome Foundation are to assist in the communication of information on Reye's Syndrome to the general public and the medical community, to stimulate the scientific community by sponsoring symposiums, to support research that will identify the cause, develop a cure and lead to the prevention of Reye's Syndrome, to give families experiencing the personal trauma of Reye's Syndrome support and guidance, and to encourage the Federal Government to support and sponsor Reye's Syndrome research; and

Whereas there has been a lack of urgency to resolve the mystery of Reye's Syndrome at the Federal level: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 13 through September 19, 1987, is designated as "National

Reye's Syndrome Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved August 20, 1987.

LEGISLATIVE HISTORY--H.J. Res. 335:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 6, considered and passed House.
Aug. 7, considered and passed Senate.

○

Public Law 100-111
100th Congress

An Act

To temporarily restrict the ability to document foreign-built fish processing vessels under the laws of the United States.

Aug. 20, 1987
[S. 1591]

42 USC 12102 note.
46 USC 12101 *et seq.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding chapter 121 of title 46 of the United States Code, the Secretary of the department in which the Coast Guard is operating may not document a foreign-built vessel for which an application for documentation was submitted after July 20, 1987, for use as a fish processing vessel as defined in section 2101(11b) of title 46, United States Code. This prohibition is effective until October 15, 1987. The Secretary may issue regulations to obtain information about the intended use of a vessel for which an application for documentation has been submitted to prevent the documentation of a foreign-built fish processing vessel.

Effective date.

Approved August 20, 1987.

LEGISLATIVE HISTORY—S. 1591:

CONGRESSIONAL RECORD, Vol. 133 (1987):
- Aug. 5, considered and passed Senate.
- Aug. 6, considered and passed House, amended. Senate concurred in House amendment.

○

Public Law 100-112
100th Congress

Joint Resolution

Aug. 20, 1987
[S.J. Res. 175]

To recognize the efforts of the United States Soccer Federation in bringing the World Cup to the United States in 1994.

Whereas soccer is one of the world's most popular sports and the World Cup is the single most important event in that sport;

Whereas the 1986 World Cup games had a television audience of 12.8 billion with a live attendance of over 2.4 million;

Whereas the United States Soccer Federation is seeking to bring the World Cup games to the United States in 1994;

Whereas the United States is capable of meeting all of the requirements of a host country including financing, transportation, security, communications, and physical accommodations; and

Whereas the World Cup would serve as a tremendous impetus to national and international tourism, because the games would bring people from all nations together in friendly competition and permit these people to experience, first hand, the American way of life: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress recognizes the efforts of the United States Soccer Federation to bring the World Cup to the United States in 1994, and the President of the United States is authorized and requested to designate the Secretary of Commerce as the official representative of the United States Government in any discussions with the Federation Internationale de Football Association.

Approved August 20, 1987.

LEGISLATIVE HISTORY—S.J. Res. 175:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 5, considered and passed Senate.
Aug. 6, considered and passed House.

○

Public Law 100-113
100th Congress

An Act

To complete the Federal Triangle in the District of Columbia, to construct a public building to provide Federal office space and space for an international cultural and trade center, and for other purposes.

Aug. 21, 1987
[S. 1550]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Triangle Development Act.
Real property.
40 USC 1101 *note.*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Triangle Development Act".

40 USC 1101.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) it is in the national interest to build a Federal building complex and establish an international cultural and trade center on the Federal Triangle property in the District of Columbia;

(2) development of such a Federal building complex will permit consolidation of a number of Federal agencies which are currently housed in numerous, scattered locations and will enable more economical and efficient use of building space and environs;

(3) inclusion of an international cultural and trade center within the Federal building complex will create and enhance opportunities for American trade, commerce, communications, and cultural exchanges with other nations and complement the work of Federal; State, and local agencies in the areas of international trade and cultural exchange; and

(4) the appropriate development, maintenance, and use of the Federal Triangle property should be a joint development effort of the General Services Administration, the Pennsylvania Avenue Development Corporation, and the International Cultural and Trade Center Commission.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To transfer the Federal Triangle property from the Administrator of General Services to the Pennsylvania Avenue Development Corporation.

(2) To grant to the Corporation the power of eminent domain to acquire certain properties and rights-of-way adjacent to the Federal Triangle site and to authorize the Corporation to exercise such power as may be necessary to further the public interest.

(3) To authorize the Corporation, after consultation with the Secretary of State, the Administrator, and the Commission, to prepare plans for development of such property.

(4) To establish a process for review and selection of such plans and, after completion of such review process, to authorize the Corporation to enter into an agreement with a private developer selected for the development of such property.

(5) To ensure that the design and construction of the Federal building complex on such property will insofar as practicable be in accordance with the guiding principles for Federal architecture recommended by the Committee on Federal Office Space in 1962 which require among other things that facilities to be used by Federal agencies be efficient and economical and that public buildings provide visual testimony to the dignity, enterprise, vigor, and stability of the Federal Government.

(6) To provide for establishment, operation, and maintenance of a self-sustaining international cultural and trade center in such complex.

40 USC 1102.

SEC. 3. FEDERAL TRIANGLE PROPERTY.

(a) Transfer to PADC.—

(1) General rule.—Subject to such terms and conditions as the Administrator and the Corporation may establish, the Administrator shall transfer, without compensation, to the Corporation title to the Federal Triangle property for development under this Act.

(2) Duration of transfer.—Title to the Federal Triangle property shall revert to the Administrator at such time as the Administrator and the Corporation agree but not later than the date on which ownership of the building to be constructed on such property under section 5 vests in the United States. On and after such date, title to such building shall be in the Administrator.

(3) Legal description.—The exact acreage and legal description of the Federal Triangle property shall be based upon surveys which are satisfactory to the Administrator and the Corporation.

(b) Adjoining Property and Rights-of-Way.—

(1) Acquisition.—The Corporation may acquire by purchase, exchange, condemnation, or otherwise such additional property or improvements or interest therein (including any portion of any street, roadway, highway, alley, or right-of-way and any easements to and air rights on or above any public lands or rights-of-way) as are necessary for development of the Federal Triangle property.

(2) Transfer to GSA.—At the time title to the Federal Triangle property reverts to the Administrator under subsection (a), the Corporation shall transfer to the Administrator, without compensation, title to any property or interest therein acquired under this subsection and improvements thereon.

40 USC 1103.

SEC. 4. DEVELOPMENT PROPOSAL.

(a) Preparation and Contents.—The Corporation shall prepare a written proposal for development of the Federal Triangle property which shall include, but not be limited to, the following:

(1) A narrative description of the building to be constructed on the Federal Triangle property, including a description of the types of uses both public and private to be permitted in the building.

(2) A comprehensive plan prepared by the Administrator for providing space for Federal officers and employees in the building.

(3) A plan for inclusion of an international cultural and trade center comprising not to exceed 500,000 occupiable square feet,

including a leasing plan prepared by the Commission for occupancy of such center and a plan for permitting conversion of space not used for such center to office space.

(4) A comprehensive plan for providing security for the building and its occupants and contents.

(5) A comprehensive plan for providing parking for motor vehicles of occupants of and visitors to the building and for providing access to the building by delivery and service vehicles.

(6) A statement prepared by the Administrator of rents and other housing costs currently being paid by the United States for Federal agencies to be housed in the building.

(7) Design criteria for the building.

(8) An estimate of the cost of construction of the building and of the annual cost to the United States of leasing the building under section 6.

Environmental protection.

(9) Environmental impact documentation for development of the Federal Triangle property under Federal laws and regulations.

(10) An analysis of the economic impact in the metropolitan area which includes the District of Columbia of development of the Federal Triangle property.

(11) Terms and conditions approved by the Administrator for inclusion in the lease agreement under section 6.

(b) LIMITATIONS.—

(1) SIZE OF BUILDING.—The building (including parking facilities) to be constructed on the Federal Triangle property may not exceed 3,100,000 gross square feet in size.

(2) HEIGHT OF BUILDING.—The height of the building shall be compatible with the height of surrounding Government buildings.

(3) DESIGN.—The building shall be designed in harmony with historical and Government buildings in the vicinity, shall reflect the symbolic importance and historic character of Pennsylvania Avenue and the Nation's Capital, and shall represent the dignity and stability of the Federal Government.

(c) CONSULTATION REQUIREMENT.—In preparing the development proposal under subsection (a), the Corporation shall consult the Secretary of State, the Administrator, and the Commission.

(d) DUTIES OF THE ADMINISTRATOR AND COMMISSION.—

(1) ADMINISTRATOR.—The Administrator shall prepare and submit to the Corporation for inclusion in the development proposal under subsection (a)—

(A) a comprehensive plan for providing space for Federal officers and employees in the building to be constructed on the Federal Triangle property;

(B) a statement of rents and other housing costs currently being paid by the United States for Federal agencies to be housed in the building; and

(C) a list of terms and conditions which the Administrator has approved for inclusion in the lease agreement to be entered into under section 6.

(2) COMMISSION.—The Commission shall prepare and submit to the Corporation for inclusion in the development proposal under subsection (a) a leasing plan for occupancy of the international cultural and trade center under section 8.

(e) REVIEW AND APPROVAL OF DEVELOPMENT PROPOSAL BY GSA AND OTHERS.—

(1) SUBMISSION FOR REVIEW.—As soon as practicable but not later than 365 days after the date of the enactment of this Act, the Corporation shall submit the development proposal prepared under subsection (a) to the General Services Administration, the Commission, the National Capital Planning Commission, and the Commission of Fine Arts.

(2) APPROVAL OR RECOMMENDED MODIFICATIONS.—Not later than 60 days after the date of submission of the development proposal under paragraph (1), each governmental entity referred to in paragraph (1) shall notify the Corporation of approval or recommended modifications of the development proposal. If such governmental entity does not notify the Corporation of its approval or recommended modifications of the proposal within such 60-day period, such governmental entity shall be deemed to have approved the proposal.

(3) CONSULTATION.—In the event a governmental entity referred to in paragraph (1) submits recommended modifications of the development proposal within the 60-day period described in paragraph (2), the Corporation shall consult such entity regarding such modifications and may modify such proposal to take into account one or more of such recommended modifications.

(f) SUBMISSION FOR CONGRESSIONAL REVIEW.—Not later than 150 days after the date of submission of the development proposal to governmental entities under subsection (e)(1), the Corporation shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives for review and approval the development proposal with any modifications made under subsection (e)(3), a statement of the areas of difference between such proposal and the recommended modifications of each such governmental entity, and the views of the Corporation with respect to such differences.

(g) FUNDING.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall transfer from amounts appropriated to the Administrator $800,000 to the Corporation for carrying out this section.

40 USC 1104.

SEC. 5. CONSTRUCTION OF BUILDING.

(a) SELECTION PROCESS.—

(1) GENERAL RULE.—Upon approval of the development proposal submitted under section 4(f) by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Public Works of the House of Representatives, the Corporation in accordance with its policies and procedures for a development competition, shall select a person to develop the Federal Triangle property.

(2) CONSULTATION REQUIREMENT.—In selecting a person to develop the Federal Triangle property, the Corporation shall consult the Administrator and the Commission.

(3) COMPETITION.—The Corporation shall conduct a competition for selection of a person to develop the Federal Triangle property. Such competition shall be conducted in accordance with the existing policies and procedures of the Corporation for a development competition.

(4) PROHIBITION ON PAYMENTS FOR BIDS AND DESIGNS.—The Corporation may not make any payment to any person for any

bid or design proposal under the competition conducted under this subsection.

(b) DEVELOPMENT AGREEMENT.—

Contracts.

(1) AUTHORITY TO ENTER.—The Corporation may enter into an agreement for the development of the Federal Triangle property in accordance with the development proposal approved under subsection (a) with the person selected to develop the Federal Triangle property.

(2) CONTENTS.—The development agreement under paragraph (1) shall at a minimum provide for the following:

(A) The construction of a building on the Federal Triangle property in accordance with the architectural plans and specifications selected under the development competition.

(B) Ownership of such property and building will be by the United States; except that the person selected under subsection (a) may own such building for a term not to exceed 35 years beginning on the date on which construction of such building commences.

(C) The Administrator to lease such building from such person for the term determined under subparagraph (B).

(D) Inspection of such building during construction by the Administrator and the Corporation.

The agreement shall include a copy of the lease agreement and technical directives and specifications prepared by the Administrator entered into by the Administrator and such person under section 6.

(c) CONNECTION WITH RAIL SYSTEM.—The building to be constructed under this section may be connected with the rapid rail system operated by the Washington Metropolitan Area Transit Authority via a station located on the Federal Triangle property. The construction cost of making such connection shall be the responsibility of the person selected to develop the Federal Triangle property. The Washington Metropolitan Transit Authority may not charge any fee or other amount for the connection of such building to such rail system.

(d) CONSTRUCTION STANDARDS AND INSPECTION.—The building constructed under this section shall meet all standards applicable to construction of a Federal building. During construction, the Administrator and the Corporation shall conduct periodic inspections of such building for the purpose of assuring that such standards are being met.

(e) TREATMENT OF PADC.—For purposes of any State or local law (including laws relating to taxation and building permits and inspections), the Corporation with respect to development of the Federal Triangle property shall be treated as the General Services Administration is treated with respect to acquisition and construction of a Federal building.

Taxes.

(f) APPLICABILITY OF CERTAIN LAWS.—Any person who enters into an agreement with the Corporation under subsection (b) for development of the Federal Triangle property shall not, with respect to such development, be subject to any State or local law relating to building permits and building inspection. Such property and any improvements to such property shall not be subject to real and personal property taxation, or special assessments.

(g) TREATMENT OF FEDERAL TRIANGLE DEVELOPMENT AREA.—For purposes of the Pennsylvania Avenue Development Corporation Act

40 USC 871 note.

of 1972 (other than section 5), the Federal Triangle development area shall be treated as being a part of the development area described in section 2(f) of such Act (40 U.S.C. 871(f)). The Corporation shall have the same authority with respect to the Federal Triangle development area as it has with respect to the development area described in such section 2(f).

(h) POWERS OF THE CORPORATION.—The Corporation shall have with respect to its duties under this Act any powers which the Corporation has under section 6 (other than paragraphs (9) and (10)) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 875) with respect to its duties under such Act. The Corporation may enter into agreements with any Federal agency or the Commission with respect to this Act, or as permitted or authorized by 31 U.S.C. 1535.

(i) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated, from the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), to the Administrator for transfer to the Corporation for carrying out this section and section 4 $3,700,000 for fiscal year 1988. Such sums shall remain available until expended.

Contracts.
40 USC 1105.

SEC. 6. LEASE OF BUILDING BY GSA.

(a) ENTRY INTO AGREEMENT.—Before the development agreement is entered into under section 5, the Administrator shall enter into with the person selected to construct the building under section 5 an agreement for the lease of such building for Federal office space and the international cultural and trade center space.

(b) TERMS OF AGREEMENT.—The agreement entered into under this section shall include at a minimum the following terms:

(1) The Administrator will lease the building for the term that the person selected to construct the building owns the building.

(2) The rental rate per square foot of occupiable space for all space in the building will be in the best interest of the United States and carry out the objectives of this Act, but in no case may the aggregate rental rate for all space in the building produce an amount less than the amount necessary to amortize the cost of development of the Federal Triangle property over the term of the lease.

(3) Obligations of funds from the Federal Building Fund shall only be made on an annual basis to meet lease payments.

(4) The Administrator will be permitted to sublease to the Commission for establishment, operation, and management of the international cultural and trade center under section 8.

(c) ACCOUNTING SYSTEM.—The Administrator shall maintain an accounting system for operation and maintenance of the building to be constructed under section 5 which will permit accurate projections of the dates and the costs of major repairs, improvements, reconstructions, and replacements of such building and other capital expenditures on such building. The Administrator shall take such action as may be necessary to assure that funds are available to cover such projected costs and expenditures.

(d) OBLIGATION OF FUNDS.—Obligation of funds to make lease payments under this section may only be made on an annual basis and from amounts in the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)).

SEC. 7. INTERNATIONAL CULTURAL AND TRADE CENTER COMMISSION.

40 USC 1106.

(a) ESTABLISHMENT.—There is established a commission to be known as the International Cultural and Trade Center Commission.

(b) DUTIES OF COMMISSION.—The duties of the Commission are as follows:

(1) To participate in accordance with section 4 in the planning of the building to be constructed under section 5.

Contracts.

(2) To enter into an agreement with the Administrator under section 8 for the lease of space in the building constructed under section 5 for establishment, operation, and maintenance of an international cultural and trade center.

(3) To operate and manage any space leased under section 8 in accordance with the objectives of this Act.

Reports.

(4) To prepare under section 8 an annual report on the operation and management of such space.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) The Secretary of State or his delegate.

(B) The Secretary of Commerce or his delegate.

(C) The Secretary of Agriculture or his delegate.

(D) The United States Trade Representative or his delegate.

(E) The Administrator or his delegate.

(F) The Director of the United States Information Agency or his delegate.

(G) The Chairman of the Corporation or his delegate.

(H) The Mayor of the District of Columbia or his delegate.

(I) The Chairman of the National Endowment for the Arts or his delegate.

(J) 6 individuals appointed by the President one of whom shall be a resident and registered voter of the District of Columbia and all of whom shall be specially qualified to serve on the Commission by virtue of their education, training, or experience in international trade, commerce, cultural exchange, finance, business, or management of facilities similar to the international cultural and trade center described in section 8.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(2) TERMS.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), the terms of office of the private sector Members first taking office shall begin on the date of the enactment of this Act and shall expire as designated at the time of appointment, two at the end of two years, two at the end of four years, and two at the end of six years.

(B) FILLING A VACANCY.—Any member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(3) PAY.—Members of the Commission shall serve without pay; except that any member of the Commission appointed under paragraph (1)(J) shall while attending meetings of and

attending hearings held by the Commission be entitled to travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

(4) QUORUM.—8 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(5) DESIGNATION OF CHAIRMAN.—The Chairman and Vice Chairman of the Commission shall be designated by the President; except that the Chairman may only be designated from individuals appointed under paragraph (1)(J).

(6) MEETINGS.—The Commission shall meet at the call of the Chairman but no less often than every 4 months.

(d) STAFF OF COMMISSION.—

(1) GENERAL RULE.—The Commission shall have a staff, including an executive director. Such staff shall be composed of individuals who may either be appointed under paragraph (2) or detailed under paragraph (3); except that the staff of the Commission may not at any time be composed of more than 15 individuals.

(2) AUTHORITY TO APPOINT.—The Commission may appoint and fix the pay of not to exceed 10 individuals, including an individual to serve as the executive director of the Commission. Staff appointed under this paragraph shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; except that—

5 USC 5101 *et seq.*
5 USC 5331.
5 USC 5332 note.

(A) the individual appointed to serve as the executive director and one other individual appointed to the staff of the Commission may be appointed and compensated without regard to such provisions; and

(B) the pay of any individual (other than the 2 individuals referred to in subparagraph (A)) appointed under this paragraph shall be at a rate not to exceed the maximum rate of basic pay payable for GS-17 of the General Schedule.

(3) DETAIL.—Subject to paragraph (1), upon request of the Commission, the Secretary of State, the Secretary of Commerce, the Secretary of Agriculture, the Special Trade Representative, the Administrator, and the Director of the United States Information Agency may detail, on a reimbursable basis, such of the personnel of the department or agency such person heads as may be necessary to assist the Commission in carrying out its duties under this Act.

(e) OFFICE SPACE AND SUPPLIES.—Upon request of the Commission, the Secretary of State, the Secretary of Commerce, the Secretary of Agriculture, the Special Trade Representative, the Administrator, and the Director of the United States Information Agency may provide, on a reimbursable basis, such office space, supplies, equipment, and other support services as may be necessary for the Commission to carry out its duties under this Act.

(f) POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out its duties under this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) **Powers of members and agents.**—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) **Obtaining official data.**—The Commission may obtain from any department or agency of the United States information necessary to enable it to carry out its duties under this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) **Gifts.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

(5) **Mails.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) **Authority to contract out.**—Subject to applicable provisions of law, the Commission may enter into such contracts or agreements as the Commission considers appropriate to carry out any of its duties under this Act.

(7) **Experts and consultants.**—The Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(g) **Limitation on Expenses.**—

(1) **Maximum amount.**—The maximum amount of expenses (including salaries, travel expenses, expenses for temporary and intermittent services, expenses under contracts or agreements entered into under subsection (f)(7), and supply expenses) which the Commission may incur in any fiscal year may not exceed $1,000,000 in any fiscal year.

(2) **Adjustment for inflation.**—Any dollar amount referred to in this subsection, subsection (h)(3), and section 8(d) may be adjusted by the Commission annually to reflect a percentage increase or decrease in the Consumer Price Index for All Urban Consumers for the preceding calendar year, as determined by the United States Department of Labor, Bureau of Labor Statistics.

(h) **Funding.**—

(1) **Requests for transfers.**—If the Commission incurs any expenses in carrying out its duties under this Act, the Commission may request the Secretary of State, the Administrator, or any other Federal official referred to in subsection (c)(1) to transfer to the Commission an amount equal to such expenses from funds appropriated to such official.

(2) **Authority for transfers.**—Subject to paragraphs (3) and (5), any official referred to in paragraph (1) may transfer such amounts from funds appropriated to such official as may be necessary to enable the Commission to carry out its duties under this Act.

(3) **Maximum amount of requests and transfers.**—The aggregate amount of requests for transfers, and the aggregate amount of transfers, under this subsection may not exceed $1,000,000 in any fiscal year.

(4) **Deposit of receipts.**—The Commission shall deposit all amounts it receives under this subsection into the account established by section 8(d).

(5) **Limitation on effect.**—This subsection shall not be effective with respect to any fiscal year beginning after the last day

of the 2-year period beginning on the first day the Commission deposits under section 8(c) funds into the account established by section 8(d).

40 USC 1107.

SEC. 8. OPERATION AND MANAGEMENT OF INTERNATIONAL CULTURAL AND TRADE CENTER.

(a) Lease of Space.—

Contracts.

(1) Agreement.—The Administrator and the Commission shall enter into an agreement for the Commission to lease from the Administrator not to exceed 500,000 square feet of occupiable space in the building to be constructed under section 5 to serve as an international cultural and trade center.

(2) Size.—The Commission shall determine the amount of space necessary for operation of the international cultural and trade center based upon demand, except that such space may not exceed 500,000 square feet of occupiable space. Upon certification of such demand by the Commission, the Administrator shall lease such amount of space to the Commission.

(3) Terms.—The agreement entered into under this subsection shall include at a minimum the following terms:

International organizations. State and local governments.

(A) The Commission will be permitted to sublease its space in such building to foreign missions, commercial establishments sponsored by foreign governments, and international cultural and trade organizations, including domestic organizations and State and local governments.

(B) All space leased by the Commission from the Administrator will be at such rate as the Administrator and the Commission may agree but not less than the rate established under section 6(b)(2) plus such amount as the Administrator determines is necessary to pay on an annual basis for the costs of administering such building (including operation, maintenance, and rehabilitation costs) which are attributable to such space.

(C) Such terms relating to default and nonperformance as the Administrator considers appropriate to protect the interests of the United States.

(b) Establishment of Center.—

(1) By commission.—The Commission shall establish, operate, and maintain an international cultural and trade center in the space leased from the Administrator under subsection (a).

(2) Contents.—The international cultural and trade center may include the following:

(A) Office space for foreign missions and domestic and international organizations involved in international trade or cultural activities.

(B) A world exhibition center providing space for exhibits from foreign nations.

(C) An international bazaar providing space for commercial establishments sponsored by foreign governments.

(D) An international center providing a centralized foreign trade reference facility, conference and meeting facilities, and audio-visual facilities for translating foreign languages.

(E) Such other facilities as are consistent with the objectives of this section.

(3) Subleasing of space.—

Contracts. International organizations. State and local governments.

(A) Agreements.—The Commission may enter into agreements with foreign missions and international cultural and trade organizations (including domestic organizations and State and local governments) to sublease any or all of the space it leased from the Administrator under subsection (a). Space subleased to such missions and organizations may only be used for establishment of trade centers and exhibitions, offices, and commercial establishments described in paragraph (2) and such other facilities as the Commission determines are consistent with an international cultural and trade center.

(B) Terms and conditions.—An agreement entered into under this subsection shall be subject to such terms and conditions as the Commission determines are appropriate to carry out the objectives of this Act. The rental rate per square foot of occupiable space for space subleased under this subsection shall be determined in accordance with subsection (c); except that the Commission may adjust such rate with respect to any space subleased to a foreign mission in accordance with the recommendations of the Secretary of State acting in accordance with section 204(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4304(b)). The Secretary of State may reimburse the Commission for any expenses which are incurred by the Commission as a result of making adjustments in the rental rate for space under this subparagraph.

(4) Reference facility and cultural events.—The Commission may establish in a portion of the space leased from the Administrator under this section a centralized foreign trade reference facility and conference and meeting facilities and audio-visual facilities for translating foreign languages. The Commission may permit cultural events and other activities to be held in a portion of such space. The Commission shall establish in accordance with subsection (c) fees and charges for—

(A) the use of such facilities and auditorium, and

(B) the holding of such events and activities.

(c) Rents and Fees.—

(1) Establishment of amount.—The Commission shall establish the amounts of fees under subsection (b)(4), and establish a rental rate for space subleased under subsection (b)(3), taking into account the objectives of this section and the best interests of the United States. In any fiscal year beginning after the last day of the 2-year period beginning on the first day the Commission deposits under this subsection funds into the account established under subsection (d), the aggregate amount of such fees and rent shall not be less than the cost to the Commission of subleasing space from the Administrator under subsection (a) in such fiscal year plus the expenses (including salaries, travel expenses, expenses for temporary and intermittent services, expenses under contracts or agreements entered into under subsection 7(f)(7), supply expenses and any reimbursable expenses) incurred by the Commission in carrying out its duties under this Act in such fiscal year.

(2) Collection.—The Commission shall collect—

(A) rent for space subleased under subsection (b); and

(B) fees and charges under subsection (b).

(3) DEPOSIT.—The Commission shall deposit all amounts collected under this subsection and all amounts transferred by the Secretary of State to the Commission under subsection (b)(3)(B) into the account established under subsection (d).

(d) SEPARATE ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a separate account.

(2) CONTENTS.—The account shall include all amounts deposited by the Commission under subsection (c) and section 7(h).

(3) AVAILABILITY.—Amounts in the account established under this subsection shall be available to the Commission to pay—

(A) all rents owed to the Administrator for lease of space under subsection (a); and

(B) all expenses (including salaries, travel expenses, expenses for temporary and intermittent services, expenses under contracts or agreements entered into under section 7(f)(7), and supply expenses) incurred by the Commission in carrying out its duties under this Act but not exceeding $1,000,000 in any fiscal year.

(4) PAYMENTS.—The Commission shall pay, from amounts in the account established by this subsection—

(A) for lease of space under subsection (a) on an annual basis amounts owed to the Administrator for deposit into the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)); and

(B) all expenses incurred by it in carrying out its duties under this Act but not exceeding $1,000,000 in any fiscal year.

(5) TRANSFER OF EXCESS FUNDS.—Periodically, but not less often than once per fiscal year, funds which the Commission determines are in excess of those needed to make the payments described in paragraph (4) shall be transferred by the Commission from the account established under this subsection to the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)).

(h) ANNUAL REPORT AND BUDGET.—The Commission shall prepare and transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives (1) an annual report in January of each calendar year on the operation and management of the space leased by the Commission under subsection (a) and the international cultural and trade center, and (2) a budget for such fiscal year for operation, maintenance, and alteration of such center, including amounts received and projected to be received by the Commission in such fiscal year and expenses incurred and projected to be incurred by the Commission in such fiscal year.

40 USC 1108.

SEC. 9. DESIGNATION OF DEPARTMENTAL AUDITORIUM.

(a) The Departmental Auditorium, located on the Federal Triangle between the Custom Service building and Interstate Commerce Commission building on Constitution Avenue, shall hereafter be known and designated as the "Andrew W. Mellon Auditorium".

(b) Any reference in any law, regulation, document, record, map or other paper of the United States to the auditorium referred to in subsection (a) is deemed to be a reference to the "Andrew W. Mellon Auditorium".

SEC. 10. DEFINITIONS.

40 USC 1109.

As used in this Act—

(1) Administrator.—The term "Administrator" means the Administrator of General Services.

(2) Commission.—The term "Commission" means the International Cultural and Trade Center Commission established by section 7.

(3) Corporation.—The term "Corporation" means the Pennsylvania Avenue Development Corporation.

(4) Federal triangle development area.—The term "Federal Triangle development area" means the area which begins at a point on the southwest corner of the intersection of Fourteenth Street and Pennsylvania Avenue (formerly E Street), Northwest; thence southerly along the west side of Fourteenth Street to the northwest corner of the intersection of Fourteenth Street and Constitution Avenue, Northwest; thence easterly along the north side of Constitution Avenue to the northeast corner of the intersection of Twelfth Street and Constitution Avenue, Northwest; thence northerly along the east side of Twelfth Street and Constitution Avenue, Northwest; thence northerly along the east side of Twelfth Street to the southeast corner of the intersection of Twelfth Street and Pennsylvania Avenue, Northwest; thence westerly along the south side of Pennsylvania Avenue to the point of beginning being the southwest corner of the intersection of Fourteenth Street and Pennsylvania Avenue (formerly E Street), Northwest.

(5) Federal triangle property.—The term "Federal Triangle property" means—

(A) the property owned by the United States in the District of Columbia, known as the "Great Plaza" site, which consists of squares 256, 257, 258, parts of squares 259 and 260, and adjacent closed rights-of-way as shown on plate IV of the King Plats of 1803 located in the Office of the Surveyor of the District of Columbia; and

(B) any property acquired by the Corporation under section 3(b);

except that for purposes of section 3 such term does not include any property referred to in subparagraph (B).

Approved August 21, 1987.

LEGISLATIVE HISTORY—S. 1550:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 5, considered and passed Senate.
Aug. 7, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
Aug. 21, Presidential statement.

○

Public Law 100-114
100th Congress

Joint Resolution

Sept. 23, 1987
[H.J. Res. 134]

Designating the week of September 20, 1987, through September 26, 1987, as "Emergency Medical Services Week".

Whereas the members of emergency medical services teams devote their lives to saving the lives of others;

Whereas emergency medical services teams consist of emergency physicians, nurses, emergency medical technicians, paramedics, educators, and administrators;

Whereas the people of the United States benefit daily from the knowledge and skill of these trained individuals;

Whereas advances in emergency medical care increase the number of lives saved every year;

Whereas the professional organizations of providers of emergency medical services promote research to improve emergency medical care;

Whereas the members of emergency medical services teams work together to improve and adapt their skills as new methods of emergency treatment are developed;

Whereas the members of emergency medical services teams encourage national standardization of training and testing of emergency medical personnel, and reciprocal recognition of training and credentials by the States;

Whereas the designation of "Emergency Medical Services Week" will serve to educate the people of the United States about accident prevention and what to do when confronted with a medical emergency; and

Whereas it is appropriate to recognize the value and the accomplishments of emergency medical services teams by designating "Emergency Medical Services Week": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 20, 1987, through September 26, 1987, is designated as "Emergency Medical Services Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved September 23, 1987.

LEGISLATIVE HISTORY—H.J. Res. 134 (S.J. Res. 148):

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 29, considered and passed House.
Sept. 18, considered and passed Senate.

○

Public Law 100-115
100th Congress

Joint Resolution

To designate the period commencing September 21, 1987, and ending on September 27, 1987, as "National Historically Black Colleges Week".

Sept. 24, 1987
[S.J. Res. 22]

Whereas there are 101 Historically Black Colleges and Universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing September 21, 1987, and ending on September 27, 1987, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

Approved September 24, 1987.

LEGISLATIVE HISTORY—S.J. Res. 22:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 20, considered and passed Senate.
Sept. 15, considered and passed House.

○

Public Law 100-116
100th Congress

Joint Resolution

Sept. 28, 1987
[H.J. Res. 224]

Designating the week of October 18, 1987, through October 24, 1987, as "Benign Essential Blepharospasm Awareness Week".

Whereas benign essential blepharospasm is a little known eye-related disease, causing involuntary and usually uncontrollable spastic contraction of muscles around the eyes;

Whereas approximately 25,000 to 30,000 Americans are afflicted with blepharospasm, which is progressive and ultimately causes functional blindness;

Whereas the Benign Essential Blepharospasm Research Foundation, Incorporated, was begun with the purpose of finding the cause and a successful cure for benign essential blepharospasm;

Whereas this important foundation sponsors programs and activities to create an awareness of blepharospasm in the medical community as well as in the general public, organizes support groups throughout the country to encourage communication among persons with the disease, and it seeks to raise money through public and private contributions to be used for research;

Whereas research scientists from around the country are extremely interested in research on this little known malady and are submitting grant applications to the National Institutes of Health to study benign essential blepharospasm; and

Whereas increased public awareness of the disease and its victims will be a tremendous benefit to the victims of this disease and will lead to increased medical research and awareness, as well as available information and advice for those afflicted with benign essential blepharospasm: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 18, 1987, through October 24, 1987, is hereby designated as "Benign Essential Blepharospasm Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved September 28, 1987.

LEGISLATIVE HISTORY—H.J. Res. 224:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 15, considered and passed House.
Sept. 18, considered and passed Senate.

○

91-139 O - 87 (116)

Public Law 100-117
100th Congress

An Act

To extend the period for waivers of State eligibility requirements to enable certain States to qualify for child abuse and neglect assistance.

Sept. 28, 1987
[S. 1596]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

QUALIFICATIONS FOR CHILD ABUSE AND NEGLECT ASSISTANCE

SECTION 1. Clause (i) of section 4(b)(3)(A) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5103(b)(3)(A)(i)) is amended by inserting before "or" at the end thereof the following: "and for a third one-year period if the Secretary makes an additional finding that such State is making substantial progress to achieve such compliance,".

Approved September 28, 1987.

LEGISLATIVE HISTORY—S. 1596:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 5, considered and passed Senate.
Sept. 16, considered and passed House.

○

Public Law 100-118
100th Congress

Joint Resolution

Sept. 28, 1987
[S.J. Res. 135]

To designate October 1987 as "Polish American Heritage Month".

Whereas, since the 1st immigration of Polish settlers to Jamestown in the 17th century, Poles and Americans of Polish descent have distinguished themselves by contributing to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other sons of Poland came to our shores to fight in the American Revolutionary War and to give their lives and fortunes for the creation of the United States;

Whereas the Polish Constitution of May 3, 1791, was modeled directly on the Constitution of the United States, is recognized as the 2d written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Americans of Polish descent and Americans sympathetic to the struggle of the Polish nation to regain its freedom remain committed to a free and independent Polish nation;

Whereas Poles and Americans of Polish descent take great pride in and honor the greatest son of Poland, His Holiness Pope John Paul II;

Whereas Poles and Americans of Polish descent take great pride in and honor Nobel Peace Prize laureate Lech Walesa, the founder of the Solidarity Labor Federation;

Whereas the Solidarity Labor Federation was founded in August 1980 and is continuing its struggle against oppression by the Government of Poland; and

Whereas the Polish American Congress is observing its 43d anniversary this year and is celebrating October 1987 as Polish American Heritage Month: Now, therefore, be it

91-139 0 - 87 (118)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1987 is designated "Polish American Heritage Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved September 28, 1987.

LEGISLATIVE HISTORY—S.J. Res. 135:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
Sept. 15, considered and passed House.

○

PUBLIC LAW 100-119—SEPT. 29, 1987

PUBLIC DEBT LIMIT PROVISIONS

Public Law 100-119
100th Congress

Joint Resolution

Sept. 29, 1987
[H.J. Res. 324]

Increasing the statutory limit on the public debt.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection, and inserting in lieu thereof "$2,800,000,000,000".

TITLE I—DEFICIT REDUCTION PROCEDURES

Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

SEC. 101. REFERENCES IN TITLE; SHORT TITLE.

(a) REFERENCES IN TITLE.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Balanced Budget and Emergency Deficit Control Act of 1985.

2 USC 901 note.

(b) SHORT TITLE.—This title may be cited as the "Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987".

SEC. 102. AUTOMATIC TRIGGER FOR FISCAL YEARS 1988 THROUGH 1993; OMB AND CBO REPORTS; PRESIDENTIAL ORDER; COMPUTATION OF BUDGET BASE; SEQUESTRATION RULES FOR FISCAL YEARS 1988 THROUGH 1993.

(a) IN GENERAL.—Sections 251 and 252 of the Act are amended to read as follows:

2 USC 901.

"SEC. 251. REPORTING OF EXCESS DEFICITS.

"(a) INITIAL ESTIMATES, DETERMINATIONS, AND REPORTS BY OMB AND CBO.—

"(1) ESTIMATES AND DETERMINATIONS.—The Director of the Office of Management and Budget and the Director of the Congressional Budget Office (in this part referred to as the 'Directors') shall with respect to each fiscal year and in accordance with the requirements, specifications, definitions, and calculations required by this part—

"(A) estimate the budget levels of total revenues and outlays that may be anticipated for such fiscal year as of August 15 of the calendar year in which such fiscal year begins (or as of October 10, 1987, in the case of fiscal year 1988),

"(B) determine whether the projected deficit for such fiscal year will exceed the maximum deficit amount for such fiscal year and whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1993), "(C) estimate the amount of net deficit reduction in the budget baseline that has occurred since January 1 of the calendar year in which such fiscal year begins, and

"(D) estimate the rate of real economic growth that will occur during such fiscal year, the rate of real economic growth that will occur during each quarter of such fiscal year, and the rate of real economic growth that will have occurred during each of the last two quarters of the preceding fiscal year.

"(2) REPORTS.—(A) Based on the estimates and determinations required in paragraph (1) and in accordance with the requirements, specifications, definitions, and calculations required by this part, the Director of the Congressional Budget Office (in this part referred to as the 'Director of CBO') shall issue a report to the Director of the Office of Management and Budget (in this part referred to as the 'Director of OMB') and to the Congress on August 20 of the calendar year in which the fiscal year begins (or on October 15, 1987, in the case of fiscal year 1988) estimating the budget baseline levels of total revenues and total outlays for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such excess is greater than $10,000,000,000 (zero in the case of fiscal year 1993), estimating the amount of net deficit reduction in the budget baseline that has occurred since January 1 of the calendar year in which such fiscal year begins, specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative real economic growth, estimating the aggregate amount of required outlay reductions, and specifying, by account for non-defense programs and by account for defense programs the budget baseline from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to make the reductions required by this part.

"(B) The Director of OMB shall issue a report to the President and the Congress on August 25 of the calendar year in which the fiscal year begins (or on October 20, 1987, in the case of the fiscal year 1988) containing the same information required in subparagraph (A) and the information required in clauses (i) and (ii) for such fiscal year as follows:

"(i) The Director of OMB shall identify and explain any differences between the amount set forth in such report and the corresponding amount set forth in the report of the Director of CBO under subparagraph (A) with respect to—

"(I) the aggregate amount of required outlay reductions;

"(II) the aggregate amount of resources to be sequestered from defense accounts (by type of sequesterable resource) and from non-defense accounts (by type of sequesterable resource); and

"(III) the amount of sequesterable resources for any budget account that is to be reduced if such difference is greater than $5,000,000.

"(ii) The Director of OMB shall calculate and set forth for defense programs (by type of sequesterable resource) and for non-defense programs (by type of sequesterable resource), the amount of reductions in budgetary resources that would be required by this part using his estimate of the aggregate amount of required outlay reductions and applying the technical assumptions (including outlay rates) and methodologies used in the report of the Director of CBO under subparagraph (A). The Director of OMB shall identify and explain any differences between these estimates and such corresponding amounts set forth under clause (i).

"(iii) In the report for a fiscal year (except fiscal year 1988) issued under this subparagraph, the Director of OMB shall assume that the aggregate outlay rate for defense programs covered by paragraph (6)(C), calculated using data on sequesterable resources and account outlay rates applicable to such fiscal year, shall not differ by more than one-half of 1 percent from such aggregate outlay rate calculated using the same data on sequesterable resources but using account outlay rates calculated arithmetically using the applicable sequesterable resources and outlays contained in the report submitted under this Act for the preceding fiscal year as proposed by the Director of OMB. For purposes of this subparagraph, an aggregate outlay rate shall be the average of account outlay rates (expressed as a percentage) with each account outlay rate (as defined in section 257(13)) given a weight that is proportional to the account's share of total sequesterable resources. The calculation of the non-defense aggregate outlay rate for programs covered by paragraph (6)(C), shall be determined using the procedures and restrictions used for determining the aggregate defense outlay rate.

"(iv) The report issued under this subparagraph for any fiscal year (except fiscal year 1988) may not assume aggregate outlays for the health insurance programs under title XVIII of the Social Security Act (before taking into account legislation enacted or regulations prescribed after the current services budget is submitted) which deviate by more than 1 percent from the amount of outlays estimated for such programs in the current services budget submitted by the President pursuant to section 1109(a) of title 31, United States Code, for such fiscal year. For fiscal year 1988 the report issued under this subparagraph shall assume aggregate outlays for such programs (before taking into account legislation enacted or regulations promulgated as final after August 20, 1987) equal to the amount assumed for such programs by the Director of OMB in the report submitted to the Temporary Joint Committee on Deficit Reduction on August 20, 1987, except that, unless necessary to comply with requirements provided in law, any change in administrative procedures that increases or decreases the average number of days for the payment of claims under title XVIII of the Social Security Act, compared to such average in the preceding fiscal year, shall not be taken into account for purposes of this Act.

"(C)(i) The technical and economic assumptions used by the Director of CBO to calculate the excess deficit shall also be used by the Director of CBO to calculate the unachieved deficit reduction, required outlay reductions and the amounts and percentages by which budgetary resources must be reduced.

"(ii) The technical and economic assumptions used by the Director of OMB to calculate the excess deficit shall also be used by the Director of OMB to calculate the required outlay reductions, the unachieved deficit reduction and the amounts and percentages by which budgetary resources must be reduced.

"(iii) For fiscal year 1988, except as specified in subparagraph (B)(iv), the Director of OMB shall use the same economic and technical assumptions (including outlay rates) that the Director of OMB used in the report submitted to the Temporary Joint Committee on Deficit Reduction on August 20, 1987.

"(iv) For fiscal year 1989 and subsequent fiscal years, to the extent that the report submitted by the President for such fiscal year under section 1106(a) of title 31, United States Code, uses economic and technical assumptions (including outlay rates) that differ from those that will be used by the Director of OMB in the report to be submitted under subparagraph (B) for such fiscal year, the report submitted by the President shall explain and identify such differences. Such report shall provide an estimate of the deficit excess and net deficit reduction in the budget baseline consistent with the estimates that will be used by the Director of OMB in the report to be submitted under subparagraph (B) for such fiscal year. The report submitted by the Director of OMB under subparagraph (B) for such fiscal year shall use the economic and technical assumptions that the report submitted by the President indicated would be used by such Director.

"(3) DETERMINATION OF REDUCTIONS.—

"(A) The aggregate amount of required outlay reductions for a fiscal year shall be determined as follows:

"(i) The aggregate required outlay reductions shall be—

"(I) for fiscal year 1988, the amount of unachieved deficit reduction;

"(II) for fiscal year 1989, zero if the deficit excess is equal to or less than $10,000,000,000, or if not, the lesser of the deficit excess or the amount of unachieved deficit reduction; or

"(III) for fiscal year 1990, 1991, 1992, or 1993, zero if the deficit excess for such fiscal year is equal to or less than the amount of the margin for such fiscal year specified in paragraph (10) of section 257, or if not, the amount of the deficit excess for such fiscal year.

The unachieved deficit reduction shall be $23,000,000,000 in the case of fiscal year 1988 and $36,000,000,000 in the case of fiscal year 1989, minus the net deficit reduction in the budget baseline for such fiscal year, but such unachieved deficit reduction shall not exceed $23,000,000,000 in the case of fiscal year 1988 or $36,000,000,000 in the case of fiscal year 1989. Net deficit reduction in the budget baseline for a fiscal year shall be the amount of the estimated deficit for such fiscal year based on laws enacted by, and regulations promulgated as final by, the snapshot date, as measured using the budget baseline specified in paragraph (6), subtracted from the amount of the estimated deficit for such fiscal year based on laws enacted by, and regulations promulgated as final by, January 1 of the calendar year in which such fiscal year begins as measured by using the budget baseline specified in paragraph (6). Both such deficit estimates for a fiscal year shall be made using the same economic and technical assumptions.

"(ii) As used in this paragraph, the term 'snapshot date' means—

"(I) for fiscal year 1988, in the case of an initial report submitted under subsection (a), October 10, 1987, and in the case of a final report submitted under subsection (c), the latest possible date before its submission;

"(II) for fiscal year 1989 and subsequent fiscal years, in the case of an initial report submitted under subsection (a), August 15, and in the case of a final report submitted under subsection (c), the latest possible date before its submission.

"(B) Subject to the exemptions, exceptions, limitations, special rules, and definitions set forth in this section and in sections 255, 256, and 257, one-half of the aggregate required outlay reductions shall be made under accounts within major functional category 050 (in this part referred to as outlays under 'defense programs'), and shall be made in accordance with the rules prescribed in subsection (d), and the other half of the aggregate required outlay reductions shall be made under other accounts of the Federal Government (in this part referred to as 'non-defense programs').

"(C) The amount by which outlays for automatic spending increases scheduled to take effect during the fiscal year are to be reduced shall be credited as reductions in outlays under non-defense programs, and the total amount of reductions in outlays under non-defense programs required under subparagraph (B) shall be reduced accordingly.

"(D) The maximum reduction permissible for each program to which an exception, limitation, or special rule set forth in subsection (c) or (f) of section 256 applies shall be credited as reductions in outlays under non-defense programs, and the amount of reductions in outlays under non-defense programs shall be further reduced by the amount of the reduction determined with respect to each such program.

Loans.

"(E)(i) Sequestrations and reductions under the remaining non-defense programs shall be applied on a uniform percentage basis so as to reduce new budget authority; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; obligation limitations; and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974 to the extent necessary to achieve any remaining required outlay reductions; except that each of the programs to which the special rules set forth in subsections (d) and (k) of section 256 apply shall not be reduced by more than the percentages specified in such subsections and the uniform percentage reduction applicable to all other programs under this clause shall be increased (if necessary) to a level sufficient to achieve any remaining required outlay reductions.

Contracts.

"(ii) For purposes of determining reductions under clause (i), any reduction in outlays of the Commodity Credit Corporation under an order issued by the President under section 252 for a fiscal year, with respect to contracts entered into during that fiscal year, that will occur during the succeeding fiscal year, shall be credited as reductions in outlays for the fiscal year in which the order is issued.

The determination of which accounts are within major functional category 050 and which are not, for purposes of subparagraph (B), shall be made by the Directors in a manner consistent with the budget submitted by the President for the fiscal year 1986; except that for such purposes no part of the accounts entitled 'Federal Emergency Management Agency, Salaries and expenses (58-0100-0-1-999)' and 'Federal Emergency Management Agency, Emergency management planning and assistance (58-0101-0-1-999)' shall be treated as being within functional category 050.

"(4) ADDITIONAL SPECIFICATIONS.—The reports submitted under paragraph (2) must also specify (with respect to the fiscal year involved)—

"(A) the amount and percentage increase of the automatic spending increase (if any) which is scheduled to take effect in the case of each program providing for such increases, and the amount and percentage increase (if any) of each such increase which will take effect after reduction under this part;

"(B) the amount of the savings (if any) to be achieved in the application of each of the special rules set forth in subsections (c) through (l) of section 256, along with a statement of (i) the new Federal matching rate resulting from the application of subsection (e) of that section, and (ii) the amount of the percentage reduction in payments to the States under section 204 of the Federal-State Extended Unemployment Compensation Act of 1970; and

Defense and national security.

"(C)(i) for defense programs, by account, the reduction (stated in terms of both percentage and amount) in new budget authority and unobligated balances, together with the estimated outlay reductions resulting therefrom; and

Loans.

"(ii) for non-defense programs, by account, the reduction, stated in terms of both percentage and amount, in new budget authority; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; obligation limitations; and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; together with the estimated outlay reductions resulting therefrom.

"(5) BASIS FOR DIRECTORS' ESTIMATES, DETERMINATIONS, AND SPECIFICATIONS.—The estimates, determinations, and specifications of the Directors under the preceding provisions of this subsection and under subsection (c) shall utilize the budget baseline, criteria, and guidelines set forth in paragraph (6) and in sections 255, 256, and 257. In estimating the deficit, the excess deficit, and unachieved deficit reduction for an initial report under paragraph (2) or a final report under subsection (c), the Directors shall use the budget baseline set forth in paragraph (6) based on laws enacted by, and regulations promulgated as final by, the snapshot date applicable to such report.

"(6) BUDGET BASELINE.—In estimating the deficit excess and net deficit reduction in the budget baseline and in computing the amounts and percentages by which accounts must be reduced during a fiscal year as set forth in any report required under this subsection for such fiscal year, the budget baseline shall be determined by—

"(A) assuming (subject to subparagraph (B)) the continuation of current revenue law and, in the case of spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974, funding for current law at levels sufficient to fully make all payments required under such law;

Taxes.

"(B) assuming that expiring provisions of law providing revenues and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974 do expire, except that excise taxes dedicated to a trust fund, and agricultural price support programs administered through the Commodity Credit Corporation are extended at current rates, and contract authority for transportation trust funds is extended at current levels;

"(C) in the case of all accounts to which subparagraph (A) does not apply—

"(i) assuming for an account (except as provided by clause (ii)), appropriations at the level specified in enacted annual appropriations or continuing appropriations enacted for the entire fiscal year, and in addition, estimates of appropriations to cover the costs of Federal pay adjustments as set forth in subparagraph (D)(ii) (unless funding for such pay adjustments are provided for in such measure as explained in the joint explanatory statement of managers accompanying such appropriations);

"(ii) assuming, if no annual appropriations or continuing appropriations for the entire fiscal year have been enacted for an account, subject to subparagraph (D)(iii), appropriations at the level provided for the previous fiscal year, (I) adjusted to reflect the full 12-month costs (without absorption) of the pay adjustment that occurred in such fiscal year, (II) inflated as specified in subparagraph (D)(i), and (III) increased to cover the increased costs to agencies of personnel benefits (other than pay) required by law;

Government organization and employees.
Wages.

"(D)(i) as required by subparagraph (C)(ii)(II), assuming that the inflator shall equal—

"(I) in the case of fiscal year 1988—

"(aa) for personnel costs, the rate of Federal pay adjustments for statutory pay systems and elements of military pay if such adjustments have been enacted into law or (on or after October 1 of the fiscal year) have been established pursuant to law for such fiscal year or, if not, 4.2 percent, multiplied by the proportion of the fiscal year for which the pay adjustments will be effective, multiplied by 78 percent; and

"(bb) for all other costs, 4.2 percent;

"(II) in the case of fiscal year 1989 and subsequent fiscal years—

"(aa) for 70 percent of personnel costs, the rate of Federal pay adjustments for statutory pay systems and elements of military pay if such adjustments have been enacted into law or (on or after October 1 of the fiscal year) have been established pursuant to law for such fiscal year or, if not, at the inflation rate specified in subclause (II)(bb), multiplied by the proportion of the fiscal year for which the pay adjustments will be effective, multiplied by 78 percent; and

"(bb) for all other costs, the percentage by which the average of the estimated gross national product implicit price deflator for such fiscal year exceeds the average of such estimated deflator for the prior fiscal year (and the Director of OMB shall use such percentage as estimated in the budget submitted by the President under section 1105(a) for such fiscal year, but such use shall not constrain the economic assumptions the Director may use under paragraph (2)(C));

"(ii) if required by subparagraph (C)(i), assuming appropriations for a fiscal year in an amount sufficient to—

"(I) cover any Federal pay adjustment for statutory pay systems (including associated adjustments in benefit costs) if such adjustments have been enacted into law or, on or after October 1 of the fiscal year, have been established pursuant to law for such fiscal year;

"(II) cover any pay adjustments for elements of military pay (including associated adjustments in benefit costs) if such adjustments are specifically enacted into law or occur pursuant to adjustments for statutory pay systems if such adjustments have been enacted into law or, on or after October 1 of the fiscal year, have been established pursuant to law;

reduced by 22 percent;

"(iii) assuming for the purposes of subparagraph (C)(ii) that the amount provided for an account for the previous fiscal year is the amount provided in any enacted annual appropriations or continuing appropriations enacted for the entire fiscal year, as modified by any enacted supplemental appropriations or rescission bills, and if a temporary continuing appropriation is in effect for the previous fiscal year, then the amount provided for such account for the previous fiscal year shall be assumed to be the amount that would have been enacted if such continuing appropriations were in effect for the entire fiscal year;

Medicare.

"(E) assuming that medicare spending levels for inpatient hospital services will be based upon the regulations most recently issued in final form or proposed by the Health Care Financing Administration pursuant to sections 1886(b)(3)(B), 1886(d)(3)(A), and 1886(e)(4) of the Social Security Act;

Real property.

"(F) assuming that, unless otherwise required by law, advance deficiency payments and paid land diversion payments under the Agricultural Act of 1949 will be made in accordance with applicable regulations and payment rates for 1987;

"(G) assuming that the increase in revenues attributable to any increase in appropriations available for administration and enforcement of the Internal Revenue Code of 1986 (over the amount actually appropriated for the previous fiscal year) is consistent on a proportional basis with the increase in revenues projected to result from the increased appropriations for such purposes in the budget submitted under section 1105(a) of title 31, United States Code, for such fiscal year;

Veterans.

"(H) assuming, unless otherwise provided by law, that the increase for Veterans' compensaton (36-0153-0-1-701) for a fiscal year will be the same as that required by law for Veterans' pensions;

Loans.

"(I) assuming, for purposes of this paragraph and subparagraph (A)(i) of paragraph (3), that the sale of an asset or prepayment of a loan shall not alter the deficit or produce any net deficit reduction in the budget baseline, except that the budget baseline estimate shall include asset sales mandated by law before September 18, 1987, and routine, ongoing asset sales and loan prepayments at levels consistent with agency operations in fiscal year 1986;

"(J) assuming that deferrals proposed during the period beginning October 1 of such fiscal year and ending with the snapshot date for such fiscal year shall not be taken into account in determining such budget baseline; and

"(K) assuming that the transfer of Government actions from one fiscal year to another fiscal year, as described in section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, shall not be taken into account except to the extent provided in such section.

Terms used in this paragraph shall have the meanings defined in sections 256 and 257.

Federal Register, publication.

"(b) DATES FOR SUBMISSION AND PRINTING OF REPORTS.—Each report submitted under this section shall be submitted to the Federal Register on the day that it is issued and printed on the following day. If the date specified for the submission of a report by the Directors or its printing in the Federal Register under this section falls on a Sunday or legal holiday, such report shall be submitted or printed on the following day.

"(c) REVISED ESTIMATES, DETERMINATIONS, AND REPORTS.—

"(1) REPORTS BY CBO.—On November 15 of fiscal year 1988 and on October 10 of subsequent fiscal years, the Director of CBO shall issue a revised report to Congress and the Director of OMB—

"(A) indicating whether and to what extent, as a result of laws enacted and regulations promulgated as final after August 15 of the calendar year in which the fiscal year begins (or after October 10, 1987, in the case of the fiscal year 1988) the aggregate amount of required outlay reductions identified in the report submitted under subsection (a)(2)(A) has been eliminated, reduced, or increased,

"(B) adjusting the determinations made under subsection (a)(2)(A) to the extent necessary, and

"(C) specifying by programs, projects, and activities for defense accounts, the budget baseline from which reductions are taken and the amounts and percentages by which such programs, projects, and activities must be reduced.

"(2) REPORTS BY OMB.—On November 20 of fiscal year 1988 and on October 15 of subsequent fiscal years, the Director of OMB shall submit to the President and the Congress a report revising the report issued under subsection (a)(2)(B), adjusting the estimates, determinations, and specifications contained in the report and taking into account for the purposes of required determinations and comparisons the revised report issued by the Director of CBO under paragraph (1). This report shall contain all of the determinations and comparisons required in, and shall be based on the same economic and technical assumptions, employ the same methodologies, and utilize the same definition of the budget baseline and the same criteria and guidelines as, the report issued under subsection (a)(2)(B), and shall provide for the determination of reductions in the manner specified in subsection (a)(3). In addition, this report shall specify by programs, projects, and activities for defense accounts, the budget baseline from which reductions are taken and the amounts by which such programs, projects, and activities must be reduced.

"(d) SEQUESTRATION OF DEFENSE PROGRAMS.—

"(1) DETERMINATION OF UNIFORM PERCENTAGE.—The total amount of reductions in outlays under defense programs required for a fiscal year under subsection (a)(3)(B) shall be calculated as a percentage of the total amount of outlays for the fiscal year estimated to result from new budget authority and unobligated balances for defense programs.

"(2) SEQUESTRATION OF NEW BUDGET AUTHORITY AND UNOBLIGATED BALANCES.—

"(A) Sequestration to achieve the required reduction in outlays under defense programs shall be made by reducing new budget authority and unobligated balances (if any) in each program, project, or activity under accounts within defense programs by the percentage determined under paragraph (1), computed on the basis of the combined outlay rate for new budget authority and unobligated balances for such program, project, or activity determined under subparagraph (B).

"(B) If the outlay rate for unobligated balances is not available for any program, project, or activity, the outlay rate used shall be the outlay rate for new budget authority.

"(3) FLEXIBILITY WITH RESPECT TO MILITARY PERSONNEL ACCOUNTS.—

"(A) Notwithstanding paragraphs (1) and (2), with respect to a fiscal year the President may, with respect to any military personnel account—

"(i) exempt any program, project, or activity within such account from the order;

"(ii) provide for a lower uniform percentage to be applied to reduce any program, project, or activity within such account than would otherwise apply; or

"(iii) take actions described in both clauses (i) and (ii).

"(B) If the President uses the authority under subparagraph (A), the total amount by which outlays are not reduced for such fiscal year in military personnel accounts by reason of the use of such authority shall be determined.

Additional reductions in outlays under defense programs in such total amount shall be achieved by a uniform percentage sequestration of new budget authority and unobligated balances in each program, project, and activity within each account within major functional category 050 other than those military personnel accounts for which the authority provided under subparagraph (A) has been exercised, computed on the basis of the outlay rate for each such program, project, and activity determined under paragraphs (1) and (2).

"(C) The President may not use the authority provided by subparagraph (A) unless he notifies the Congress on or before October 10, 1987, in the case of fiscal year 1988, or August 15 of the calendar year in which the fiscal year begins in the case of any subsequent fiscal year, of the manner in which such authority will be exercised. The Directors shall reflect the results of authority exercised under this paragraph in the reports required under section 251(a)(2).

"(e) EXCEPTION.—The preceding provisions of this section shall not apply if a declaration of war by the Congress is in effect.

2 USC 902.

"SEC. 252. PRESIDENTIAL ORDER.

"(a) ISSUANCE OF INITIAL ORDER.—

"(1) IN GENERAL.—On August 25 (or October 20, 1987, in the case of fiscal year 1988), following the submission of a report by the Director of OMB under section 251(a)(2)(B), the President, in strict accordance with the requirements of paragraph (2) and section 251(a) (3) and (4) and subject to the exemptions, exceptions, limitations, special rules, and definitions set forth in sections 255, 256, and 257, shall make all the reductions specified in such report by issuing an order that (notwithstanding the Impoundment Control Act of 1974)—

"(A) in accordance with such report, suspends the operation of each provision of Federal law that would (but for such order) require an automatic spending increase to take effect during such fiscal year in such a manner as to prevent such increase from taking effect, or reduce such increase, in accordance with such report; and

Loans.

"(B) in accordance with such report, sequesters new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; and obligation limitations—

"(i) for funds provided in annual appropriation Acts, from each affected program, project, and activity (as set forth in the most recently enacted applicable appropriation Acts and accompanying committee reports for the program, project, or activity involved, including joint resolutions providing continuing appropriations and committee reports accompanying Acts referred to in such resolutions), applying the same reduction percentage as the percentage by which the account involved is reduced in the report submitted under section 251(a)(2)(B) or from each affected budget account if the program, project, or activity is not so set forth, and "(ii) for funds not provided in annual appropriation Acts, from each budget account activity as identified in the program and financing schedules contained in the appendix to the Budget of the United States Government for that fiscal year, applying the same reduction percentage as the percentage by which the account is reduced in such report.

"(2) ORDER TO BE BASED ON DIRECTOR OF OMB'S REPORT.—The order must provide for reductions in the manner specified in section 251(a)(3), must incorporate the provisions of the report submitted under section 251(a)(2)(B), and must be consistent with such report in all respects. The President may not modify or recalculate any of the estimates, determinations, specifications, bases, amounts, or percentages set forth in such report in determining the reductions to be specified in the order with respect to programs, projects, and activities, or with respect to budget activities, within an account.

"(3) ORDER REQUIRED IF NO REDUCTIONS ARE NEEDED.—If the report submitted under section 251(a)(2)(B) states that no aggregate outlay reductions are required for a fiscal year, the order issued by the President shall so state.

"(4) EFFECT OF SEQUESTRATION UNDER INITIAL ORDER.—

"(A) IN GENERAL.—Notwithstanding section 257(7), amounts sequestered under an order issued by the President under paragraph (1) shall be withheld from obligation or expenditure pending the issuance of a final order under subsection (b) and shall be permanently sequestered or reduced in accordance with such final order upon the issuance of such order.

"(B) SPECIAL RULE CONCERNING REDUCTION OF PAYMENTS UNDER THE MEDICARE PROGRAM.—

"(i) IN GENERAL.—With respect to services furnished during the interim period (as defined in clause (iii)) for any fiscal year, and notwithstanding any other provision of this Act, payments under the health insurance programs under title XVIII of the Social Security Act shall not be reduced by an initial order under this subsection for that fiscal year.

"(ii) DIRECTOR OF OMB TO DETERMINE ANNUALIZED PERCENTAGE REDUCTION.—The Director of OMB, in consultation with the Secretary of Health and Human Services, shall determine a percentage reduction which shall apply to payments under the health insurance programs under title XVIII of the Social Security Act for services furnished in any fiscal year after the interim period for that year, such that the reduction made in such payments under the final order under subsection (b) for that year shall achieve a total reduction of 2 percent (or, if lower, the uniform percentage reduction provided under section 251(a)(3)(E)(i)) in such payments for such fiscal year as determined on a 12-month basis.

"(iii) INTERIM PERIOD.—In this subparagraph, the term 'interim period' means, with respect to a fiscal year, the period beginning on October 1 of the fiscal year and ending on the date of the issuance of the final order under subsection (b) with respect to that fiscal year.

"(5) ACCOMPANYING MESSAGE.—Not later than the 15th day beginning after the President issues an initial order under paragraph (1) for any fiscal year, the President shall transmit to both Houses of Congress a single message containing all the information required by section 251(a)(4) and further specifying in strict accordance with paragraph (2)—

"(A) within each account, for each program, project, and activity, or budget account activity, the base from which each sequestration or reduction is taken and the amounts which are to be sequestered or reduced for each such program, project, and activity or budget account activity; and

"(B) such other supporting details as the President may determine to be appropriate.

Congress. Upon receipt in the Senate and the House of Representatives, the message (and any accompanying proposals made under subsection (c)(1)) shall be referred to all committees with jurisdiction over programs, projects, and activities affected by the order.

"(6) EFFECTIVE DATE OF INITIAL ORDER.—

"(A) FISCAL YEAR 1988.—The order issued by the President under paragraph (1) with respect to fiscal year 1988 shall be effective as of the day it is issued (and the President shall withhold from obligation or expenditure as provided in paragraph (4), pending the issuance of the final order under subsection (b), any amounts that are sequestered under such order).

"(B) FISCAL YEARS 1989-1993.—The order issued by the President under paragraph (1) with respect to the fiscal year 1989 or any subsequent fiscal year shall be effective as of October 1 of such fiscal year (and the President shall withhold from obligation or expenditure as provided in paragraph (4), pending the issuance of the final order under subsection (b), any amounts that are sequestered under such order).

"(7) TREATMENT OF AUTOMATIC SPENDING INCREASES.—

"(A) FISCAL YEARS 1987-1993.—Notwithstanding any other provision of law, any automatic spending increase that would (but for this clause) be first paid during the period beginning with the first day of such fiscal year and ending with the date on which a final order is issued pursuant to subsection (b) shall be suspended until such final order becomes effective, and the amounts that would otherwise be expended during such period with respect to such increases shall be withheld. If such final order provides that automatic spending increases shall be reduced to zero during such fiscal year, the increases suspended pursuant to the preceding sentence and any legal rights thereto shall be permanently cancelled. If such final order provides for the payment of the full amount of such increases, the increases suspended pursuant to such sentence shall be restored to the extent necessary to pay such reduced or full increases, and lump-sum payments in the amounts necessary to pay such reduced or full increases shall be made, for the period for which such increases were suspended pursuant to this clause.

"(B) PROHIBITION AGAINST RECOUPMENT.—Notwithstanding subparagraph (A), if an amount required to be withheld is paid, no recoupment shall be made against an individual to whom payment was made.

"(C) EFFECT OF LUMP-SUM PAYMENTS ON NEEDS-RELATED PROGRAMS.—Lump-sum payments made under the last sentence of subparagraph (A) shall not be considered as income or resources or otherwise taken into account in determining the eligibility of any individual for aid, assistance, or benefits under any Federal or federally assisted program which conditions such eligibility to any extent upon the income or resources of such individual or his or her family or household, or in determining the amount or duration of such aid, assistance, or benefits.

"(b) ISSUANCE OF FINAL ORDER.—

"(1) IN GENERAL.—On October 15 of the fiscal year (or on November 20, 1987, in the case of fiscal year 1988), after the submission of the revised report by the Director of OMB under section 251(c)(2), the President shall issue a final order under this section to make all of the reductions and sequestrations specified in such report, but only to the extent and in the manner provided in such report. The order issued under this subsection—

"(A) shall include the same reductions and sequestrations as the initial order issued under subsection (a), adjusted to the extent necessary to take account of any changes in relevant amounts or percentages determined by the Director of OMB in the revised report submitted under section 251(c)(2), and shall include a reduction in payments under the health care programs under title XVIII of the Social Security Act determined in accordance with subsection (a)(4)(B)(ii),

"(B) shall make such reductions and sequestrations in strict accordance with the requirements of sections 251(a) (3) and (4), and

"(C) shall utilize the same criteria and guidelines as those which were used in the issuance of such initial order under subsection (a).

The provisions of section 251(a)(3) shall apply to the revised report submitted under section 251(c)(2) and to the order issued under this subsection in the same manner as such provisions apply to the initial report issued under section 251(a)(2)(B) and to the order issued under subsection (a).

"(2) ORDER REQUIRED IF DEFICIT REDUCTION IS ACHIEVED.—If the Director of OMB issues a revised report under section 251(c)(2) stating that as a result of laws enacted and regulations promulgated as final after August 15 of the calendar year in which such fiscal year begins (or October 10, 1987, in the case of fiscal year 1988) no deficit reduction is necessary to fully satisfy the requirements of section 251(a)(3)(A), the order issued under this subsection shall so state and shall make available for obligation and expenditure any amounts withheld pursuant to subsection (a)(4) or (a)(7).

"(3) EFFECTIVE DATE OF FINAL ORDER.—

"(A) The final order issued by the President under paragraph (1) shall become effective on the date of its issuance, and shall supersede the initial order issued under subsection (a)(1).

"(B) Any modification or suspension by such order of the operation of a provision of law that would (but for such order) require an automatic spending increase to take effect during the fiscal year shall apply for the one-year period beginning with the date on which such automatic increase would have taken effect during such fiscal year (but for such order).

"(4) ACCOMPANYING MESSAGE.—Not later than the 15th day beginning after the President issues a final order under paragraph (1) for any fiscal year, the President shall transmit to both Houses of Congress a single message in the same manner as, and containing all the information required by, subsection (a)(5).

"(c) PROPOSAL OF ALTERNATIVES BY THE PRESIDENT.—

"(1) IN GENERAL.—A message transmitted pursuant to subsection (a)(5) with respect to a fiscal year may be accompanied by a proposal setting forth in full detail alternative ways to reduce the deficit for such fiscal year in an amount not less than the deficit reduction required under section 251(a)(3) for such fiscal year.

"(2) FLEXIBILITY AMONG DEFENSE PROGRAMS, PROJECTS, AND ACTIVITIES.—

"(A) Subject to subparagraphs (B), (C), and (D), and subsection (d), new budget authority and unobligated balances for any programs, projects, or activities within major functional category 050 (other than a military personnel account) may be further reduced beyond the amount specified in an order issued by the President under subsection (b)(1) for such fiscal year. To the extent such additional reductions are made and result in additional outlay reductions, the President may provide for lesser reductions in new budget authority and unobligated balances for other programs, projects, or activities within major functional category 050 for such fiscal year, but only to the extent that the resulting outlay increases do not exceed the additional outlay reductions, and no such program, project, or activity may be increased above the level actually made available by law in appropriation Acts (before taking sequestration into account). In making calculations under this subparagraph, the President shall use account outlay rates that are identical to those used in the report by the Director of OMB under section 251(c)(2).

"(B) No actions taken by the President under subparagraph (A) for a fiscal year may result in a domestic base closure or realignment that would otherwise be subject to section 2687 of title 10, United States Code.

"(C) The President may not exercise the authority provided by this paragraph for a fiscal year unless—

Reports.

"(i) the President submits a single report to Congress specifying changes proposed to be made for such fiscal year pursuant to this paragraph; and

"(ii) a joint resolution affirming or modifying the changes proposed by the President pursuant to this paragraph becomes law.

"(D) Within 5 calendar days of session after the President submits a report to Congress under subparagraph (C)(i) for a fiscal year, but before November 25, 1987, for fiscal year 1988 or, in the case of any subsequent fiscal year, before October 20 of such fiscal year, the majority leader of each House of Congress shall (by request) introduce a joint resolution which contains provisions affirming the changes proposed by the President pursuant to this paragraph. Congress.

"(E)(i) The matter after the resolving clause in any joint resolution introduced pursuant to subparagraph (D) shall be as follows: 'That the report of the President as submitted on [Insert Date] under section 252(c)(2)(C)(i) is hereby approved.'.

"(ii) The title of the joint resolution shall be 'Joint resolution approving the report of the President submitted under section 252(c)(2)(C)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.'.

"(iii) Such joint resolution shall not contain any preamble.

"(F)(i) A joint resolution introduced in the House of Representatives under subparagraph (D) shall be referred to the Committee on Appropriations, and if not reported within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of introduction shall be considered as having been discharged therefrom and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection.

"(ii) A joint resolution introduced in the Senate under subparagraph (D) shall be referred to the Committee on Appropriations, and if not reported within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of introduction shall be considered as having been discharged therefrom and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection. In the Senate, no amendment made in the Committee on Appropriations shall be in order other than an amendment (in the nature of a substitute) that is germane or relevant to the provisions of the joint resolution or to the order issued under section 252(b)(1) insofar as they relate to major function 050 (national defense).

"(iii) On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is placed on the appropriate calendar, notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived, except for points of order under titles III and IV of the Congressional Budget Act of 1974. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after such joint resolution is placed on the appropriate calendar. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the respective House until disposed of.

"(G)(i) In the Senate, debate on a joint resolution introduced under subparagraph (D), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees). In the House, general debate on a joint resolution introduced under subparagraph (D) shall be limited to not more than 4 hours which shall be equally divided between the chairman of the Committee on Appropriations and the ranking minority member of such committee.

"(ii) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order. In the House, a motion further to limit debate is in order and not debatable. In the House, a motion to recommit, with or without instructions, is in order.

"(H)(i) In the House of Representatives, an amendment and any amendment to an amendment is debatable for not to exceed 30 minutes to be equally divided between the proponent of the amendment and a Member opposed thereto.

"(ii) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 252(b)(1) insofar as they relate to major function 050 (national defense) shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between the majority leader and the minority leader (or their designees).

"(iii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

"(iv) It shall not be in order in the Senate to consider any amendment to any joint resolution introduced under subparagraph (D) or any conference report thereon if such amendment or conference report would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided in such joint resolution unless such amendment or conference report makes a reduction in other specific budget outlays at least equivalent to any increase in outlays provided by such amendment or conference report.

"(v) For purposes of the application of clause (iv), the level of outlays and specific budget outlay reductions provided in an amendment shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

"(I) Immediately following the conclusion of the debate on a joint resolution introduced under subparagraph (D), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, and the disposition of any amendments under subparagraph (H) (except in the House of Representatives for the motion to recommit and the disposition of any amendment proposed in a motion to recommit which has been adopted), the vote on final passage of the joint resolution shall occur.

"(J) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subparagraph (D) shall be decided without debate.

"(K) In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 302(c), 303(a), 306, and 401(b)(1)) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

"(L) If, before the passage by the Senate of a joint resolution of the Senate introduced under subparagraph (D), the Senate receives from the House of Representatives a joint resolution introduced under subparagraph (D), then the following procedures shall apply:

"(i) The joint resolution of the House of Representatives shall not be referred to a committee.

"(ii) With respect to a joint resolution introduced under subparagraph (D) in the Senate—

"(I) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

"(II)(aa) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

"(bb) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes it, the Senate shall be considered to have passed the joint resolution as amended by the text of the Senate joint resolution.

"(iii) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the joint resolution originated in the Senate.

"(M) If the Senate receives from the House of Representatives a joint resolution introduced under subparagraph (D) after the Senate has disposed of a Senate originated joint resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.

"(d) EXISTING PROGRAMS, PROJECTS, AND ACTIVITIES NOT TO BE ELIMINATED.—No action taken by the President under subsection (a) or (b) of this section shall have the effect of eliminating any program, project, or activity of the Federal Government.

"(e) RELATIVE BUDGET PRIORITIES NOT TO BE ALTERED.—Nothing in the preceding provisions of this section shall be construed to give the President new authority to alter the relative priorities in the Federal budget that are established by law, and no person who is or becomes eligible for benefits under any provision of law shall be denied eligibility by reason of any order issued under this part.

"(f) PART-YEAR APPROPRIATIONS.—

"(1) EFFECT OF FINAL ORDER ON PART-YEAR APPROPRIATION.—If, at the time the President issues a final order for any fiscal year, there is in effect an Act making or continuing appropriations for part of the fiscal year for any budget account which is subject to reduction under the order, then the amount sequestered upon issuance of the order for that account shall be equal to the reduction amount for such account required by the final order multiplied by a fraction the numerator of which is the number of days during the fiscal year with respect to which the Act applies and the denominator of which is 365.

"(2) EFFECT OF SUBSEQUENT APPROPRIATION ON FINAL ORDER.—

"(A) If, after the issuance of a final order for a fiscal year under subsection (b), an Act referred to in paragraph (1) is extended or an Act making or continuing appropriations for part of the fiscal year for the account is enacted, then additional amounts determined in the same manner shall be sequestered.

"(B) Upon enactment of a full-year appropriation (including a continuing appropriation for the full year) for the account, the full amount of the sequestration specified by the final order, reduced by the sum of amounts previously sequestered and savings achieved by such appropriation measure when the amount enacted is less than the budget baseline for such account, shall be sequestered, except that the sum shall not exceed the amount specified in the final order for the account.

"(3) EFFECTIVE DATE OF SEQUESTRATIONS.—Amounts required to be sequestered by the President under paragraph (1) or (2) shall be sequestered not later than the close of the fifth calendar day beginning after the date of enactment into law of the relevant Act referred to in paragraph (1) or (2).

Federal Register, publication.

"(g) PRINTING OF ORDERS.—Each initial order and final order issued under this section shall be submitted to the Federal Register on the date it is issued and printed on the following day. If the date specified for the issuance of an order or its printing in the Federal Register under this section falls on a Sunday or legal holiday, such order shall be issued or printed on the following day."

(b) Conforming Amendments.—

(1) Congressional procedures.—Section 254(b)(1)(A) of the Act is amended by striking out "the Comptroller General under section 251(c)(2)" and by inserting in lieu thereof "the Director of OMB under section 251(c)(2)". 2 USC 904.

(2) Sequestrations.—Section 256(a)(2) of the Act is amended to read as follows: 2 USC 906.

"(2) Sequestrations.—Any amounts of new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; or obligation limitations which are sequestered or automatic spending increases which are reduced under an order issued under section 252 are permanently cancelled or reduced; with the exception of amounts sequestered or reduced in special or trust funds, which shall remain in such funds and be available in accordance with and to the extent permitted by law, including the provisions of this Act.". Loans.

(3) Treatment of obligated balances.—Section 256(l) of the Act is amended to read as follows:

"(l) Treatment of Obligated Balances.—Obligated balances shall not be subject to reduction under an order issued under section 252.".

(4) Definition of sequestration.—Section 257(7) of the Act is amended to read as follows: 2 USC 907.

"(7) The terms 'sequester' and 'sequestration' (subject to section 252(a)(4)) refer to or mean the reduction or cancellation of new budget authority; unobligated balances, new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; and obligation limitations.".

(5) Definition of sequesterable resource.—Section 257 of the Act is amended by adding after paragraph (8) the following new paragraph:

"(9) The term 'sequesterable resource' means new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; and obligation limitations for budget accounts, programs, projects, and activities that are not exempt from reduction or sequestration under this part.".

(6) Clarifying amendment respecting appropriated entitlements.—Section 257 of the Act is amended by adding after paragraph (10) the following new paragraph:

"(11) As used in this part, all references to section 401(c)(2) of the Congressional Budget Act of 1974 shall include (but are not limited to) payments to any person or government under terms of law for the following programs:

"(A) Claims, defense (97-0102-0-1-051).

"(B) Veterans compensation (36-0153-0-1-701).

"(C) Veterans pensions (36-0154-0-1-701).

"(D) Burial benefits and miscellaneous assistance (36-0155-0-1-701).

"(E) Readjustment benefits (36-0137-0-1-702).

"(F) Loan guaranty revolving fund (36-4025-0-3-704).

"(G) Guaranteed student loans (91-0230-0-1-502).

"(H) Social services block grant (75-1634-0-1-506).

"(I) Family social services (75-1645-0-1-506).

"(J) Rehabilitation services and handicapped research (91-0301-0-1-506).

"(K) Grants to States for medicaid (75-0512-0-1-551).

"(L) Special benefits for disabled coal miners (75-0409-0-1-601).

"(M) Black lung disability trust fund (20-8144-0-7-601).

"(N) Special benefits (16-1521-0-1-602).

"(O) Federal unemployment benefits and allowances (16-0326-0-1-603).

"(P) Supplemental security income program (75-0406-0-1-609).

"(Q) Family support payments to States (75-1501-0-1-609).

"(R) Food stamp program (12-3505-0-1-605).

"(S) Child nutrition programs (12-3539-0-1-605).

"(T) Retired pay, coast guard (69-0241-0-1-403).

"(U) Government payment for annuitants, employees health benefits (24-0206-0-1-551).".

2 USC 907.

(7) DEFINITIONS OF ASSET SALE AND LOAN PREPAYMENT.—Section 257 of the Act is amended by adding after paragraph (11) the following new paragraph:

"(12) The sale of an asset means the sale to the public of any asset, whether physical or financial, owned in whole or in part by the United States. The term 'prepayment of a loan' means payments to the United States made in advance of the schedules set by law or contract when the financial asset is first acquired, such as the prepayment to the Federal Financing Bank of loans guaranteed by the Rural Electrification Administration. If a law or contract allows a flexible payment schedule, the term 'in advance' shall mean in advance of the slowest payment schedule allowed under such law or contract.".

(8) DEFINITION OF OUTLAY RATE.—Section 257 of the Act is amended by adding after paragraph (12) the following new paragraphs:

"(13) The term 'outlay rate', with respect to any budget account, program, project, or activity, means—

"(A) the ratio of outlays resulting in the fiscal year involved from new budgetary resources for such budget account, program, project, or activity to such new budgetary resources; or

"(B) the ratio of outlays resulting in the fiscal year involved from unobligated balances for such budget account, program, project, or activity to such unobligated balances.

"(14) The term 'combined outlay rate', with respect to any budget account, program, project, or activity, means the weighted average (by budgetary resources) of the ratios determined under subparagraphs (A) and (B) of paragraph (13) for such budget account, program, project, or activity.".

2 USC 922.

(9) ALTERNATE PROCEDURES.—Section 274(f) of the Act is amended—

(A) by striking out paragraph (1) and by inserting in lieu thereof the following new paragraph:

"(1) In the event that any of the reporting procedures described in section 251 are invalidated, then any report of the Director of CBO under section 251(a)(2)(A) or 251(c)(1) shall be transmitted to the joint committee established under this subsection.".

(B) in paragraphs (2) and (3) by striking out "Directors" both places it appears therein and by inserting in lieu thereof "Director of CBO"; and

(C) in paragraph (5) by striking out "section 251 (b) or (c)(2)" and by inserting in lieu thereof "section 251 (a)(2)(B) or (c)(2)".

(10) COMPTROLLER GENERAL'S ESTIMATES.—Subsection (h) of section 274 of the Act is amended— 2 USC 922.

(A) by striking out "Comptroller General" both times it appears therein and by inserting in lieu thereof "Director of OMB" and by striking out "section 251(b)" and by inserting in lieu thereof "section 251(a)(2)(B)"; and

(B) by striking out ", assumptions, and methodologies" and by inserting in lieu thereof "and economic assumptions".

(11) CONFORMING MEDICARE AMENDMENT.—Section 256(d)(1)(B) of the Act is amended by inserting after "2 percent" the following: "(or such higher percentage as may apply as determined in accordance with section 252(a)(4)(B)(ii))". 2 USC 906.

SEC. 103. COMPLIANCE REPORT BY COMPTROLLER GENERAL.

Section 253 of the Act is amended to read as follows: 2 USC 903.

"SEC. 253. COMPLIANCE REPORT BY COMPTROLLER GENERAL.

"On or before November 15 of each fiscal year (or December 15, 1987, in the case of the fiscal year 1988), the Comptroller General shall submit to the Congress and the President a report on—

"(1) the extent to which each order issued by the President under section 252 for such fiscal year complies with all of the requirements contained in section 252, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not;

"(2) the extent to which each report of the Director of OMB under section 251 for such fiscal year complies with all of the requirements contained in this part, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not; and

"(3) any recommendations of the Comptroller General for improving the procedures set forth in this part.".

SEC. 104. EXEMPT PROGRAMS AND ACTIVITIES.

(a) CLARIFYING AMENDMENTS.—(1) Section 255(h) of the Act is amended by including after the item relating to child nutrition the following new item: 2 USC 905.

"Commodity supplemental food program (12-3512-0-1-605);".

(2) Section 255(g)(1) of the Act is amended—

(A) by inserting after the item relating to intragovernmental funds the following new item:

"Medical facilities guarantee and loan fund, Federal interest subsidies for medical facilities (75-4430-03-551);".

(B) by inserting after the item relating to the Health Education Assistance Loan Program the following new item:

"Higher education facilities loans and insurance (91-0240-01-502);".

(C) by inserting after the item relating to the Bonneville Power Administration the following new item:

"Bureau of Indian Affairs, miscellaneous payments to Indians (14-2303-0-1-452);".

(D) by inserting before the item relating to the Postal service fund the following new item:

"Payments to widows and heirs of deceased Members of Congress (00-0215-0-1-801);".

(E) by inserting before the item relating to the Alaska Power Administration the following new item:

"Thrift Savings Fund (26-8141-0-7-602);".

(F) by inserting after the item relating to the Tennessee Valley Authority the following new item:

"Washington Metropolitan Area Transit Authority, interest payments (46-0300-0-1-401);".

2 USC 906. (3) Section 256(b)(4) of the Act is amended by inserting at the end thereof the following new subparagraph:

"(G) Federal Retirement Thrift Investment Board.".

(4) Section 256(e) of the Act is amended by striking out "Any order" and by inserting in lieu thereof "Notwithstanding any change in the display of budget accounts, any order".

2 USC 905. (b) AMENDMENTS TO SPECIFICALLY INCLUDE IN THIS ACT EXEMPTIONS ENACTED SINCE 1985.—(1) Section 255(b) of the Act is amended by inserting after the colon the following:

"National Service Life Insurance Fund (36-8132-0-7-701);

"Service-Disabled Veterans Insurance Fund (36-4012-0-3-701);

"Veterans Special Life Insurance Fund (36-8455-0-8-701);

"Veterans Reopened Insurance Fund (36-4010-0-3-701);

"United States Government Life Insurance Fund (36-8150-0-7-701);

"Veterans Insurance and Indemnity (36-0120-0-1-701);

"Special Therapeutic and Rehabilitation Activities Fund (36-4048-0-3-703);

"Veterans' Canteen Service Revolving Fund (36-4014-0-3-705);

"Benefits under chapter 21 of title 38, United States Code, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities (36-0137-0-1-702);

"Benefits under section 907 of title 38, United States Code, relating to burial benefits for veterans who die as a result of service-connected disability (36-0155-0-1-701);

"Benefits under chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces (36-0137-0-1-702);".

(2) Section 255(g)(1) of the Act is amended—

(A) by inserting after the item relating to intragovernmental funds the following new item:

"Panama Canal Commission, operating expenses (95-5190-0-2-403), and Panama Canal Commission, capital outlay (95-5190-0-2-403);";

(B) by inserting after the item relating to payments to trust funds the following new item:

"Payments to the United States territories, fiscal assistance (14-0418-0-1-852);";

(C) by inserting after the item relating to compensation of the President the following new item:

"Customs Service, miscellaneous permanent appropriations (20-9922-0-2-852);";

(D) by inserting before the item relating to intragovernmental funds the following new item:

"Internal Revenue Collections for Puerto Rico (20-5737-0-2-852);";

(E) by inserting after the first item the following new item:

"Administration of Territories, Northern Mariana Islands Covenant grants (14-0412-0-1-806);"; and

(F) by inserting after the item relating to payments to the military retirement fund the following new item:

"Compact of Free Association, economic assistance pursuant to Public Law 99-658 (14-0415-0-1-806);".

(3) Section 255(g)(1) of the Act is amended by inserting "(A)" after "(1)" and by inserting at the end thereof the following new subparagraph: 2 USC 905.

"(B) The following budget accounts and activities shall be exempt from reduction under any order issued under this part:

"Black lung benefits (20-8144-0-7-601);

"Central Intelligence Agency retirement and disability system fund (56-3400-0-1-054);

"Civil service retirement and disability fund (24-8135-0-7-602);

"Comptrollers general retirement system (05-0107-0-1-801);

"Foreign service retirement and disability fund (19-8186-0-7-602);

"Judicial survivors' annuities fund (10-8110-0-7-602);

"Longshoremen's and harborworkers' compensation benefits (16-9971-0-7-601);

"Military retirement fund (97-8097-0-7-602);

"National Oceanic and Atmospheric Administration retirement (13-1450-0-1-306);

"Pensions for former Presidents (47-0105-0-1-802);

"Railroad retirement tier II (60-8011-0-7-601);

"Retired pay, Coast Guard (69-0241-0-1-403);

"Retirement pay and medical benefits for commissioned officers, Public Health Service (75-0379-0-1-551);

"Special benefits, Federal Employees' Compensation Act (16-1521-0-1-600);

"Special benefits for disabled coal miners (75-0409-0-1-601); and

"Tax Court judges survivors annuity fund (23-8115-0-7-602).".

(c) CONFORMING AMENDMENTS.—(1) Section 255(g)(2) of the Act is amended by repealing the items relating to veterans with the exception of the items relating to the Loan guaranty revolving fund and the Servicemen's group life insurance fund. Veterans.

(2) Paragraph (1) of section 257 of the Act is amended by striking out subparagraph (A), by striking out the dash, and by striking out "(B)". 2 USC 907.

SEC. 105. MODIFICATION OF PRESIDENTIAL ORDER.

(a) IN GENERAL.—Part C of the Act is amended by inserting at the end thereof the following new section:

2 USC 908.

"SEC. 258. MODIFICATION OF PRESIDENTIAL ORDER.

"(a) INTRODUCTION OF JOINT RESOLUTION.—At any time after the Director of OMB issues a report under section 251(c)(2) for a fiscal year, but before the close of the tenth calendar day of session in that session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 252 for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

"(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

"(1) NO REFERRAL TO COMMITTEE.—A joint resolution introduced in the Senate or the House of Representatives under subsection (a) shall not be referred to a committee of the Senate or the House of Representatives, as the case may be, and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection.

"(2) IMMEDIATE CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a), notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived, except for points of order under titles III or IV of the Congressional Budget Act of 1974. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the respective House until disposed of.

"(3) DEBATE.—

"(A) In the Senate, debate on a joint resolution introduced under subsection (a), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees). In the House, general debate on a joint resolution introduced under subsection (a) shall be limited to not more than 4 hours which shall be equally divided between the majority and minority leaders.

"(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order. In the House, a motion further to limit debate is in order and not debatable. In the House, a motion to recommit is in order.

"(C)(i) In the House of Representatives, an amendment and any amendment thereto is debatable for not to exceed 30 minutes to be equally divided between the proponent of the amendment and a Member opposed thereto.

"(ii) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 252(b)(1) shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between the majority leader and the minority leader (or their designees).

"(iii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

"(4) Vote on final passage.—Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, and the disposition of any amendments under paragraph (3) (except for the motion to recommit in the House of Representatives), the vote on final passage of the joint resolution shall occur.

"(5) Appeals.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

"(6) Conference reports.—In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 302(c), 303(a), 306, and 401(b)(1)) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

"(7) Resolution from other house.—If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a), the Senate receives from the House of Representatives a joint resolution introduced under subsection (a), then the following procedures shall apply:

"(A) The joint resolution of the House of Representatives shall not be referred to a committee.

"(B) With respect to a joint resolution introduced under subsection (a) in the Senate—

"(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

"(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

"(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes it, the Senate shall be considered to have passed the joint resolution as amended by the text of the Senate joint resolution.

"(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

"(8) SENATE ACTION ON HOUSE RESOLUTION.—If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.".

(b) CLERICAL AMENDMENT.—The table of contents set forth in section 200(b) of the Act is amended by inserting after the item relating to section 257 the following new item:

"Sec. 258. Modification of Presidential order.".

SEC. 106. MAXIMUM DEFICIT AMOUNTS.

2 USC 622. (a) REVISION OF DEFINITION OF MAXIMUM DEFICIT AMOUNT.—Paragraph (7) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out subparagraphs (D) through (F) and by inserting in lieu thereof the following:

"(D) with respect to the fiscal year beginning October 1, 1987, $144,000,000,000;

"(E) with respect to the fiscal year beginning October 1, 1988, $136,000,000,000;

"(F) with respect to the fiscal year beginning October 1, 1989, $100,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1990, $64,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1991, $28,000,000,000; and

"(I) with respect to the fiscal year beginning October 1, 1992, zero.".

2 USC 907. (b) DEFINITION OF MARGIN.—Section 257 of the Act is amended by inserting after paragraph (9) the following new paragraph:

"(10) The term 'margin' means $10,000,000,000 with respect to each of fiscal years 1988 through 1992 and zero with respect to fiscal year 1993.".

(c) REVISION OF EXPIRATION DATE OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Subsection (b)(1) of section 275 of the Act is amended by striking out "September 30, 1991" and by inserting in lieu thereof "September 30, 1993". 2 USC 901 note.

(d) SECTION 301(i) POINT OF ORDER.—Paragraph (2) of section 301(i) of the Congressional Budget Act of 1974 is amended by inserting "(A)" before "Paragraph" and by adding at the end thereof the following new paragraphs: 2 USC 632.

"(B) Paragraph (1) shall not apply to the consideration of any concurrent resolution on the budget for fiscal year 1988 or fiscal year 1989, or amendment thereto or conference report thereon, if such concurrent resolution or conference report provides, or in the case of an amendment if the concurrent resolution as changed by the adoption of such amendment would provide for deficit reduction from a budget baseline estimate as specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year (based on laws in effect on January 1 of the calendar year during which the fiscal year begins) equal to or greater than the maximum amount of unachieved deficit reduction for such fiscal year as specified in section 251(a)(3)(A) of such Act.

"(C) For purposes of the application of subparagraph (B), the amount of deficit reduction for a fiscal year provided for in a concurrent resolution, or amendment thereto or conference report thereon, shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.".

(e) SECTION 311(a) POINT OF ORDER IN THE SENATE.—

(1) Section 311(a) of the Congressional Budget Act of 1974 is amended by striking out all after "in the Senate," and by inserting in lieu thereof the following: "would otherwise result in a deficit for such fiscal year that— 2 USC 642.

"(A) for fiscal year 1989 or any subsequent fiscal year, exceeds the maximum deficit amount specified for such fiscal year in section 3(7); and

"(B) for fiscal year 1988 or 1989, exceeds the amount of the estimated deficit for such fiscal year based on laws and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured using the budget baseline specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus $23,000,000,000 for fiscal year 1988 or $36,000,000,000 for fiscal year 1989;

except to the extent that paragraph (1) of section 301(i) or section 304(b), as the case may be, does not apply by reason of paragraph (2) of such subsection.".

(2) Section 254(b)(1)(E) of the Act is amended by inserting "and for fiscal year 1988 or 1989, exceed the amount of the estimated deficit for such fiscal year based on laws and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured using the budget baseline specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus $23,000,000,000 for fiscal year 1988 or $36,000,000,000 for fiscal year 1989;" after "maximum deficit amount for such fiscal year,". 2 USC 904.

(f) PRESIDENT'S BUDGET.—Section 1105(f) of title 31, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (5); and

(2) by inserting after paragraph (2) the following new paragraphs:

"(3) The budget transmitted pursuant to subsection (a) for a fiscal year shall include a budget baseline estimate made in accordance with section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 and using economic and technical assumptions consistent with the current services budget submitted under section 1109 for the fiscal year. If such budget baseline estimate differs from the estimate in the current services budget, the President shall explain the differences. The budget transmitted pursuant to subsection (a) for such fiscal year shall include the information required by section 251(a)(2) of such Act (other than account-level detail) assuming that the deficit in such budget baseline were the amount estimated by the Director of the Office of Management and Budget on August 25 of the calendar year in which the fiscal year begins.

"(4) Paragraphs (1) and (2) shall not apply with respect to fiscal year 1989 if the budget transmitted for such fiscal year provides for deficit reduction from a budget baseline deficit for such fiscal year (as defined by section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 and based on laws in effect on January 1, 1988) equal to or greater than $36,000,000,000.".

SEC. 107. SPECIAL RULES FOR MEDICARE PROGRAM.

42 USC 1395ww note.

(a) TEMPORARY EXTENSION OF PAYMENT POLICIES FOR INPATIENT HOSPITAL SERVICES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, with respect to payment for inpatient hospital services under section 1886 of the Social Security Act:

(A) TEMPORARY FREEZE IN PPS HOSPITAL RATES.—For purposes of subsection (d) of such section for discharges occurring during the period beginning on October 1, 1987, and ending on November 20, 1987 (in this paragraph referred to as the "extension period"), the applicable percentage increase under subsection (b)(3)(B) of such section with respect to fiscal year 1988 is deemed to be 0 percent.

(B) TEMPORARY FREEZE IN PAYMENT BASIS.—

(i) EXTENSION OF BLENDED DRG RATE.—For purposes of subsection (d)(1) of such section, the "applicable combined adjusted DRG prospective payment rate" for discharges occurring—

(I) during the extension period is the rate specified in subsection (d)(1)(D)(ii) of such section, or

(II) after such period is the national adjusted prospective payment rate determined under subsection (d)(3) of such section.

(ii) EXTENSION OF HOSPITAL-SPECIFIC PAYMENT.—For the first 51 days of a hospital cost reporting period beginning during fiscal year 1988, payment shall be made under clause (ii) (rather than clause (iii)) of subsection (d)(1)(A) of such section (subject to clause (i) of this subparagraph).

(C) TEMPORARY FREEZE IN AMOUNTS OF PAYMENT FOR CAPITAL.—For payments attributable to portions of cost reporting periods occurring during the extension period, the percent specified in subsection (g)(3)(A)(ii) of such section is deemed to be 3.5 percent.

(D) TEMPORARY FREEZE IN RETURN ON EQUITY REDUCTIONS.—For the first 51 days of a cost reporting period beginning during fiscal year 1988, subsection (g)(2) of such section shall be applied as though the applicable percentage were 75 percent.

(E) TEMPORARY FREEZE IN PAYMENTS RATES FOR PPS-EXEMPT HOSPITALS.—For purposes of payment under subsection (b) of such section for cost reporting periods beginning during fiscal year 1988, with respect to the first 51 days of such a period the applicable percentage increase under paragraph (3)(B) of such subsection is deemed to be 0 percent.

(2) CONTINUATION OF CAPITAL POLICY.—Section 9321(c) of the Omnibus Budget Reconciliation Act of 1986 is amended—

42 USC 1395ww note.

(A) by striking "SEPTEMBER 1" in the heading of paragraph (1) and inserting "NOVEMBER 21",

(B) in paragraph (1), by striking "September 1, 1987" and inserting "November 21, 1987",

(C) in the second sentence of paragraph (1), by striking "before the date of the enactment of this Act", and

(D) in paragraph (4), by striking "second sentence" and all that follows through "operating costs" and inserting "second sentence of section 1886(a)(4) of the Social Security Act, from the term 'operating costs".

(b) FREEZING CERTAIN CHANGES IN MEDICARE PAYMENT REGULATIONS AND POLICIES.—

42 USC 1395ww note.

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services is not authorized to issue after September 18, 1987, and before November 21, 1987—

(A) any final regulation that changes the policy with respect to payment under title XVIII of the Social Security Act to providers of service for reasonable costs relating to unrecovered costs associated with unpaid deductible and coinsurance amounts incurred under such title;

(B) any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down claims processing, or delaying payment of claims, under such title; or

(C) any final regulation that changes the policy under such title with respect to payment for a return on equity capital for outpatient hospital services.

The final regulation of the Health Care Financing Administration published on September 1, 1987 (52 Federal Register 32920) and relating to changes to the return on equity capital provisions for outpatient hospital services is void and of no effect.

(2) OTHER COST SAVINGS POLICIES.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute, the Secretary of Health and Human Services is not authorized to issue in final form, after September 18, 1987, and before November 21, 1987, any regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in fiscal year 1988 of more than $50,000,000. Any regulation, instruction, or policy which is issued in violation of this paragraph is void and of no effect.

(3) EXCEPTION.—Paragraphs (1) and (2) shall not be construed to apply to any regulation, instruction, or policy required to implement the amendment made by section 9311(a) of the

Omnibus Budget Reconciliation Act of 1986 (relating to periodic interim payments).

42 USC 1320b-8 note.

(c) Delay in Organ Procurement Requirements.—Section 9318(b) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "October 1, 1987" each place it appears and inserting "November 21, 1987".

TITLE II—BUDGET PROCESS REFORM

2 USC 621 note.

SEC. 201. 2-YEAR APPROPRIATIONS.

It is the sense of the Congress that the Congress should undertake an experiment with multiyear authorizations and 2-year appropriations for selected agencies and accounts. An evaluation of the efficacy and desirability of such experiment should be conducted at the end of the 2-year period. The appropriate committees are directed to develop a plan in consultation with the leadership of the House and Senate to implement this experiment.

2 USC 909.

SEC. 202. PROHIBITION OF COUNTING AS SAVINGS THE TRANSFER OF GOVERNMENT ACTIONS FROM ONE YEAR TO ANOTHER.

(a) In General.—Except as otherwise provided in this section, any law or regulation that has the effect of transferring an outlay, receipt, or revenue of the United States from one fiscal year to an adjacent fiscal year shall not be treated as altering the deficit or producing net deficit reduction in any fiscal year for purposes of the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) Exceptions.—Subsection (a) shall not apply if the law making the transfer stipulates that such transfer—

(1) is a necessary (but secondary) result of a significant policy change;

(2) provides for contingencies; or

(3) achieves savings made possible by changes in program requirements or by greater efficiency of operations.

2 USC 621 note.

SEC. 203. FINANCIAL MANAGEMENT REFORM.

It is the sense of the Congress that the Congress should undertake a coordinated effort to identify problems and develop specific recommendations to reform the financial management systems of the United States Government, including consideration of the use of generally accepted accounting principles.

2 USC 653 note.

SEC. 204. EXTENSION OF STATE AND LOCAL COST ESTIMATES.

The State and Local Government Cost Estimate Act of 1981 is amended by striking out section 4.

SEC. 205. EXTRANEOUS PROVISIONS IN THE SENATE.

(a) Prohibition of Extraneous Matters in Reconciliation Measures in the Senate.—Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 7006 of the Omnibus Budget Reconciliation Act of 1986, is amended in subsection (c) by striking out "January 2, 1988" and inserting in lieu thereof "September 30, 1992".

100 Stat. 1949.

(b) Provisions Considered To Be Extraneous in the Senate.—Subsection (d)(1)(A) of such section is amended by inserting before the period at the end thereof "; and (E) a provision shall be considered to be extraneous if it increases, or would increase, net outlays, or if it decreases, or would decrease, revenues during a fiscal year after the fiscal years covered by such reconciliation bill or reconciliation resolution, and such increases or decreases are greater than outlay reductions or revenue increases resulting from other provisions in such title in such year".

(c) APPLICATION OF SUBSECTION (a) TO CERTAIN SENATE RESOLUTIONS.—Nothing in the amendment made by subsection (a) shall be construed as limiting the manner in which S. Res. 286 (99th Congress, 1st session), as amended by S. Res. 509 (99th Congress, 2d session), shall apply to reconciliation bills and reconciliation resolutions considered on or after the date of the enactment of this joint resolution.

SEC. 206. CODIFICATION OF LAW REGARDING DEFERRAL AUTHORITY.

(a) PROPOSED DEFERRALS OF BUDGET AUTHORITY.—Section 1013 of the Impoundment Control Act of 1974 is amended to read as follows: 2 USC 684.

"PROPOSED DEFERRALS OF BUDGET AUTHORITY

President of U.S.

"SEC. 1013. (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States proposes to defer any budget authority provided for a specific purpose or project, the President shall transmit to the House of Representatives and the Senate a special message specifying—

"(1) the amount of the budget authority proposed to be deferred;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific projects or governmental functions involved;

"(3) the period of time during which the budget authority is proposed to be deferred;

"(4) the reasons for the proposed deferral, including any legal authority invoked to justify the proposed deferral;

"(5) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed deferral; and

"(6) all facts, circumstances, and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including an analysis of such facts, circumstances, and considerations in terms of their application to any legal authority, including specific elements of legal authority, invoked to justify such proposed deferral, and to the maximum extent practicable, the estimated effect of the proposed deferral upon the objects, purposes, and programs for which the budget authority is provided.

A special message may include one or more proposed deferrals of budget authority. A deferral may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate.

"(b) CONSISTENCY WITH LEGISLATIVE POLICY.—Deferrals shall be permissible only—

"(1) to provide for contingencies;

"(2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

"(3) as specifically provided by law.

No officer or employee of the United States may defer any budget authority for any other purpose.

"(c) EXCEPTION.—The provisions of this section do not apply to any budget authority proposed to be rescinded or that is to be reserved as set forth in a special message required to be transmitted under section 1012.".

2 USC 687.

(b) CONFORMING AMENDMENT.—The first sentence of section 1016 of the Impoundment Control Act of 1974 is amended by striking out "under section 1012(b) or 1013(b)" and by inserting in lieu thereof "under this title".

2 USC 686 note.

(c) REAFFIRMATION.—Sections 1015 and 1016 of the Impoundment Control Act of 1974 are reaffirmed.

SEC. 207. CLARIFICATION OF CONGRESSIONAL INTENT REGARDING RESCISSION AUTHORITY.

2 USC 683.

Section 1012(b) of the Impoundment Control Act of 1974 is amended by adding at the end thereof the following: "Funds made available for obligation under this procedure may not be proposed for rescission again.".

SEC. 208. ECONOMIC AND TECHNICAL ASSUMPTIONS.

2 USC 632.

(a) POINT OF ORDER.—Section 301(g) of the Congressional Budget Act of 1974 is amended to read as follows:

"(g) ECONOMIC ASSUMPTIONS.—

"(1) It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or any amendment thereto, or any conference report thereon, that sets forth amounts and levels that are determined on the basis of more than one set of economic and technical assumptions.

"(2) The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall set forth the common economic assumptions upon which such joint statement and conference report are based, or upon which any amendment contained in the joint explanatory statement to be proposed by the conferees in the case of technical disagreement, is based.

"(3) Subject to periodic reestimation based on changed economic conditions or technical estimates, determinations under titles III and IV of the Congressional Budget Act of 1974 shall be based upon such common economic and technical assumptions.".

2 USC 635.

(b) APPLICATION OF SECTION 301(g) POINT OF ORDER TO REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following:

"(c) ECONOMIC ASSUMPTIONS.—The provisions of section 301(g) shall apply with respect to concurrent resolutions on the budget under this section (and amendments thereto and conference reports thereon) in the same way they apply to concurrent resolutions on the budget under such section 301(g) (and amendments thereto and conference reports thereon).".

SEC. 209. CLARIFICATION OF CONGRESSIONAL INTENT REGARDING TIME LIMITS FOR CONFERENCE REPORTS ON CONCURRENT RESOLUTIONS ON THE BUDGET.

Section 305(c)(2) of the Congressional Budget Act of 1974 is amended by inserting "and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith" after "budget,". 2 USC 636.

SEC. 210. APPEALS OF CERTAIN RULINGS IN THE SENATE.

(a) IN GENERAL.—Section 271 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection: 2 USC 901 note.

"(c) APPEALS OF RULINGS.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under section 301(i), 302(c), 302(f), 304(b), 306, 310(d), 310(g), or 311(a) of the Congressional Budget Act of 1974.".

(b) CONFORMING AMENDMENT.—Section 275(b)(2)(D) of such Act is amended by striking out "section 271(b)" and inserting in lieu thereof "subsections (b) and (c) of section 271". 2 USC 901 note.

SEC. 211. WAIVER OF SECTION 302(c) RELATING TO COMMITTEE ALLOCATIONS.

Section 271(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "302(c)," after "301(i),". 2 USC 901 note.

SEC. 212. CREDIT REFORM.

2 USC 602 note.

Reports.
Loans.

The Congressional Budget Office, in consultation with the General Accounting Office, shall study and report to Congress on Federal direct loan and loan guarantee programs for fiscal year 1987 and fiscal year 1988. The report shall be submitted as soon as practicable to all congressional committees of appropriate jurisdiction. The report shall provide information and recommendations on: (1) more accurately measuring the costs to the Federal Government of such credit programs, (2) comparing the cost of credit programs to other forms of Federal assistance, and (3) improving the allocation of resources between credit and other programs. The report shall also discuss the considerations involved in establishing a system for using the information on the costs of credit programs as part of the budget process.

SEC. 213. EXERCISE OF RULEMAKING POWER.

2 USC 901 note.

This Act and the amendments made by this Act, other than those relating to the activities of the executive and judicial branches of the Government, are enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

Approved September 29, 1987.

LEGISLATIVE HISTORY—H.J. Res. 324:

HOUSE REPORTS: No. 100-313 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 23, considered and passed House pursuant to H. Con. Res. 93.
July 21, 23, 29-31, considered and passed Senate, amended.
Aug. 4, House disagreed to Senate amendments.
Sept. 22, House agreed to conference report.
Sept. 23, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
Sept. 29, Presidential statement and remarks.

○

Public Law 100-120
100th Congress

Joint Resolution

Making continuing appropriations for the fiscal year 1988, and for other purposes.

Sept. 30, 1987
[H.J. Res. 362]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1988, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for programs, projects, and activities which were conducted in the fiscal year 1987, under the current terms and conditions and at a rate for operations not in excess of the current rate, for which provision was made in the following and subsequent appropriations Acts:

The Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, and section 1241(a)(1) of Public Law 99-198;

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948, as amended;

The Department of Defense Appropriations Act, 1987, notwithstanding section 502(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1987;

The Energy and Water Development Appropriations Act, 1987;

The Foreign Assistance and Related Programs Appropriations Act, 1987, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956: *Provided,* That the rate for operations shall not be in excess of the current rate or the rate provided for in the budget estimate, whichever is lower;

The Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1987;

The Department of the Interior and Related Agencies Appropriations Act, 1987;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and section 101(n) of Public Laws 99-500 and 99-591;

The Legislative Branch Appropriations Act, 1987;

The Military Construction Appropriations Act, 1987, except for section 206 of such Act: *Provided*, That the authority available as of September 30, 1987, shall be continued to allow the obligation and expenditure of previously appropriated funds in section 206 for supporting, monitoring, and managing the activities provided for under section 206 in fiscal year 1987: *Provided further*, That in order to strengthen and continue the peace process in Central America, not to exceed the current rate of $2,650,000 per month shall be available only for humanitarian assistance and its support, management, and monitoring in accordance with the provisions of title II of the Military Construction Appropriations Act, 1987;

The Department of Transportation and Related Agencies Appropriations Act, 1987; and

The Department of Treasury, Postal Service, and General Government Appropriations Act, 1987.

(2) No appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1987.

(3) No appropriation or funds made available or authority granted pursuant to this subsection for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1987 or prior years, for the increase in production rates above those sustained with fiscal year 1987 funds, or to initiate, resume or continue any project, activity, operation or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1987: *Provided*, That no appropriation or funds made available or authority granted pursuant to this subsection for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

Sec. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) November 10, 1987, whichever first occurs.

Sec. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

Sec. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

Sec. 105. No provision in any appropriations Act for the fiscal year 1987 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 106. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

Approved September 30, 1987.

LEGISLATIVE HISTORY:—H.J. Res. 362:

HOUSE REPORTS: No. 100-306 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 23, considered and passed House.
Sept. 25, considered and passed Senate.

○

Public Law 100-121
100th Congress

An Act

Sept. 30, 1987
[H.R. 1163]

To amend section 902(e) of the Federal Aviation Act of 1958 to revise criminal penalties relating to certain aviation reports and records offenses.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 902(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(e)) is amended to read as follows:

"FAILURE TO FILE REPORTS; FALSIFICATION OF RECORDS

"(e)(1) Whoever, being an air carrier, or an officer, agent, employee, or representative of an air carrier, intentionally—

"(A) fails to make a report or to keep an account, record, or memorandum;

"(B) falsifies, mutilates, or alters a report, account, record, or memorandum; or

"(C) files a false report, account, record, or memorandum;

under this Act, shall be fined not more than $5,000 in the case of an individual and not more than $10,000 in the case of a person other than an individual.

"(2) Whoever, being an air carrier, or an officer, agent, employee, or representative of an air carrier, intentionally—

"(A) falsifies or conceals a material fact; or

"(B) invites reliance on a false statement or representation concerning a material fact;

in a report, account, record, or memorandum under title VI of this Act shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.".

Approved September 30, 1987.

LEGISLATIVE HISTORY—H.R. 1163:

HOUSE REPORTS: No. 100-114, Pt. 1 (Comm. on the Judiciary).
SENATE REPORTS: No. 100-146 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 22, considered and passed House.
Sept. 16, considered and passed Senate.

○

Public Law 100-122
100th Congress

Joint Resolution

To provide for the extension of certain programs relating to housing and community development, and for other purposes.

Sept. 30, 1987
[S.J. Res. 191]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTINUATION OF PRIOR EXTENSIONS.

12 USC 1721 note.
100 Stat. 986.

Each provision of law amended by Public Law 99-430 is amended by striking out "September 30, 1987" wherever it appears and inserting in lieu thereof "October 31, 1987".

SEC. 2. ADDITIONAL EXTENSIONS.

(a) SOLAR BANK.—The last sentence of section 505(a) of the Solar Energy and Energy Conservation Bank Act is amended by striking out "September 30, 1987" and inserting in lieu thereof "October 31, 1987". 12 USC 3603.

(b) AUTHORITY TO PURCHASE SECOND MORTGAGES.—

(1) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—Section 302(b)(5)(A)(i) of the Federal National Mortgage Association Charter Act is amended by striking out "until October 1, 1987" and inserting in lieu thereof "through October 31, 1987". 12 USC 1717.

(2) FEDERAL HOME LOAN MORTGAGE CORPORATION.—Section 305(a)(4)(A)(i) of the Federal Home Loan Mortgage Corporation Act is amended by striking out "until October 1, 1987" and inserting in lieu thereof "through October 31, 1987". 12 USC 1454.

(c) LIMITATION ON AMOUNT TO BE INSURED UNDER NATIONAL HOUSING ACT.—Section 531 of the National Housing Act is amended by striking out "for fiscal year 1986" and inserting in lieu thereof "for any fiscal year". 12 USC 1735f-9.

(d) PREPAYMENT MORATORIUM.—The second paragraph under the heading "FARMERS HOME ADMINISTRATION" in chapter X of title I of Public Law 100-71 is amended by striking out "September 30, 1987" and inserting in lieu thereof "October 31, 1987". *Ante*, p. 428.

Approved September 30, 1987.

LEGISLATIVE HISTORY—S.J. Res. 191:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 25, considered and passed Senate.
Sept. 29, considered and passed House.

○

Public Law 100-123
100th Congress

An Act

Oct. 5, 1987
[S. 1532]

Relating to the payment for telecommunications equipment and certain services furnished by the Sergeant at Arms and Doorkeeper of the Senate.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEFINITIONS

2 USC 58a-1. SECTION 1. As used in this Act, the term—

(1) "Sergeant at Arms" means the Sergeant at Arms and Doorkeeper of the United States Senate; and

(2) "user" means any Senator, Officer of the Senate, Committee, office, or entity provided telephone equipment and services by the Sergeant at Arms.

REGULATIONS; CERTIFICATION

2 USC 58a-2. SEC. 2. (a) Subject to such regulations as may hereafter be issued by the Committee on Rules and Administration of the Senate, the Sergeant at Arms shall have the authority, with respect to telephone equipment and services provided to any user on a reimbursable basis (including repair or replacement), solely for the purposes of this section, to make such certification as may be necessary to establish such services and equipment as official, issue invoices in conjunction therewith, and receive payment for such services and equipment by certification, voucher, or otherwise.

(b) For purposes of this Act, telephone equipment and services provided to any user for which payment, prior to the effective date of this Act, was not authorized from the contingent fund of the Senate shall, on and after such effective date, be considered telephone equipment and services provided on a reimbursable basis for which payment may be obtained from such fund in accordance with subsection (a) of this section.

(c) Subject to the approval of the Committee on Rules and Administration, the Sergeant at Arms may establish reasonable charges for telephone equipment and services provided to any user which may be in addition to that regularly authorized by the Committee.

(d) All moneys, derived from payments for telephone equipment and services provided from funds from the Appropriation Account within the contingent fund of the Senate for "Contingent Expenses, Sergeant at Arms and Doorkeeper of the Senate" under the line item for Telecommunications (including receipts from carriers and others for loss or damage to such services or equipment for which repair or replacement has been provided by the Sergeant at Arms), shall be deposited in and made a part of such Appropriation Account and under such line item, and shall be available for expenditure or obligation, or both, in like manner and subject to the same limitations as any other moneys in such account and under such line item.

(e) Nothing in this Act shall be construed as limiting or otherwise affecting the authority of the Committee on Rules and Administration of the Senate to classify or reclassify telephone equipment and services provided to any user as equipment or services for which reimbursement may or may not be required.

REPORT

SEC. 3. The Sergeant at Arms shall report to the Committee on Rules and Administration of the Senate, at such time or times, and in such form and manner, as the Committee may direct, on expenditures made, and revenues received, pursuant to this Act. It shall be the function of the Sergeant at Arms to advise the Committee, as soon as possible, of any dispute regarding payments to and from such Appropriation Account as related to the line item for Telecommunications, including any amounts due and unpaid by any user, if any such dispute has remained unresolved for a period of at least 60 days. 2 USC 58a-3.

EFFECTIVE DATE

SEC. 4. This Act shall take effect on October 1, 1987. 2 USC 58a-1 note.

Approved October 5, 1987.

LEGISLATIVE HISTORY—S. 1532:

SENATE REPORTS: No. 100-121 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Aug. 5, considered and passed Senate.
  Sept. 22, considered and passed House.

○

Public Law 100-124
100th Congress

Joint Resolution

Oct. 5, 1987
[S.J. Res. 84]

To designate October 1987 as "National Down Syndrome Month".

Whereas the past decade and a half has brought a greater and more enlightened attitude in the care and training of the developmentally disabled;

Whereas one such condition which has undergone considerable reevaluation is that of Down syndrome—a problem which, just a short time ago, was often stigmatized as a mentally retarded condition which relegated its victims to lives of passivity in institutions and back rooms;

Whereas through the efforts of concerned physicians, teachers and parent groups such as the National Down Syndrome Congress, programs are being put in place to educate new parents of babies with Down syndrome, to develop special education classes within mainstreamed programs in schools, to provide for vocational training in preparation for entering the work force, and to prepare young adults with Down syndrome for independent living in the community;

Whereas the cost of such services designed to help individuals with Down syndrome move into their rightful place in our society is but a tiny fraction of the cost of institutionalization;

Whereas not only the improvement in educational opportunities for those with Down syndrome, but also the advancement in medical science is adding to a brighter outlook for individuals born with this chromosomal configuration; and

Whereas public awareness and acceptance of the capabilities of children with Down syndrome can greatly facilitate their being mainstreamed in our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1987 is designated as "National Down Syndrome Month" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated month with appropriate programs, ceremonies, and activities.

Approved October 5, 1987.

LEGISLATIVE HISTORY—S.J. Res. 84:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 20, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 100-125
100th Congress

Joint Resolution

Designating September 27, 1987, as "Gold Star Mothers Day".

Oct. 8, 1987
[H.J. Res. 355]

Whereas the services rendered to the United States by the mothers of America have strengthened and inspired our Nation throughout our history;

Whereas we honor ourselves and the mothers of America when we revere and emphasize the role of the home and the family as the true foundations of our Nation;

Whereas by doing so much for the home, the American mother is a source of moral and spiritual guidance for the people of the United States and thus acts as a positive force to promote good government and peace among all mankind;

Whereas the American Gold Star Mothers assist veterans of the Armed Forces and their dependents in the presentation of claims to the Veterans' Administration, and aid the men and women who served and died or were wounded or incapacitated during hostilities; and

Whereas the American Gold Star Mothers have suffered the supreme sacrifice of motherhood by losing sons and daughters who served in the Armed Forces, and thus perpetuate the memory of all whose lives were sacrificed in our wars: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 27, 1987, is designated as "Gold Star Mothers Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 8, 1987.

LEGISLATIVE HISTORY—H.J. Res. 355:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 23, considered and passed House.
Sept. 25, considered and passed Senate.

O

Public Law 100-126
100th Congress
Joint Resolution

Oct. 8, 1987
[S.J. Res. 142]

To designate the day of October 1, 1987, as "National Medical Research Day".

Whereas America's medical research enterprise has been, and will continue to be, the acknowledged world leader in promoting health and preventing disease and disability;

Whereas medical research (defined for purposes of this Joint Resolution as biomedical and behavioral research) continuously contributes to the discovery of new knowledge that will lead to the improved health and well-being of Americans and of all humankind;

Whereas America's medical research enterprise continues to pioneer breakthroughs in the detection and treatment of diseases and promote the widespread application of these methods and technologies to medical practice;

Whereas medical research has significantly contributed to bringing America's death rate to an all-time low and its life expectancy rates to all-time highs;

Whereas America's medical research enterprise has contributed enormously to the control and virtual worldwide eradication of epidemic diseases such as cholera, smallpox, yellow fever, and bubonic plague, and the prevention in this country of childhood diseases such as diptheria, polio, tetanus, and pertussis;

Whereas medical research has successfully produced effective vaccines now widely used to combat measles, mumps, rubella, meningitis, pneumonia, influenza, rabies, upper respiratory diseases, and hepatitis B;

Whereas America's financial investment in medical research has consistently been rewarded with positive returns as measured by reduced morbidity, and improved individual productivity and health status;

Whereas the products and by-products of medical research contribute significantly to the health of America's overall economy and its ability to compete successfully in international commerce and trade;

Whereas medical research in this country has fostered a productive and ongoing positive public and private sector partnership among government, academia, industry, and voluntary organizations in the pursuit of research excellence and discovery;

Whereas the Congress of the United States has consistently demonstrated a Federal financial commitment to maintaining America's preeminence in medical research through support of such agencies as the National Institutes of Health, the Alcohol, Drug Abuse and Mental Health Administration, the Centers for Disease Control, and the Veterans' Administration;

Whereas the Congress and President of the United States have formally recognized 100 years of Federal support for medical research through resolution and proclamation commemorating the current Federal fiscal year as the National Institutes of Health Centennial year;

Whereas America's medical research enterprise has produced 85 internationally respected Nobel laureates in physiology, medicine, and chemistry and must continue to foster the interest and training of young scientists, medical practitioners, and other health professionals in research careers, as well as ensure the adequacy of the settings within which they will work;

Whereas America's medical researchers are working at the forefront of biomedical technologies which create exciting new medical research opportunities that hold the best hope for unraveling the mysteries of cancer, AIDS, Alzheimer's disease, arthritis, heart and lung diseases, mental illness, and the many other diseases and disorders which claim or severely impair the lives of millions of Americans; and

Whereas the Congress of the United States acknowledges with pride the many accomplishments of America's medical research enterprise and confidently looks to it for continued progress in relieving human suffering and conquering the diseases and disorders that afflict the people of this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the day of October 1, 1987, is designated as "National Medical Research Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 8, 1987.

LEGISLATIVE HISTORY—S.J. Res. 142:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
Sept. 30, considered and passed House.

○

Public Law 100-127
100th Congress

An Act

Oct. 9, 1987
[H.R. 1744]

To amend the National Historic Preservation Act to extend the authorization for the Historic Preservation Fund.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 108 of the National Historic Preservation Act is amended by striking "1987" and inserting in lieu thereof "1992".

16 USC 470h.

Approved October 9, 1987.

LEGISLATIVE HISTORY—H.R. 1744:

HOUSE REPORTS: No. 100-160 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-161 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 22, considered and passed House.
Sept. 25, considered and passed Senate.

○

Public Law 100-128
100th Congress

Joint Resolution

To designate the week of October 11, 1987, through October 17, 1987, as "National Job Skills Week".

Oct. 14, 1987
[S.J. Res. 72]

Whereas one of the most critical problems facing the Nation is to foster the development of a national work force that can meet the challenges of today and tomorrow;
Whereas work in the United States is undergoing rapid and profound change;
Whereas advances in technology will require new skills not now held by the national work force;
Whereas it is predicted that through the remainder of this century, businesses will experience a shortage of entry level skilled workers;
Whereas the skills of many young adults and teenagers are inadequate to perform jobs that are becoming available, thereby contributing to a much greater than normal unemployment rate among young people;
Whereas the ability to maintain a competitive and productive edge necessary for a strong economy and relatively high standard of living are dependent on the national work force;
Whereas the productivity and ability of the Nation to compete in a world economy are dependent on the national work force; and
Whereas a National Job Skills Week can serve to highlight the many changes that are underway in the workplace which have necessitated the learning of new skills, concentrate attention on private and public job training efforts, and bring attention to present and future work force needs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 11, 1987, through October 17, 1987, is designated as "National Job Skills Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate programs and activities.

Approved October 14, 1987.

LEGISLATIVE HISTORY—S.J. Res. 72:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
Sept. 30, considered and passed House.

○

Public Law 100-129
100th Congress

Joint Resolution

Oct. 14, 1987
[S.J. Res. 110]

To designate October 16, 1987, as "World Food Day".

Whereas hunger and malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world suffer the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment because of vitamin or protein deficiencies;

Whereas the United States and the people of the United States have a long tradition of demonstrating humanitarian concern for the hungry and malnourished people of the world, recently manifested by the American response to African famine;

Whereas efforts to resolve the world hunger problem are critical to the maintenance of world peace and, therefore, to the security of the United States;

Whereas the United States, as the largest producer and trader of food in the world, has a key role to play in assisting countries and people to improve their ability to feed themselves;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas the Congress is acutely aware of the paradox of immense farm surpluses in the United States despite the desperate need for food by people throughout the world;

Whereas the United States and other countries should develop and continually evaluate national policies concerning food, farmland, and nutrition to achieve the well-being and protection of all people and particularly those most vulnerable to malnutrition and related diseases;

Whereas improved agricultural policies, including farmer incentives, are necessary in many developing countries to increase food production and economic growth;

Whereas private enterprise and the primacy of the independent family farmer have been basic to the development of an agricultural economy in the United States and have made the United States capable of meeting the food needs of most of the people of the United States;

Whereas increasing farm foreclosures threaten to destroy the independent family farmer and weaken the agricultural economy in the United States;

Whereas conservation of natural resources is necessary for the United States to remain the largest producer of food in the world and to continue to aid hungry and malnourished people of the world;

Whereas participation by the private voluntary organizations and businesses, working with national governments and the international community, is essential in the search for ways to increase food production in developing countries and improve food distribution to hungry and malnourished people;

Whereas the member nations of the Food and Agriculture Organization of the United Nations unanimously designated October 16 of each year as World Food Day because of the need to increase public awareness of world hunger problems;

Whereas past observances of World Food Day have been supported by proclamations by the Congress, the President, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, and by programs of the Department of Agriculture, other Federal departments and agencies, and the governments and peoples of more than 140 other nations;

Whereas more than 375 private voluntary organizations and thousands of community leaders are participating in the planning of World Food Day observances in 1987, and a growing number of these organizations and leaders are using such day as a focal point for year-round programs; and

Whereas the people of the United States can express their concern for the plight of hungry and malnourished people throughout the world by fasting and by donating food and money for them: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1987, is designated as "World Food Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities, including worship services, fasting, educational endeavors, and the establishment of year-round food and health programs and policies.

Approved October 14, 1987.

LEGISLATIVE HISTORY—S.J. Res. 110:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 5, considered and passed Senate.
Sept. 30, considered and passed House.

○

Public Law 100-130
100th Congress

An Act

Oct. 15, 1987
[H.R. 242]

To provide for the conveyance of certain public lands in Oconto and Marinette Counties, Wisconsin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF CONVEYANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") may convey any portion of the land described in subsection (b) to any citizen of the United States who claims and demonstrates possession of such portion of land.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of parcels of public lands constituting a survey hiatus in township 29 north, range 21½ east, fourth principal meridian, Oconto and Marinette Counties, Wisconsin, which contain approximately 200 acres.

(c) PRELIMINARY DETERMINATIONS.—No conveyance may be made under authority of this Act until the Secretary determines that—

(1) such conveyance—

(A) is in the public interest; and

(B) will serve objectives which outweigh public objectives and values which would be served by retaining such lands in Federal ownership; and

(2) no other statutory authority exists whereby the Secretary may afford the appropriate relief.

SEC. 2. PROCEDURE FOR CONVEYANCE.

(a) DETERMINATION OF PRICE.—In determining the price for which land may be conveyed, the Secretary—

(1) shall appraise the land on the basis of its fair market value at the time of appraisal;

(2) shall deduct the value of improvements or development made by the person claiming possession or his predecessors in interest; and

Taxes.

(3) may further discount the price according to equitable considerations that exist with respect to each conveyance, including but not limited to—

(A) the amount originally paid for a parcel by the person claiming possession of such parcel; and

(B) any taxes that have been paid with respect to a parcel by the person claiming possession of such parcel.

(b) DESCRIPTION OF LAND CONVEYED AND CONVEYANCE THROUGH TRUSTEE.—(1) Land conveyed under this Act shall be described according to the rectangular system of survey, as reflected on the Federal plat of survey.

(2) In the event that an individual tract of land does not conform to such survey—

(A) the Secretary may convey such tract to a trustee acting on behalf of more than one claimant for purposes of conforming the legal description to such plat; and

(B) such trustee shall thereafter convey the appropriate interests to the respective claimants.

SEC. 3. TIME LIMIT FOR INITIATION OF IMPLEMENTATION.

The Secretary shall initiate action to implement this Act within 120 days of the date of the enactment of this Act.

Approved October 15, 1987.

LEGISLATIVE HISTORY—H.R. 242:

HOUSE REPORTS: No. 100-15 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-178 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Mar. 10, considered and passed House.
  Oct. 1, considered and passed Senate.

○

Public Law 100-131
100th Congress

Joint Resolution

Oct. 15, 1987
[H.J. Res. 338]

Designating October 15, 1987, as "National Safety Belt Use Day".

Whereas safety belts and child safety seats have proven to be effective in reducing highway fatalities and injuries;

Whereas the legislatures of 29 States and the District of Columbia have recognized the benefits of safety belt use and enacted safety belt use laws;

Whereas child safety seat laws are in effect in all of the States;

Whereas as a result of these laws and other activities, millions of Americans are regularly wearing safety belts and using child safety seats;

Whereas the universal use of these safety systems would prevent thousands of fatalities and injuries each year;

Whereas the use of safety belts and child safety seats should be encouraged even as passive restraint systems are phased into the vehicle fleet;

Whereas numerous public interest and safety organizations are working to encourage more extensive use of safety belts and child safety seats; and

Whereas the law enforcement community has played an essential role in encouraging the more widespread use of safety belts and child safety seats: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 15, 1987, is designated as "National Safety Belt Use Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to wear safety belts and have their children use child safety seats, and encouraging public safety and law enforcement agencies to promote greater usage of these essential safety devices.

Approved October 15, 1987.

LEGISLATIVE HISTORY—H.J. Res. 338 (S.J. Res. 184):

CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 15, considered and passed House.
Oct. 8, considered and passed Senate.

○

Public Law 100-132
100th Congress

An Act

To authorize the donation of certain non-Federal lands to Gettysburg National Military Park and to require a study and report on the final development of the park.

Oct. 16, 1987
[H.R. 797]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DONATION OF NON-FEDERAL LANDS.

16 USC 430g-3.

Pennsylvania.

The Secretary of the Interior shall accept on behalf of the United States, the donation of approximately 31 acres of land known as the "Taney Farm" for administration as part of the Gettysburg National Military Park in Pennsylvania if such land is offered to be conveyed to the United States without cost to the United States by the Gettysburg Battlefield Preservation Association. Upon acceptance of title thereto by the United States, such property shall be subject to all laws and regulations applicable to the park.

SEC. 2. ACQUISITION OF ADDITIONAL LANDS FOR GETTYSBURG NATIONAL MILITARY PARK; STUDY AND REPORT.

16 USC 430g note.

(a) ACQUISITION OF ADDITIONAL LANDS.—Except as provided in section 1 of this Act, until Congress receives the study under subsection (b), the Secretary of the Interior may not acquire by purchase, donation, exchange, or any other means any additional land for the Gettysburg National Military Park which is not within the boundaries of the 3,874 acre area depicted on the map dated July 25, 1974, numbered 305-92,004 and entitled "Gettysburg National Military Park".

(b) STUDY BY NATIONAL PARK SERVICE.—The Secretary of the Interior through the National Park Service shall conduct a boundary study and shall submit a report to Congress within one year of the date of enactment of this Act, with recommendations with respect to the final development of the Gettysburg National Military Park. In conducting the study, the Secretary shall consult with the people of the community and their elected representatives at all levels as well as with other interested individuals and groups.

Approved October 16, 1987.

LEGISLATIVE HISTORY—H.R. 797:

HOUSE REPORTS: No. 100-19 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-179 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 10, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 100-133
100th Congress

An Act

Oct. 16, 1987
[H.R. 1205]

To direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Putnam County, Florida, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF REVERSIONARY INTEREST.

(a) Release.—The Secretary of Agriculture shall take such actions as are necessary to release the restriction described in subsection (b) if, in consideration of such release, the State of Florida agrees to transfer to the United States a vested future interest, similar to such restriction, in the land identified as "Lands Subject to Future Vested Interest" on the map referred to in subsection (c).

(b) Restriction.—The restriction referred to in subsection (a) is a reversionary interest of the United States in the land identified as "Lands Divested of Reversionary and Mineral Interests" on the map referred to in subsection (c) that—

(1) requires that such land be used for public purposes; and

(2) is contained in a deed—

(A) granting such land from the United States to the State Board of Education of Florida;

(B) dated October 19, 1954; and

(C) recorded at page 337 of book 224 of the record of deeds for Putnam County, Florida.

(c) Map and Legal Description.—The lands and interests in lands that are subject to this Act are those lands identified as "Lands Subject to Future Vested Interest" and "Lands Divested of Reversionary and Mineral Interests" as generally depicted on a map entitled "Wilcox Exchange, Putnam County, Florida", dated February 27, 1987, numbered page 1 of 3, and filed, together with a legal description of such lands, in the Office of the Chief of the Forest Service, United States Department of Agriculture. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made by the Secretary of Agriculture.

SEC. 2. SALE OF MINERAL RIGHTS.

(a) In General.—Subject to any valid existing rights of third parties, the Secretary of the Interior shall convey to the State of Florida all of the undivided mineral interests of the United States in the land identified as "Lands Divested of Reversionary and Mineral Interests" on the map referred to in section 1(c) as soon as practicable after the date of the compliance by the State of Florida with the provisions of subsection (b)(2).

(b) TERMS OF CONVEYANCE.—(1) Within 90 days after the date of the enactment of this Act, the Secretary of the Interior shall determine—

(A) the mineral character of the land identified as "Lands Divested of Reversionary and Mineral Interests" on the map referred to in section 1(c); and

(B) the fair market value of the mineral interests referred to in subsection (a).

(2) The State of Florida shall pay to the United States—

(A) any administrative costs incurred by the United States in conveying such mineral interests to the State of Florida, including the costs of making the determinations required by paragraph (1); and

(B)(i) the fair market value of such mineral interests; or

(ii) $1, in the case of mineral interests in any land determined by the Secretary of the Interior to have no value and to be under no active mineral development or leasing.

Approved October 16, 1987.

LEGISLATIVE HISTORY—H.R. 1205:

HOUSE REPORTS: No. 100-65 (Comm. on Agriculture).
SENATE REPORTS: No. 100-181 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
May 27, considered and passed House.
Oct. 1, considered and passed Senate.

○

Public Law 100-134
100th Congress

An Act

Oct. 16, 1987
[H.R. 2035]

To amend the Act establishing Lowell National Historical Park, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS.

The Act entitled "An Act to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes", approved June 5, 1978 (92 Stat. 290; 16 U.S.C. 410cc et seq.), is amended—

16 USC 410cc-13. (1) in section 103(a)—

(A) by striking "$18,500,000" and inserting "$19,800,000" in paragraph (1); and

(B) by striking "$21,500,000" and inserting "$33,600,000" in paragraph (2);

16 USC 410cc-31. (2) in section 301(e)(2) by striking "for a period not longer than thirty days" and inserting "until his successor is appointed"; and

(3) in section 301(i) by striking "ten" and inserting "seventeen".

16 USC 410cc-13 note.

SEC. 2. EFFECTIVE DATES.

(a) In General.—Except as provided in subsection (b), the amendments made by section 1 shall take effect on the date of the enactment of this Act.

(b) Effective Date of Authorization of Appropriation.—The amendments made by section 1(1) shall take effect on October 1, 1987.

Approved October 16, 1987.

LEGISLATIVE HISTORY—H.R. 2035 (S. 1012):

HOUSE REPORTS: No. 100-303 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 29, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 100-135
100th Congress

An Act

To change the title of employees designated by the Librarian of Congress for police duty and to make the rank structure and pay for such employees the same as the rank structure and pay for the Capitol Police.

Oct. 16, 1987
[H.R. 2249]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE, RANK STRUCTURE, AND PAY OF EMPLOYEES DESIGNATED BY THE LIBRARIAN OF CONGRESS FOR POLICE DUTY.

(a) IN GENERAL.—The first section of the Act entitled "An Act relating to the policing of the buildings and grounds of the Library of Congress", approved August 4, 1950 (2 U.S.C. 167), is amended to read as follows: "That the Librarian of Congress may designate employees of the Library of Congress as police for duty with respect to the Library of Congress buildings and adjacent streets. The rank structure and pay for employees so designated shall be the same as the rank structure and pay for the Capitol Police.".

(b) CONFORMING AMENDMENTS.—

(1) Section 9 of the Act entitled "An Act relating to the policing of the buildings and grounds of the Library of Congress", approved August 4, 1950 (2 U.S.C. 167h), is amended by striking out "special".

(2) Section 5102(c)(27) of title 5, United States Code, is amended by striking out "special police force" and inserting in lieu thereof "police".

SEC. 2. TRANSITION RULE FOR CERTAIN EMPLOYEES.

2 USC 167 note.

(a) IN GENERAL.—Notwithstanding the amendments made by section 1, each identified employee shall be paid in accordance with prior law until the earliest of—

(1) the first pay period during which the employee does not perform Sunday work or night work;

(2) the first pay period for which the pay of the employee, computed in accordance with the amendments made by section 1 and without regard to this section, exceeds the pay computed under prior law; or

(3) the first pay period beginning after September 30, 1989.

(b) DEFINITIONS.—As used in this section—

(1) the term "identified employee" means an employee identified by the Librarian of Congress as an employee who (with respect to each of the thirteen pay periods immediately before the first pay period to which the amendments made by section 1 apply) is designated by the Librarian for police duty, at the rank of private, and receives additional pay for Sunday work or night work under section 5544 or section 5545 of title 5, United States Code; and

(2) the term "prior law" means the first section of the Act entitled "An Act relating to the policing of the buildings and

grounds of the Library of Congress", approved August 4, 1950 (2 U.S.C. 167), as in effect immediately before the first pay period to which the amendments made by section 1 apply.

2 USC 167 note.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to pay periods beginning after September 30, 1987, except that any pay increase for employees of the Library of Congress, pursuant to the amendments made by such section, shall be subject to appropriation and shall be implemented in four approximately equal annual increments, so that pay parity with the Capitol Police occurs beginning with the first pay period beginning after September 30, 1990.

Approved October 16, 1987.

LEGISLATIVE HISTORY—H.R. 2249:

HOUSE REPORTS: No. 100-214 (Comm. on House Administration).
SENATE REPORTS: No. 100-171 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 21, considered and passed House.
Sept. 30, considered and passed Senate.

○

Public Law 100-136
100th Congress

An Act

To provide interim extensions of collection of the Veterans' Administration housing loan fee and of the formula for determining whether, upon foreclosure, the Veterans' Administration shall acquire the property securing a guaranteed loan, and for other purposes.

Oct. 16, 1987
[S. 1691]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSIONS.

Effective date.
38 USC 1816 note.

(a) FORMULA.—Notwithstanding section 2512(c) of the Deficit Reduction Act of 1984 (Public Law 98-369), the provisions of section 1816(c) of title 38, United States Code, shall continue in effect through November 15, 1987.

38 USC 1829 note.

(b) FEES.—Notwithstanding subsection (c) of section 1829 of such title, fees may be collected under such section with respect to loans closed through November 15, 1987.

SEC. 2. SALE OF VENDEE LOANS.

Section 1816(d)(3) of title 38, United States Code, is amended to read as follows:

"(3) The Administrator may sell any note securing such a loan—

"(A) with recourse; or

"(B) without recourse but only if the amount received is equal to an amount which is not less than the unpaid balance of such loan.".

Approved October 16, 1987.

LEGISLATIVE HISTORY—S. 1691:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 17, considered and passed Senate.
Oct. 1, considered and passed House, amended. Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23, (1987):
Oct. 16, Presidential statement.

○

PUBLIC LAW 100-137—OCT. 21, 1987

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT, ETC.

Public Law 100-137
100th Congress

An Act

Oct. 21, 1987
[S. 1574]

To combine the Senators' Clerk Hire Allowance Account and the Senators' Official Office Expense Account into a combined single account to be known as the "Senators' Official Personnel and Office Expense Account", and for other purposes.

Effective date.
2 USC 58c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) effective January 1, 1988, there shall be, within the contingent fund of the Senate, a separate appropriation account to be known as the "Senators' Official Personnel and Office Expense Account" (hereinafter in this section referred to as the "Senators' Account").

(2) The Senators' Account shall be used for the funding of all items, activities, and expenses which, immediately prior to January 1, 1988, were funded under either (A) the Senate appropriation account for "Administrative, Clerical, and Legislative Assistance Allowance to Senators" (hereinafter in this section referred to as the "Senators' Clerk Hire Allowance Account") under the headings "SENATE" and "SALARIES, OFFICERS AND EMPLOYEES", or (B) that part of the account, within the contingent fund of the Senate, for "Miscellaneous Items" (hereinafter in this section referred to as the "Senators' Official Office Expense Account") which is available for allocation to Senatorial Official Office Expense Accounts. In addition, the Senators' Account shall be used for the funding of agency contributions payable with respect to compensation payable by such account, but moneys appropriated to such account for this purpose shall not be available for any other purpose. The account, which in clause (A) of the first sentence of this paragraph is identified as the "Senators' Clerk Hire Allowance Account" and the account, which in clause (B) of such sentence is identified as the "Senators' Official Office Expense Account" shall, when referred to in other law, rule, regulation, or order (whether referred to by such name or any other) shall on and after January 1, 1988, be deemed to refer to the "Senators' Official Personnel and Office Expense Account".

Effective date.

(3)(A) Effective on January 1, 1988, there shall be transferred to the Senators' Account from the Senators' Clerk Hire Allowance Account all funds therein which were available for expenditure or obligation during the fiscal year ending September 30, 1988, and from the Senators' Official Office Expense Account so much of the funds therein as was available for expenditure or obligation for the period commencing January 1, 1988, and ending September 30, 1988; except that the Senators' Official Office Expense Account shall remain in being solely for the purpose of being available to pay for any authorized item, activity, or expense, for which funds therein had been obligated, but not paid, prior to such transfer.

(B) Any of the funds transferred to the Senators' Account from the Senators' Clerk Hire Allowance Account pursuant to subparagraph (A) which, prior to such transfer, had been obligated, but not expended, for any authorized item, activity, or expense, shall be available to pay for such item, activity, or expense in like manner as if such transfer had not been made.

(4) On January 1, 1988, there shall be transferred to the Senators' Account, from the appropriation account for "Agency Contributions", under the headings "SENATE" and "SALARIES, OFFICERS AND EMPLOYEES", so much of the moneys in such account as was appropriated for the purpose of making agency contributions for administrative, clerical, and legislative assistance to Senators with respect to compensation payable for the period commencing January 1, 1988, and ending September 30, 1988; and the moneys so transferred shall be available only for the payment of such agency contributions with respect to such compensation.

(5) Vouchers shall not be required for the disbursement, from the Senators' Account, of salaries of employees in the office of a Senator.

Effective date.

(b)(1) Effective January 1, 1988, section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)) is amended to read as follows:

"SEC. 506. (a) The contingent fund of the Senate is made available for payment to or on behalf of each Senator, upon certification of the Senator, for the following expenses incurred by the Senator and his staff:

Communications and telecommunications.

"(1) telecommunications equipment and services subject to such regulations as may be promulgated by the Committee on Rules and Administration of the Senate;

"(2) stationery and other office supplies procured for use for official business;

Mail.

"(3) reimbursement to each Senator for costs incurred in the preparation of required official reports, and the acquisition of mailing lists to be used for official purposes, and in the mailing, delivery, or transmitting of matters relating to official business;

"(4) reimbursement to each Senator for official office expenses incurred (other than for equipment and furniture and expenses described in paragraphs (1) through (3)) for an office in his home State;

"(5) reimbursements to each Senator for expenses incurred for publications printed or recorded in any way for auditory and visual use (including subscriptions to books, newspapers, magazines, clipping, and other information services);

Transportation.

"(6) subject to the provisions of subsection (e) of this section, reimbursement of travel expenses incurred by the Senator and employees in his office;

"(7) reimbursement to each Senator for expenses incurred for additional office equipment and services related thereto (but not including personal services), in accordance with regulations promulgated by the Committee on Rules and Administration of the Senate;

"(8) reimbursement to each Senator for charges officially incurred for recording and photographic services and products; and

"(9) reimbursement to each Senator for such other official expenses as the Senator determines to be necessary, but only (A) in the case of expenses for the period commencing January 1, 1988, and ending with the close of September 30, 1988, to the extent that such expenses do not exceed ten percent of the total amount of expenses authorized to be paid to or on behalf of such Senator under this section (excluding any amount so authorized by subsection (b)(2)(A)(iv) of this section), and (B) in the case of expenditures for periods commencing on or after October 1, 1988, to the extent such expenses do not exceed ten percent of the total amount of expenses authorized to be paid to or on behalf of such Senator under this section (excluding any amount so authorized by subsection (b)(3)(A)(iv) of this section for the fiscal year involved).

Reimbursement to a Senator and his employees under this section shall be made only upon presentation of itemized vouchers for expenses incurred and, in the case of expenses reimbursed under paragraphs (6) and (9), only upon presentation of detailed itemized vouchers for such expenses. Vouchers presented for payment under this section shall be accompanied by such documentation as is required under regulations promulgated by the Committee on Rules and Administration of the Senate. No reimbursement shall be made under paragraph (4) or (9) for any expense incurred for entertainment or meals.".

Effective date.

(2) Effective January 1, 1988, section 506(b) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(b)) is amended—

(A) in paragraph (1), by striking out "Except as otherwise provided in paragraph (2) of this subsection," and inserting in lieu thereof the following: "(A) Except as is otherwise provided in the succeeding paragraphs of this subsection and subject to subparagraph (B) of this paragraph,",

(B) by redesignating paragraph (2) as subparagraph (B) of paragraph (1), and

(C) by adding at the end thereof the following new paragraphs:

"(2)(A) In the case of the period which commences January 1, 1988, and ends September 30, 1988, the total of—

"(i) the expenses paid to or on behalf of a Senator under this section for such period, plus

"(ii) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such period (as determined for purposes of section 105(d) of the Legislative Branch Appropriation Act, 1968),

shall not exceed the aggregate of—

"(iii) subject to subparagraph (B), an amount equal to 75 percent of the amount of the authorized expenses under this section for the calendar year ending December 31, 1987, as determined in the case of a Senator, who represents the State which such Senator represents, whose term of office included all of such calendar year, plus

"(iv) the amount by which (I) the aggregate of the gross compensation which may be paid to employees in the office of such Senator for the fiscal year ending September 30, 1988, pursuant to the limitations imposed by section 105(d) of the Legislative Branch Appropriation Act, 1968 (as determined without regard to paragraph (1)(B) thereof), exceeds (II) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for that part of such fiscal year which precedes January 1, 1988.

"(B) In the event that the term of office of a Senator begins after the first month of the period which commences January 1, 1988, and ends September 30, 1988, or ends (except by reason of death, resignation, or expulsion) before the last month of such period, the amount computed pursuant to subparagraph (A)(iii) of this paragraph (but before application of this subparagraph) shall be recalculated as follows: such amount, as computed under subparagraph (A)(iii) of this paragraph, shall be divided by 9, and multiplied by the number of months in such period which are included in the Senator's term of office, counting any fraction of a month as a full month.

"(3)(A) In the case of the fiscal year beginning October 1, 1988, or any fiscal year thereafter, the total of—

"(i) the expenses paid to or on behalf of a Senator under this section for such fiscal year, plus

"(ii) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such fiscal year (as determined for purposes of section 105(d) of the Legislative Branch Appropriation Act, 1968),

shall not exceed the aggregate of—

State listing.

"(iii) subject to subparagraph (B), in case the Senator represents Alabama, $53,000, Alaska, $137,000, Arizona, $63,000, Arkansas, $54,000, California, $95,000, Colorado, $59,000, Connecticut, $44,000, Delaware, $36,000, Florida, $56,000, Georgia, $53,000, Hawaii, $156,000, Idaho, $62,000, Illinois, $71,000, Indiana, $53,000, Iowa, $55,000, Kansas, $55,000, Kentucky, $52,000, Louisiana, $56,000, Maine, $48,000, Maryland, $40,000, Massachusetts, $51,000, Michigan, $59,000, Minnesota, $56,000, Mississippi, $54,000, Missouri, $57,000, Montana, $62,000, Nebraska, $56,000, Nevada, $64,000, New Hampshire, $45,000, New Jersey, $48,000, New Mexico, $60,000, New York, $76,000, North Carolina, $50,000, North Dakota, $55,000, Ohio, $64,000, Oklahoma, $58,000, Oregon, $66,000, Pennsylvania, $63,000, Rhode Island, $43,000, South Carolina, $48,000, South Dakota, $56,000, Tennessee, $53,000, Texas, $79,000, Utah, $62,000, Vermont, $44,000, Virginia, $45,000, Washington, $68,000, West Virginia $44,000, Wisconsin, $55,000, Wyoming, $58,000, plus

"(iv) the aggregate of the gross compensation which may be paid to employees in the office of such Senator for such fiscal year, under the limitations imposed by section 105(d) of the Legislative Branch Appropriation Act, 1968, but without regard to the provisions of paragraph (1)(C)(iv) thereof.

"(B) In the event that the term of office of a Senator begins after the first month of any such fiscal year or ends (except by reason of death, resignation, or expulsion) before the last month of any such fiscal year, the amount referred to in subparagraph (A)(iii) shall be recalculated as follows: such amount, as computed under subparagraph (iii), shall be divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month.".

Effective date.

(3) Effective January 1, 1988, section 506(h) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(h)) is amended—

(A) by striking out paragraph (2) thereof and by striking out "(1)" where it appears immediately after "(h)"; and

(B) by striking out "(a)(5)" and inserting "(a)(4)".

Effective date.
2 USC 58.

(4) Effective January 1, 1988, subsection (e) of section 506 of such Act (2 U.S.C. 58e) is amended to read as follows:

Transportation.

"(e) Subject to and in accordance with regulations promulgated by the Committee on Rules and Administration of the Senate, a Senator and the employees in his office shall be reimbursed under this section for travel expenses incurred by the Senator or employee while traveling on official business within the United States. The term 'travel expenses' includes actual transportation expenses, essential travel-related expenses, and, where applicable, per diem expenses (but not in excess of actual expenses). A Senator or an employee of the Senator shall not be reimbursed for any travel expenses (other than actual transportation expenses) for any travel occurring during the sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which the Senator is a candidate for public office (within the meaning of section 301(b) of the Federal Election Campaign Act of 1971), unless his candidacy in such election is uncontested. For purposes of this subsection and subsection (a)(6) of this section, an employee in the Office of the President pro tempore, Deputy President pro tempore, Majority Leader, Minority Leader, Majority Whip, Minority Whip, Secretary of the Conference of the Majority, or Secretary of the Conference of the Minority shall be considered to be an employee in the office of the Senator holding such office.".

Effective date.

(5) Effective January 1, 1988, the first sentence of subsection (j) of section 506 (2 U.S.C. 58(j)) of such Act is amended by striking out "(a)(8)" and inserting in lieu thereof "(a)(6)".

Effective date.

(c)(1) Effective January 1, 1988, section 105(d)(1) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(d)(1)) is amended—

(A) by striking out "The" at the beginning of paragraph (1) and inserting in lieu thereof "(A) Except as is otherwise provided in subparagraphs (B) and (C), the", and

(B) by adding at the end of paragraph (1) the following new subparagraphs:

"(B) In the case of gross compensation paid to employees in the office of a Senator for the period commencing January 1, 1988, and ending September 30, 1988, the total of—

"(i) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such period, plus

"(ii) the expenses paid to or on behalf of such Senator under authority of section 506 of the Supplemental Appropriations Act, 1973 (as determined after application of subsection (b) of such section, but without regard to paragraph (2)(A)(iv) thereof),

shall not exceed the aggregate of—

"(iii) subject to the next sentence, the amount by which (I) the aggregate of the gross compensation which may be paid to employees in the office of such Senator for the fiscal year ending September 30, 1988, as determined under this subsection (but without regard to this subparagraph), exceeds (II) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for that part of such fiscal year which precedes January 1, 1988, plus

"(iv) the amount described in section 506(b)(2)(A)(iii) of the Supplemental Appropriations Act, 1973.

In the event that the term of office of a Senator begins after the first month of the period which commences January 1, 1988, and ends September 30, 1988, or ends (except by reason of death, resignation, or expulsion) before the last month of such period, the amount computed pursuant to clause (iii) of this subparagraph (but before application of this sentence) shall be recalculated as follows: such amount, as so computed, shall be divided by 9, and multiplied by the number of months in such period which are included in the Senator's term of office, counting any fraction of a month as a full month.

"(C) In the case of gross compensation paid to employees in the office of a Senator for the fiscal year beginning October 1, 1988, or any fiscal year thereafter, the total of—

"(i) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such year, plus

"(ii) the expenses paid to or on behalf of such Senator under authority of section 506 of the Supplemental Appropriations Act, 1973 (as determined after application of subsection (b) of such section, but without regard to paragraph (3)(A)(ii) and (iv) thereof),

shall not exceed the aggregate of—

"(iii) the amount determined under subparagraph (A) for such year, plus

"(iv) the amount described in section 506(b)(3) of the Supplemental Appropriations Act, 1973 (as determined without regard to subparagraph (A)(ii) and (iv) thereof).".

Effective date.

SEC. 2. Section 110 of the Supplemental Appropriations and Rescission Act, 1981 (Public Law 97-12; 2 U.S.C. 58b) is repealed effective January 1, 1988.

Effective date.
2 USC 61-1 note.

SEC. 3. Subsection (b) of section 111 of the Legislative Appropriations Act, 1978 (Public Law 95-94) is repealed, effective as of the first day of the 100th Congress.

Approved October 21, 1987.

LEGISLATIVE HISTORY—S. 1574:

SENATE REPORTS: No. 100-134 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 6, considered and passed Senate.
Oct. 8, considered and passed House.

○

Public Law 100-138
100th Congress

An Act

Oct. 23, 1987
[H.R. 3226]

To amend the Anti-Drug Abuse Act of 1986 to permit certain participants in the White House Conference for a Drug Free America to be allowed travel expenses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF TRAVEL EXPENSE REIMBURSEMENT; AUTHORITY TO RECEIVE DONATIONS.

(a) TRAVEL EXPENSES.—Subsection (d) of section 1936 of the Anti-Drug Abuse Act of 1986 (20 U.S.C. 4601 note) is amended to read as follows:

"(d)(1) While away from home or regular place of business in the performance of services for the conference, a participant in the conference may, in the sole discretion of the executive director and subject to the limitation contained in paragraph (2), be allowed travel expenses, including per diem allowance in lieu of subsistence, in the same amount, and to the same extent, as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

"(2) Travel expenses may be allowed a conference participant under paragraph (1) only if the executive director finds on the basis of a written statement submitted by the participant that the participant would otherwise be unable to participate in the conference.

"(3) Total travel expenses allowed under this subsection shall not exceed $400,000.".

(b) AUTHORITY TO ACCEPT GIFTS.—Section 1936 of the Anti-Drug Abuse Act of 1986 (20 U.S.C. 4601 note) is amended by adding at the end the following:

"(e)(1) The conference may accept, use, and dispose of gifts or donations for the sole purpose of carrying out its responsibilities under this subtitle.

"(2) Gifts or donations accepted under paragraph (1) of this subsection are limited to—

"(A) food, food services, transportation, or lodging and related services; or

"(B) funds for the sole purpose of providing food, food services, transportation, or lodging and related services.".

SEC. 2. FINAL REPORT.

Section 1937(a) of the Anti-Drug Abuse Act of 1986 (20 U.S.C. 4601 note) is amended by striking out "six months after the effective date of this Act" and inserting "July 31, 1988" in lieu thereof.

SEC. 3. AUTHORIZATION.

Section 1938 of the Anti-Drug Abuse Act of 1986 (20 U.S.C. 4601 note) is amended by striking out "$2,000,000" and inserting "$3,500,000" in lieu thereof.

Approved October 23, 1987.

LEGISLATIVE HISTORY—H.R. 3226:

HOUSE REPORTS: No. 100-340 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

○

PUBLIC LAW 100-139—OCT. 26, 1987

COW CREEK BAND OF UMPQUA TRIBE OF INDIANS DISTRIBUTION OF JUDGMENT FUNDS ACT OF 1987

Public Law 100-139
100th Congress

An Act

Oct. 26, 1987
[H.R. 1567]

To provide for the use and distribution of funds awarded to the Cow Creek Band of Umpqua Tribe of Indians in United States Claims Court docket numbered 53-81L, and for other purposes.

Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987.
25 USC 712 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "tribe" means the Cow Creek Band of Umpqua Tribe of Indians, which was extended Federal recognition by the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712, et seq.).

(3) The term "tribal member" means any individual who is a member of the Cow Creek Band of Umpqua Tribe of Indians within the meaning of section 5 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712c), as amended by section 5 of this Act.

(4) The term "tribe's governing body" means the governing body as determined by the tribe's governing documents.

(5) The term "tribe's governing documents" means either the By-Laws of Cow Creek Band of Umpqua Tribe of Indians which bear an approved date of 9-10-78 or those bylaws as amended or revised or any subsequent final governing document adopted pursuant to section 4 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712b), as amended by section 7 of this Act.

(6) The term "tribal council" means the general membership of the Cow Creek Band of Umpqua Tribe of Indians convened in a meeting open to all tribal members.

(7) The term "tribal elder" means any tribal member who reached 50 years of age on or before December 31, 1985, and whose name appears on the list compiled pursuant to section 4(b)(1)(A).

SEC. 3. JUDGMENT DISTRIBUTION PLAN.

Notwithstanding Public Law 93-134 (25 U.S.C. 1401, et seq.), or any plan prepared or promulgated by the Secretary pursuant to such Act, the judgment funds awarded in United States Claims Court docket numbered 53-81L shall be distributed and used in the manner provided in this Act.

SEC. 4. DISTRIBUTION AND USE OF FUNDS.

(a) PRINCIPAL PRESERVED; NO PER CAPITA PAYMENTS.—(1) The total judgment fund of $1,500,000, less attorney's fees and loan with the Bureau of Indian Affairs for expert witness testimony during the land claims case, shall be set aside as the principal from which programs under this Act will be funded. Only the interest earned on this principal may be used to fund such programs. There will be no per capita distribution of any funds, other than as specified in this Act.

(2) The Secretary shall—

(A) maintain the judgment fund in an interest-bearing account in trust for the tribe; and

(B) shall disburse funds as provided in this Act within thirty days of receipt by the Portland Area Director, Bureau of Indian Affairs, of a request by the tribe's governing body for disbursement of funds.

(b) Elderly Assistance Program.—(1) From the principal, the Secretary shall set aside the sum of $500,000 for an Elderly Assistance Program. The Secretary shall provide a one-time-only payment of $5,000 to each tribal elder within thirty days after the tribe's governing body—

(A) has compiled and reviewed for accuracy a list of all tribal members who were 50 years of age or older as of December 31, 1985; and

(B) has made a request for disbursement of judgment funds for the Elderly Assistance Program pursuant to subsection (a) of this section.

(2) Payments of $5,000 to tribal elders shall be made—

(A) to tribal elders by age in descending order, beginning with the oldest tribal elder, until the interest accumulated for one year on the $500,000 has been depleted below the sum of $5,000: *Provided,* That any interest remaining shall carry over to the following year for distribution hereunder in the next $5,000 payment;

(B) on or before January 1 of succeeding years, and will continue to be made to tribal elders in descending order by age until the interest earned in such year on the $500,000 has been depleted below the sum of $5,000: *Provided,* That any interest remaining shall carry over to the following year for distribution hereunder in the next $5,000 payment; and

(C) each year until every individual eligible for payment under this subsection has received a one-time-only payment of $5,000: *Provided,* That when all payments have been completed, the principal sum of $500,000 will be distributed to other tribal programs as provided in this Act and any remaining interest will be distributed to other tribal programs as determined by the tribe's governing body.

(3) If any tribal member eligible for an elderly assistance payment should die before receiving such payment, the money which would have been paid to that individual will be returned to the Elderly Assistance Program fund for distribution in accordance with this section.

(c) Higher Education and Vocational Training Program.—(1) From the principal, the Secretary shall set aside the sum of $100,000 for a Higher Education and Vocational Training Program. Interest earned on such sum shall be disbursed annually in a lump sum to the tribe and will be utilized to provide scholarships to tribal members pursuing college, university, or professional education or training. Tribal members seeking vocational training also will be funded from this program, although adult vocational training funding available through a contract with the Bureau of Indian Affairs will be utilized first if an individual is eligible and there is sufficient funding in such program.

(2) When the Elderly Assistance Program under subsection (b) has been completed, the principal funding for the higher education and vocational training program shall be increased to $250,000.

(d) HOUSING ASSISTANCE PROGRAM.—(1) From the principal, the Secretary shall set aside the sum of $100,000 for a Housing Assistance Program for tribal members. Interest earned on such sum shall be disbursed annually in a lump sum to the tribe and may be added to any existing tribal housing improvement programs to supplement them or it may be used in a separate Housing Assistance Program to be established by the tribe's governing body. Such funding may be used for—

(A) rehabilitation of existing homes;

(B) emergency repairs to existing homes;

(C) down payments on new or previously occupied homes; and

(D) if sufficient funding is available in a given year, for purchase or construction of new homes.

(2) When the Elderly Assistance Program under subsection (b) has been completed, the principal funding for the Housing Assistance Program shall be increased to $250,000.

(e) ECONOMIC DEVELOPMENT AND TRIBAL CENTER.—(1) From the principal, the Secretary shall set aside the sum of $250,000 for economic development and, if other funding is not available or not adequate, for the construction and maintenance of a tribal center. Interest earned on such sum shall be disbursed annually in a lump sum to the tribe and may be used for—

Business and industry.

(A) land acquisition for business or other activities which would benefit the tribe economically or provide employment for tribal members: *Provided,* That at least 50 per centum of all individuals employed in a tribally operated business acquired or operated under this subsection shall be tribal members or their spouses as available and qualified: *Provided further,* That as new positions open or existing ones are vacated, preference will be given to tribal members or their spouses, but if insufficient numbers of qualified tribal members or their spouses are available to fill at least 50 per centum of the positions offered, nontribal members may be considered for employment;

(B) business development for the tribe, including collateralization of loans for the purchase or operation of businesses, matching funds for economic development grants, joint venture partnerships, and other similar ventures which can be expected to produce profits for the tribe or to employ tribal members;

Conservation.

(C) reservation activities, including forest management, wildlife management and enhancement of wildlife habitats, stream enhancement, and development of recreational areas. The tribe's governing body shall determine what reservation activities will be funded from economic development funds under this subparagraph; or

(D) construction, support, or maintenance of a tribal center.

(2) When the Elderly Assistance Program under subsection (b) has been completed, the principal funding available for economic development and tribal center shall be increased to $400,000.

(f) MISCELLANEOUS TRIBAL ACTIVITIES.—(1) From the principal, the Secretary shall set aside the sum of $50,000 for miscellaneous tribal activities as determined by the tribe's governing body. Interest earned on such sum shall be disbursed annually in a lump sum to the tribe and may be used for—

(A) operating costs of the tribe's governing body, including travel, telephone, and other expenses incurred in the conduct of the tribe's affairs;

(B) legal fees incurred in the conduct of tribal affairs, tribal businesses or other tribal activities, recommended by the tribe's governing body and approved by the tribal council; or

(C) repayment to the Secretary of any funds provided by the Secretary under Bureau of Indian Affairs Contract Numbered POOC14207638.

(2) When the Elderly Assistance Program under subsection (b) has been completed, the principal funding for miscellaneous tribal activities shall be increased to $100,000.

(g) EVERGREEN PROPERTY; COLLATERALIZATION OF LOAN WITH BUREAU OF INDIAN AFFAIRS.—(1) From the principal, the Secretary shall set aside the sum of $315,000 as collateral on the property known as Evergreen. The interest from such amount shall be disbursed annually in a lump sum to the tribe and shall be utilized for payments on the loan property and for maintenance and upgrade of such property. If the tribe's governing body determines that the interest and income together are sufficient to pay off the loan more quickly, it may commit the full interest from $315,000 to repayment of the loan until such time as loan payments are completed or the income from the property is sufficient to complete the loan payments.

(2) When the loan has been paid or the income from the property is sufficient to pay the loan, the principal amount of $315,000 and any remaining interest generated from such sum shall be redistributed to the Housing Assistance Program, Higher Education and Vocational Training Program, and Economic Development and Tribal Center Program established under this section in such proportions as the tribe's governing body determines to be appropriate.

(h) GENERAL CONDITIONS.—The following conditions will apply to the management and use of the judgment funds by the tribe's governing body:

(1) No amount greater than 10 per centum of the interest earned on the principal may be used for the administrative costs of any of the above programs, except as provided in paragraph (2).

(2) No service area is implied or imposed under any program under this Act. If the costs of administering any program under this Act for the benefit of a tribal member living outside the tribe's Indian health service area are greater than 10 per centum of the interest earned thereon, the tribe's governing body may authorize the expenditure of such funds for that program, but in carrying out the program shall give priority to individuals within the tribe's Indian health service area.

(3) The tribe's governing body may at any time after enactment of this Act declare a dividend to tribal members from the profits from any business enterprise of the tribe. Prior to declaring or distributing dividends, however, the tribe's governing body must first take into consideration the effect of such declaration or distribution of dividends on future operating costs and proposed business expansions. Profits from business enterprises may also be distributed back into any of the programs

established under this section provided that future operating costs and proposed expansion costs are first set aside. Any such distribution back into the program under this Act shall be proportional to the percentage of principal then being allocated hereunder.

(4) Notwithstanding any other provisions of this Act, interest accrued on the principal prior to enactment of this Act shall as of the date of this Act be distributed under the tribal programs described in section 4 of this Act.

(5) The tribe's governing body shall adopt and publish in a publication of general circulation regulations which provide standards for the participation of individuals who are eligible for programs established pursuant to subsections (c) and (d) of this section.

(6) Benefits received pursuant to this Act shall be considered supplementary to existing Federal programs and their existence shall not be used by any Federal agency as a basis to deny eligibility in whole or in part for existing Federal programs.

(7) Any individual who feels he or she has been unfairly denied the right to take part in any program under subsections (b), (c), or (d) of this section may appeal to the Secretary. The Secretary shall provide payments pursuant to this section to any individual who the Secretary determines, after notice and hearing, has been unfairly denied the right to take part in such program.

(8) Notwithstanding any other provisions of this Act, no funds shall be disbursed pursuant to subsections (c) or (d) of this section until one year after enactment of this Act.

(i)(1) Any portion of the principal set aside under subsection (a) which remains after the allocations of the principal required under subsections (b), (c), (d), (e), and (f) have been made shall be allocated among the Housing Assistance Program, the Higher Education and Vocational Training Program, and the Economic Development and Tribal Center Program established under this section in such proportions as the tribe's governing body determines to be appropriate.

(2) If the total amount of the principal set aside under subsection (a) after amounts sufficient to pay attorney's fees and the loan described in subsection (a) have been deducted is insufficient to make all of the allocations of the principal required under subsections (b), (c), (d), (e), and (f), the portion of the principal which is required to be allocated to the purposes provided in subsections (c), (d), (e), and (f) shall be reduced in such proportions as the tribe's governing body determines to be appropriate.

SEC. 5. MEMBERSHIP ROLLS.

(a) Section 5 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712c) is amended to read as follows:

"SEC. 5. TRIBAL MEMBERSHIP.

"(a) Until such time as the Secretary of the Interior publishes a tribal membership roll as mandated in subsection (b) of this section, the membership of the Cow Creek Band of Umpqua Tribe of Indians shall consist of all persons listed in the official tribal roll approved on September 13, 1980, by the tribe's Board of Directors, and their descendants. Following publication by the Secretary of the tribal membership roll mandated in subsection (b) of this section, the membership of the Cow Creek Band of Umpqua Tribe of Indians shall consist of all persons listed on such roll.

"(b) Within three hundred and sixty-five days after the enactment of the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987, the Secretary shall prepare in accordance with the regulations contained in part 61 of title 25 of the Code of Federal Regulations a tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians. Such roll shall include all Indian individuals who were not members of any other federally recognized Indian tribe on July 30, 1987 and who—

"(1) are listed on the tribal roll referred to in subsection (a);

"(2) are the descendants of any individuals listed pursuant to paragraph (1) born on or prior to enactment of this Act; or

"(3)(A) are the descendants of any individual considered to be a member of the Cow Creek Band of Umpqua Tribe of Indians for the purposes of the treaty entered between such Band and the United States on September 18, 1853; (B) have applied to the Secretary for inclusion in the roll pursuant to subsection (c); and (C) meet the requirements for membership provided in the tribe's governing documents.

Regulations.

"(c) The Secretary shall devise regulations governing the application process under which individuals may apply to have their names placed on the tribal roll pursuant to paragraph 3 of subsection (b).

Federal Register, publication.

"(d) After publication of the roll in the Federal Register, the membership of the tribe shall be limited to the persons listed on such roll and their descendants: *Provided*, That the tribe, at its discretion, may subsequently grant tribal membership to any individual of Cow Creek Band of Umpqua ancestry who pursuant to tribal procedures, has applied for membership in the tribe and has been determined by the tribe to meet the tribal requirements for membership in the tribe: *Provided further*, That nothing in this Act shall be interpreted as restricting the tribe's power to impose additional requirements for future membership in the tribe upon the adoption of a new constitution or amendments thereto as provided in section 7 of the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987.".

25 USC 712, 712a.

(b) Technical Correction.—The Cow Creek Band of Umpqua Tribe of Indians Recognition Act is amended by striking out "Umpqua Tribe of Oregon" each place it appears and inserting in lieu thereof "Umpqua Tribe of Indians".

SEC. 6. ELIGIBILITY OF NONTRIBAL MEMBERS.

(a) In General.—Notwithstanding any other provision of this Act, any individual who is not a tribal member shall be eligible to participate—

(1) in the programs established under subsections (c) and (d) of section 4 of this Act if such individual—

(A) submits to the Secretary and to the tribe an application for participation in such programs which is accompanied by evidence establishing that such individual is within the group of persons described in section 4(a) of Public Law 96-251; and

(B) is certified by the Secretary as being within such group; and

(2) in the program established under subsection (b) of section 4 of this Act if such individual—

(A) submits to the Secretary and to the tribe, by no later than one hundred and eighty days after the date of enactment of this Act, an application for participation in such program which is accompanied by evidence establishing that such individual is within the group of persons described in section 4(a) of Public Law 96-251; and

(B) is certified by the Secretary as being within such group.

(b) BASIS OF CERTIFICATIONS.—In making certifications under subsection (a) of this section, the Secretary may use—

(1) records collected pursuant to Bureau of Indian Affairs Contract Numbered POOC14207638 that are made available to the Secretary by the tribe; and

(2) any other documents, records, or other evidence that the Secretary determines to be satisfactory.

SEC. 7. ORGANIZATION OF TRIBE; CONSTITUTION, BYLAWS AND GOVERNING BODY.

(a) IN GENERAL.—Section 4 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712b) is amended to read as follows:

"SEC. 4. (a) The tribe may organize for its common welfare and adopt an appropriate instrument, in writing, to govern the affairs of the tribe when acting in its governmental capacity. The tribe shall file with the Secretary of the Interior a copy of its organic governing document and any amendments thereto.

"(b) Not less than one year following enactment of the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987, the tribe's governing body may propose a new governing document or amendments or revisions to the interim governing document, and the Secretary shall conduct a tribal election as to the adoption of that proposed document within one hundred twenty days from the date it is submitted to the Bureau of Indian Affairs.

"(c) The Secretary shall approve the new governing document if approved by a majority of the tribal voters unless he or she determines that such document is in violation of any laws of the United States.

"(d) Until the tribe adopts and the Secretary approves a new governing document, its interim governing document shall be the tribal bylaws entitled 'By-Laws of Cow Creek Band of Umpqua Tribe of Indians' which bear an 'approved' date of '9-10-78,'.

"(e) Until the tribe adopts a final governing document, the tribe's governing body shall consist of its current board of directors elected at the tribe's annual meeting of August 10, 1986, or such new board members as are selected under election procedures of the interim governing document identified at subsection (d).".

Approved October 26, 1987.

LEGISLATIVE HISTORY—H.R. 1567:

HOUSE REPORTS: No. 100-66 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-157 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Apr. 27, considered and passed House.
  Sept. 18, considered and passed Senate, amended.
  Oct. 5, House concurred in Senate amendment.

○

Public Law 100-140
100th Congress

An Act

Oct. 26, 1987
[S. 1666]

To amend title 5, United States Code, to provide for the extension of physicians comparability allowances and to amend title 37, United States Code, to provide for special pay for psychologists in the commissioned corps of the Public Health Service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE AMENDMENTS.

(a) PHYSICIANS COMPARABILITY ALLOWANCES.—Section 5948(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out "$7,000" and inserting in lieu thereof "$14,000";

(2) in paragraph (2) by striking out "$10,000" and inserting in lieu thereof "$20,000"; and

(3) by adding at the end thereof (after and below paragraph (2)) the following:

"For the purpose of determining length of service as a Government physician, service as a physician under section 4104 or 4114 of title 38 or active service as a medical officer in the commissioned corps of the Public Health Service under Title II of the Public Health Service Act (42 U.S.C. ch. 6A) shall be deemed service as a Government physician."

(b) EXTENSION OF AUTHORITY.—The second sentence of section 5948(d) of title 5, United States Code, is amended to read as follows: "No agreement shall be entered into under this section later than September 30, 1990, nor shall any agreement cover a period of service extending beyond September 30, 1992.".

SEC. 2. SPECIAL PAY FOR PSYCHOLOGISTS IN THE PUBLIC HEALTH SERVICE CORPS.

(a) SPECIAL PAY.—Chapter 5 of title 37, United States Code, is amended by inserting after section 302b the following new section:

37 USC 302c.

"§ 302c. Special pay: psychologists in the Public Health Service Corps

"(a) A member who is—

"(1) an officer in the Regular or Reserve Corps of the Public Health Service and is designated as a psychologist; and

"(2) has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology,

is entitled to special pay, as provided in subsection (b).

"(b) The rate of special pay to which an officer is entitled pursuant to subsection (a) shall be—

"(1) $2,000 per year, if the officer has less than 10 years of creditable service;

"(2) $2,500 per year, if the officer has at least 10 but less than 12 years of creditable service;

"(3) $3,000 per year, if the officer has at least 12 but less than 14 years of creditable service;

"(4) $4,000 per year, if the officer has at least 14 but less than 18 years of creditable service; or

"(5) $5,000 per year, if the officer has 18 or more years of creditable service.".

(b) CONFORMING AMENDMENTS.—(1) Section 303a of title 37, United States Code, is amended by inserting "302c," after "302b," each place it appears.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302b the following new item:

"302c. Special pay: psychologists in the Public Health Service Corps.".

37 USC 302c note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1987 or on the date of the enactment of this Act, whichever is later, and shall apply with respect to pay periods beginning on or after that effective date.

Approved October 26, 1987.

LEGISLATIVE HISTORY—S. 1666:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 16, considered and passed Senate.
Oct. 13, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
Oct. 28, Presidential statement.

○

PUBLIC LAW 100-141—OCT. 28, 1987

1988 OLYMPIC COMMEMORATIVE COIN ACT

19-139 O - 87 (141)

Public Law 100-141
100th Congress

An Act

Oct. 28, 1987
[H.R. 2741]

To authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic Games.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

1988 Olympic Commemorative Coin Act.
31 USC 5112 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "1988 Olympic Commemorative Coin Act".

31 USC 5112 note.

SEC. 2. COIN SPECIFICATIONS.

(a) Five Dollar Gold Coins.—

(1) Issuance.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall issue not more than one million five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(2) Design.—The design of such five dollar coins shall be emblematic of the participation of American athletes in the 1988 Olympic Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1988", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) One Dollar Silver Coins.—

(1) Issuance.—The Secretary shall issue not more than ten million one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) Design.—The design of such dollar coins shall be emblematic of the participation of American athletes in the 1988 Olympic Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1988", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) Legal Tender.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

31 USC 5112 note.

SEC. 3. SOURCES OF BULLION.

(a) Silver Bullion.—The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

(b) Gold Bullion.—The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

SEC. 4. SELECTION OF DESIGN.

31 USC 5112 note.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the United States Olympic Committee and the Commission of Fine Arts.

SEC. 5. SALE OF THE COINS.

31 USC 5112 note.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins and $7 per coin for the one dollar coins.

SEC. 6. ISSUANCE OF THE COINS.

31 USC 5112 note.
New York.

(a) GOLD COINS.—The five dollar coins authorized under this Act shall be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) SILVER COINS.—The one dollar coins authorized under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike each such quality.

(c) SUNSET PROVISION.—No coins shall be minted under this Act after June 30, 1989.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

31 USC 5112 note.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

31 USC 5112 note.

All surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the United States Olympic Committee. Such amounts shall be used by the United States Olympic Committee solely to train United States Olympic athletes, to support local or community amateur athletic programs, and to erect facilities for the training of such athletes.

SEC. 9. AUDITS.

31 USC 5112 note.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the United States Olympic Committee as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

31 USC 5112 note.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

31 USC 5112 note.

SEC. 11. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this Act shall result in no net cost to the United States Government.

(b) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

Insurance.

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

Approved October 28, 1987.

LEGISLATIVE HISTORY—H.R. 2741:

SENATE REPORTS: No. 100-197 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 6, considered and passed House.
Oct. 13, considered and passed Senate, amended.
Oct. 14, House concurred in Senate amendment.

○

Public Law 100-142
100th Congress

Joint Resolution

To designate the month of November in 1987 as "National Hospice Month".

Oct. 28, 1987
[H.J. Res. 234]

Whereas hospice care has been demonstrated to be a humanitarian way for terminally ill patients to approach the end of their lives in comfort with appropriate, competent and compassionate care in an environment of personal individuality and dignity;

Whereas hospice advocates care for the patient and family by attending to their physical, emotional and spiritual needs and specifically, the pain and grief they experience;

Whereas hospice care is provided by an interdisciplinary team of physicians, nurses, social workers, pharmacists, psychological and spiritual counselors, and other community volunteers trained in the hospice concept of care;

Whereas hospice is rapidly becoming a full partner in the Nation's health care system;

Whereas the recent enactment of a permanent medicare hospice benefit and an optional medicaid hospice benefit makes it possible for many more Americans to have the opportunity to elect to receive hospice care;

Whereas private insurance carriers and employers have recognized the value of hospice care by the inclusion of hospice benefits in health care coverage packages; and

Whereas there remains a great need to increase public awareness of the benefits of hospice care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November in 1987 is designated as "National Hospice Month". The President is requested to issue a proclamation calling upon all Government agencies, the health care community, appropriate private organizations, and people of the United States to observe those months with appropriate forums, programs and activities designed to encourage national recognition of and support for hospice care as a humane response to the needs of the terminally ill and as a viable component of the health care system in this country.

Approved October 28, 1987.

LEGISLATIVE HISTORY—H.J. Res. 234:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 23, considered and passed House.
Oct. 15, considered and passed Senate, amended.
Oct. 20, House concurred in Senate amendments.

○

Public Law 100-143
100th Congress

Joint Resolution

Oct. 28, 1987
[S.J. Res. 163]

To designate the month of November 1987, as "National Family Bread Baking Month".

Whereas baking bread in the home is a long-standing American tradition, and has contributed to the well being and nutrition of the family since the earliest days of colonial settlement;

Whereas family bread baking utilizes American agricultural commodities and the products thereof (notably wheat, rye, corn, dairy products, sugar, and eggs), resulting in a significant contribution to the economies of the States in which these commodities are grown and produced;

Whereas homemade bread provides health benefits and valuable nutrients to the American diet; and

Whereas family bread baking contributes to the strength and unity of the family, and provides an important means for educating future generations about American traditions and values: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1987, is designated as "National Family Bread Baking Month", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved October 28, 1987.

LEGISLATIVE HISTORY—S.J. Res. 163:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
Oct. 20, considered and passed House.

○

Public Law 100-144
100th Congress

Joint Resolution

Designating the week beginning October 25, 1987, as "National Adult Immunization Awareness Week".

Oct. 28, 1987
[S.J. Res. 168]

Whereas the Surgeon General of the Public Health Service launched a decade-long initiative in 1979 to reduce preventable death and disease among adults in the United States;

Whereas reducing the incidence of infectious disease through immunization is an objective of the initiative;

Whereas the Surgeon General established for influenza an immunization goal of 60 percent of the elderly and individuals with chronic illnesses and for pneumococcal pneumonia an immunization goal of 60 percent of individuals over the age of 40 and individuals weakened with underlying medical conditions;

Whereas, by the end of 1985, only 17.6 percent of the elderly and individuals with chronic illnesses were immunized against influenza and 10.3 percent of individuals over the age of 40 and individuals weakened with underlying medical conditions were immunized against pneumococcal pneumonia;

Whereas influenza, pneumonia, and other infectious diseases including measles, rubella, diphtheria, tetanus, and hepatitis B are among the top killers of adults in the United States particularly the elderly, despite readily available vaccines that have been proven safe and effective by the Food and Drug Administration and could save the lives of tens of thousands of adults in the United States;

Whereas reducing the incidence of infectious disease through immunization would help decrease the high cost of health care in the United States; and

Whereas efforts to educate adults in the United States about the benefits of immunization generally are vital and will encourage more adults in the United States to be immunized against infectious diseases so that the immunization goals of the Surgeon General are met: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 25, 1987, is designated as "National Adult Immunization Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 28, 1987.

LEGISLATIVE HISTORY—S.J. Res. 168:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 15, considered and passed Senate.
Oct. 20, considered and passed House.

○

Public Law 100-145
100th Congress

Joint Resolution

To designate the week beginning on November 2, 1987, and ending on November 8, 1987, as "National Tourette Syndrome Awareness Week".

Oct. 28, 1987
[S.J. Res. 198]

Whereas Tourette syndrome is a neurological disorder which occurs in children between the ages of 2 and 16 and lasts for the remainder of the life of each afflicted child;

Whereas Tourette syndrome is characterized by repeated tic movements and involuntary vocalizations which are physically debilitating, socially crippling, and emotionally devastating;

Whereas an estimated 100,000 Americans currently suffer from Tourette syndrome and an additional 3,500,000 Americans suffer from less severe forms of this affliction;

Whereas the lack of knowledge about this disorder on the part of health professionals and the public causes additional hardships for those afflicted with Tourette syndrome;

Whereas greater public understanding of Tourette syndrome will encourage those persons currently diagnosed as suffering from this disorder, and nurture hope for those who are suffering from the disorder but whose afflictions have not been diagnosed or have been diagnosed incorrectly; and

Whereas thousands of caring volunteers and the families of persons afflicted with Tourette syndrome have devoted much time and energy to educate health professionals and the public about this disorder: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 2, 1987, and ending on November 8, 1987, is designated as "National Tourette Syndrome Awareness Week", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies, interest groups and organizations, and all of the people of the United States to observe such week by engaging in appropriate activities and programs to show their support and concern for those Americans afflicted with Tourette syndrome.

Approved October 28, 1987.

LEGISLATIVE HISTORY—S.J. Res. 198:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 15, considered and passed Senate.
Oct. 20, considered and passed House.

O

PUBLIC LAW 100-146—OCT. 29, 1987

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT AMENDMENTS OF 1987

Public Law 100-146
100th Congress

An Act

Oct. 29, 1987
[S. 1417]

To amend the Developmental Disabilities Assistance and Bill of Rights Act to extend the programs established in such Act, and for other purposes.

Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.
Health and medical care.
Handicapped persons.
42 USC 6000 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

TITLE I—GENERAL PROVISIONS

FINDINGS AND PURPOSES

42 USC 6000.

SEC. 101. Section 101 is amended to read as follows:

"FINDINGS AND PURPOSES

"SEC. 101. (a) The Congress finds that—

"(1) there are more than two million persons with developmental disabilities in the United States;

"(2) persons whose disabilities occur during their developmental period frequently have severe disabilities which are likely to continue indefinitely;

"(3) notwithstanding their severe disabilities, these persons have capabilities, competencies, and personal needs and preferences;

"(4) family and members of the community can play a central role in enhancing the lives of persons with developmental disabilities, especially when the family is provided with necessary support services;

"(5) persons with developmental disabilities and their families often require specialized lifelong assistance to be provided in a coordinated manner by many agencies and others in order to eliminate barriers for such persons and to meet the needs of such persons;

"(6) generic service agencies and agencies providing specialized services to persons with disabilities sometimes overlook, inappropriately address the needs of, or exclude persons with developmental disabilities in their planning and delivery of services;

"(7) public and private employers tend to be unaware of the capability of persons with developmental disabilities to be engaged in competitive work in integrated settings; and

"(8) it is in the national interest to offer persons with developmental disabilities the opportunity, to the maximum extent feasible, to make decisions for themselves and to live in typical homes and communities where they can exercise their full rights and responsibilities as citizens.

"(b) The purposes of this title are—

State and local governments.

"(1) to provide assistance to States and public and private nonprofit agencies and organizations to assure that all persons with developmental disabilities receive the services and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity, and integration into the community;

"(2) to enhance the role of the family in assisting persons with developmental disabilities to achieve their maximum potential; and

Grants.

"(3) to make grants to support a system in each State to protect the legal and human rights of persons with developmental disabilities.".

DEFINITIONS

42 USC 6001.

SEC. 102. Section 102 is amended—

(1) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) The term 'nonprofit' means an agency, institution, or organization that is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private share holder or individual.";

(2) by redesignating paragraph (4) as paragraph (3);

(3) by striking out paragraph (5);

(4) by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (4), (5), (6), and (7), respectively;

(5) by redesignating paragraph (10) as paragraph (8), and in such paragraph, by striking out "nonhandicapped" each place it appears and inserting in lieu thereof "nondisabled";

(6) by striking out paragraph (11);

(7) by redesignating paragraphs (12), (13), (14), and (15) as paragraphs (17), (18), (19), and (20), respectively;

(8) by inserting after paragraph (8) (as redesignated by paragraph (5) of this section) the following new paragraphs:

"(9) The term 'priority area activities' includes, with respect to Federal priority areas or a State priority area—

"(A) activities to increase the capacities and resources of public and private nonprofit entities and others to develop a system for providing specialized services or special adaptations of generic services or other assistance which responds to the needs and capabilities of persons with developmental disabilities and their families and to enhance coordination among entities;

"(B) the—

"(i) conduct of studies and analyses;

"(ii) gathering of information;

"(iii) development of model policies, and procedures; and

"(iv) presentation of information, models, findings, conclusions, and recommendations to policymakers,

in order to enhance opportunities for persons with developmental disabilities, including the enhancement of a system for providing or making available specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons;

"(C) the demonstration of new ways to enhance the independence, productivity, and integration into the community of persons with developmental disabilities, such as model demonstrations which, if successful, will be made generally applicable through sources of funding other than funding under this title, including new ways to enhance specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons;

"(D) outreach activities for persons with developmental disabilities to enable such persons to obtain assistance in Federal priority areas or a State priority area, including access to specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons;

"(E) the training of persons with developmental disabilities, family members of such persons, and personnel, including professionals, paraprofessionals, students, and volunteers, to obtain access to, or to provide, services and other assistance in the area, including specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons; and

"(F) similar activities designed to prevent developmental disabilities from occurring or to expand and enhance the independence, productivity and integration into the community of persons with developmental disabilities through the State on a comprehensive basis.

"(10) The term 'Federal priority areas' means community living activities, employment activities, child development activities, and case management activities.

"(11) The term 'State priority area' means priority area activities in an area considered essential by the State Planning Council.

"(12) The term 'community living activities' means such priority area activities as will assist persons with developmental disabilities in developing or maintaining suitable residential arrangements and supports in the community (including nonfinancial supports and family support services).

"(13) The term 'employment activities' means such priority area activities as will increase the independence, productivity, or integration of a person with developmental disabilities in work settings.

"(14) The term 'supported employment' means competitive work in integrated work settings—

"(A) for persons with developmental disabilities for whom competitive employment has not traditionally occurred; or

"(B) for persons for whom competitive employment has been interrupted or intermittent as a result of a developmental disability, and who because of their disability need on-going support services to perform such work.

"(15) The term 'child development activities' means such priority area activities as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services.

"(16) The term 'case management activities' means priority area activities to establish a potentially life-long, goal-oriented process for coordinating the range of assistance needed by persons with developmental disabilities and their families, which is designed to ensure accessibility, continuity of supports and services, and accountability and to ensure that the maximum potential of persons with developmental disabilities for independence, productivity, and integration into the community is attained.";

(9) by striking out "facility or facilities" in subparagraph (A)(ii) of paragraph (17) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "program or programs";

(10) by striking out "facilities" each place it appears in paragraph (17) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "programs";

(11) by striking out "paragraph (13)" in subparagraph (A)(iii) of paragraph (17) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "paragraph (18)";

(12) by striking out "facility" the first place it appears in paragraph (18) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "program";

(13) by striking out "public or nonprofit facility" in paragraph (18) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "program operated by a public or nonprofit private entity";

(14) by inserting ", including parents of persons with developmental disabilities, professionals, paraprofessionals, students, and volunteers," before "which is" in subparagraph (A) of paragraph (18) (as redesignated by paragraph (7) of this section);

(15) by striking out "the facility" in paragraph (18) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "a facility"; and

(16) by adding at the end thereof the following new paragraphs:

"(21) The term 'family support services' means services designed to—

"(A) strengthen the family's role as primary caregivers;

"(B) prevent inappropriate out-of-the-home placement and maintain family unity; and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, personal care, parent training and counseling, support for elderly parents, and other individualized services.

"(22) The term 'assistive technology' means the systematic application of technology, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, persons with developmental disabilities in areas including education, employment, supported employment, transportation, and independent living and other community living arrangements.

"(23) The term 'early intervention services' means services provided to infants, toddlers, young children, and the families of such to—

"(A) identify, assess, and treat developmental disabilities at the earliest possible time to prevent more serious disability;

"(B) ensure the maximum growth and development of a person within the above classes who has a developmental disability; and

"(C) assist families in raising a child with a developmental disability.".

REPORTS

State and local governments.
42 USC 6006.

SEC. 103. (a) Section 107(a) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) a description of the State Planning Council's response to significant actions taken by the State with respect to each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31)(B) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State; and

Minorities.

"(5) a description of the progress made in the State in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, and advocacy for, persons with developmental disabilities which are attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, including any other subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council may identify under sections 122(b)(3) and 122(f).".

(b) Section 107(c)(1) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

Minorities.

"(C) the progress made by States in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, and advocacy for, persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, including any other subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council may identify under sections 122(b)(3) and 122(f);

"(D) the significant Federal policies that impact on the ability of States to address the needs of persons with developmental disabilities attributable to physical impairments, mental impairments, or a combination of mental and physical impairments; and

"(E) the number of meetings held by the interagency committee established under section 108(b) during the period for which the report is made, which agencies were represented at each such meeting, and the accomplishments of the interagency committee in comparison to the goals and objectives of such committee.".

TITLE II—STATE ASSISTANCE PROGRAM

PURPOSE

SEC. 201. (a) Section 121 is amended to read as follows: 42 USC 6021.

"PURPOSE

"SEC. 121. The purpose of this part is to provide payments to States to assist in the development of a comprehensive system and a coordinated array of services and other assistance for persons with developmental disabilities through the conduct of, and appropriate planning and coordination of, administrative activities, Federal priority activities, and a State priority activity, in order to support persons with developmental disabilities to achieve their maximum potential through increased independence, productivity, and integration into the community.".

(b) The heading for part B is amended by striking out "AND SERVICE" and inserting in lieu thereof "PRIORITY AREA". 42 USC prec. 6021.

STATE PLAN REQUIREMENTS

SEC. 202. (a) Section 122(b) is amended by striking out "for the provision of services for persons with developmental disabilities" in the matter preceding paragraph (1). 42 USC 6022.

(b)(1)(A) Section 122(b)(1) is amended—

(i) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The plan must provide for the establishment of a State Planning Council in accordance with section 124.";

(ii) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The plan must designate the State agency which shall administer or supervise the administration of the State plan (hereafter in this part referred to as the 'designated State agency'). Except as provided in subsection (e), the designated State agency may be—

"(i) the State Planning Council required under subparagraph (A) if such Council may be the designated State agency under the laws of the State;

"(ii) a State agency that does not provide or pay for services made available to persons with developmental disabilities; or

"(iii) a State office, including the immediate office of the Governor of the State or a State planning office."; and

(iii) by striking out "each" in subparagraph (C) and inserting in lieu thereof "the".

(B) Section 122 is amended by adding at the end thereof the following new subsection:

"(e)(1) If a State agency that provides or pays for services for persons with developmental disabilities was a designated State agency for purposes of this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987 and the Governor of the State determines, before June 30, 1988, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this part.

"(2) The determination of the Governor of a State under paragraph (1) shall be at the discretion of the Governor and shall be made by the Governor after the Governor has considered the comments of the general public and the non-State agency members of the State Planning Council with respect to the designation of such State agency, and after the Governor has made an independent assessment of the impact that the designation of such agency has on the ability of the State Planning Council to serve as an advocate for persons with developmental disabilities.

"(3) If the Governor of a State determines not to retain the designation of a State agency in effect on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Governor shall, by October 1, 1990, designate another agency as the State agency in accordance with the requirements of subsection (b)(1)(B).

"(4) After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, any designation of a State agency shall be made in accordance with the requirements of subsection (b)(1)(B).".

(2) Section 122(b)(2) is amended—

(A) by inserting a comma and "activities," after "programs" in subparagraph (A);

(B) by striking out clause (i) of subparagraph (C) and inserting in lieu thereof "(i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans or federally assisted State programs that the State conducts and in which persons with developmental disabilities are eligible to participate, including programs relating to education, job training, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, aging, programs for children with special health care needs, housing, comprehensive health and mental health, and such other plans as the Secretary may specify, and"; and

(C) by striking out "priority services being or to be provided" in subparagraph (D) and inserting in lieu thereof "Federal and State priority areas which are addressed or which will be addressed".

(3) Section 122 (as amended by paragraph (1)(B) of this subsection) is further amended—

(A) by redesignating paragraphs (3) through (7) of subsection (b) as paragraphs (4) through (8), respectively;

(B) by inserting after paragraph (2) of such subsection the following new paragraph:

"(3) The plan must describe a process and timetable for the completion, by January 1, 1990, by the State Planning Council in the State, of the reviews, analyses, and final report described in subsection (f)."; and

(C) by adding at the end thereof the following new subsection:

"(f)(1) Each State Planning Council shall conduct a comprehensive review and analysis of the eligibility for services provided, and the extent, scope, and effectiveness of, services provided and functions performed by, all State agencies (including agencies which provide public assistance) which affect or which potentially affect the ability of persons with developmental disabilities to achieve the goals of independence, productivity, and integration into the community, including persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"(2) Each State Planning Council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and services provided or paid for from Federal and State funds by each of the State agencies (including agencies providing public assistance) responsible for performing functions for, and providing services to, all persons with developmental disabilities in the State. Such review and analysis shall be based upon a survey of a representative sample of persons with developmental disabilities receiving services from each such agency, and if appropriate, shall include their families.

"(3) Each State Planning Council shall convene public forums, after the provision of notice within the State, in order to—

"(A) present the findings of the reviews and analyses prepared under paragraphs (1) and (2);

"(B) obtain comments from all interested persons in the State regarding the unserved and underserved populations of persons with developmental disabilities which result from physical impairment, mental impairment, or a combination of physical and mental impairments; and

"(C) obtain comments on any proposed recommendations concerning the removal of barriers to services for persons with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services.

"(4) By January 1, 1990, each State Planning Council shall prepare and transmit to the Governor of the State and the legislature of the State a final written report concerning the review and analyses conducted under paragraphs (1) and (2). The report shall contain recommendations by the State Planning Council concerning— Reports.

"(A) the most appropriate agency or agencies of the State to be designated as responsible for the provision and coordination of services for persons with developmental disabilities who are traditionally underserved, such as persons with developmental disabilities attributable to physical impairment, persons with developmental disabilities attributable to dual mental impairments, and persons with developmental disabilities attributable to a combination of physical and mental impairments, and such other subpopulations of persons with developmental disabilities (including minorities) as the State Planning Council may identify; and

"(B) the steps to be taken to include the data and recommendations obtained through the conduct of the reviews and analyses under paragraphs (1) and (2) in the State Planning Council's ongoing advocacy, public policy, and model service demonstration activities.

"(5) By January 15, 1990, the Governor of each State shall submit to the Secretary a copy of the report required by paragraph (4). By April 1, 1990, the Secretary shall transmit a summary of such reports to the appropriate committees of the Congress.". Reports.

(4) Section 122(b)(4) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out "strengthening services for" in subparagraph (A) and inserting in lieu thereof "enhancing the independence, productivity, and integration into the community of"; and

(B) by striking out "or agencies" each place it appears in subparagraph (C).

(5) Section 122(b)(5) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The plan must provide for the examination, not less often than once every three years, of the provision, and the need for the provision, in the State of the four Federal priority areas and the State priority area. Such examination shall be made consistent with subparagraph (B).";

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The plan must provide for the review and revision, not less often than once every three years, of the comprehensive Statewide plan to ensure the existence of appropriate planning, financial support and coordination, and to otherwise appropriately address, on a Statewide and comprehensive basis, urgent needs in the State for the provision of services for persons with developmental disabilities and the families of such persons. Such review and revision, and examination under subparagraph (A), shall take into account the reviews and analyses conducted, and the report prepared, under subsection (f), and shall, at a minimum, include—

"(i) an analysis of such priority areas in relation to limited support or lack of support for persons with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

"(ii) an analysis of criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may be causing persons with developmental disabilities to be excluded from receiving such services;

"(iii) an analysis of services, assistive technology, or knowledge which may be unavailable to assist persons with developmental disabilities;

"(iv) an analysis of existing and projected fiscal resources;

"(v) an analysis of any other issues identified by the State Planning Council; and

"(vi) the formulation of objectives in both policy reform and service demonstration to address the issues described in clauses (i) through (v) for all subpopulations of persons with developmental disabilities which may be identified by the State Planning Council.";

(C) by striking out subparagraph (C);

(D) by redesignating subparagraphs (D), (E) and (F) as subparagraphs (C), (D), and (E), respectively;

(E) by striking out "service activities in the priority services" in clause (i) of subparagraph (D) (as redesignated by subparagraph (D) of this paragraph) and inserting in lieu thereof "activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in any or all of the three other Federal priority areas and a State priority area, the conduct of the analyses specified in clauses (i) through (v) of subparagraph (B), and the implementation of paragraph (3) and subsection (f)";

(F) by striking out "service activities for persons with developmental disabilities, and" in clause (ii) of such subparagraph;

(G) by inserting "priority area activities for" after "administration of" in such clause; and

(H) by striking out "the provision of such services" in such clause and inserting in lieu thereof "persons with developmental disabilities".

(6) Section 122(b)(6) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out "services furnished" in clause (i) of subparagraph (A) and inserting in lieu thereof "programs";

(B) by striking out "furnished" in such clause and inserting in lieu thereof "operated"; and

(C) by striking out "delivery of services" in clause (ii) of such subparagraph and inserting in lieu thereof "programs".

(7) Section 122(b)(7)(B) (as redesignated by paragraph (3)(A) of this subsection) is amended by striking out "alternative community living arrangement services" and inserting in lieu thereof "community living activities".

HABILITATION PLANS

SEC. 203. Section 123(b) is amended— 42 USC 6023.

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The plan shall be developed jointly by (A) the person for whom the plan is established, (B) where appropriate, such person's parent or guardian or other representative, and (C) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established."; and

(2) by striking out "program coordinator who will be responsible for" in paragraph (3)(C) and inserting in lieu thereof "case manager who will be responsible for coordinating".

STATE PLANNING COUNCILS

SEC. 204. Section 124 is amended— 42 USC 6024.

(1) by redesignating subsection (b) as subsection (d) and, in paragraph (1) of such subsection—

(A) by striking out "or agencies"; and

(B) by striking out ", including the specification of services under section 122(b)(4)(B)" and inserting in lieu thereof the following: "including the specifications of Federal and State priority area activities under section 122(b)(5)(D)(i)"; and

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for all persons with developmental disabilities. Establishment.

"(b)(1) The members of the State Planning Council of a State shall be appointed by the Governor of the State from among the residents of that State.

"(2) The Governor of each State shall make appropriate provisions for the rotation of membership on the State Planning Council.

Education.

"(3) Each State Planning Council shall at all times include in its membership representatives of the principal State agencies (including the State agency that administers funds provided under the Rehabilitation Act of 1973, the State agency that administers funds provided under the Education of the Handicapped Act, the State agency that administers funds provided under the Older Americans Act of 1965, and the State agency that administers funds provided under title XIX of the Social Security Act for persons with developmental disabilities), higher education training facilities, each university affiliated program or satellite center in the State, the State protection and advocacy system established under section 142, local agencies, and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities in that State.

"(4) At least one-half of the membership of each State Planning Council shall consist of persons who—

"(A) are persons with developmental disabilities;

"(B) are parents or guardians of such persons; or

"(C) are immediate relatives or guardians of persons with mentally impairing developmental disabilities,

and who are not employees of a State agency which receives funds or provides services under this part, who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity which receives funds or provides services under this part, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.

"(5) Of the members of the State Planning Council described in paragraph (4)—

"(A) at least one-third shall be persons with developmental disabilities; and

"(B)(i) at least one-third shall be individuals described in subparagraph (C) of paragraph (4), and (ii) at least one of such individuals shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability.

"(c)(1) Each State Planning Council may prepare and approve a budget using amounts paid to the State under this part to hire such staff and obtain the services of such professional, technical, and clerical personnel consistent with State law as the State Planning Council determines to be necessary to carry out its functions under this part.

"(2) The staff and other personnel of a State Planning Council, while working for the State Planning Council, shall be responsible solely for assisting the State Planning Council in carrying out its duties under this part and shall not be assigned duties by the designated State agency or any other agency or office of the State.".

STATE ALLOTMENTS

42 USC 6025.

SEC. 205. (a) Section 125(a) is amended—

(1) by striking out "$100,000" in clause (i) of paragraph (3)(A) and inserting in lieu thereof "$160,000";

(2) by striking out "$250,000" in clause (ii) of such paragraph and inserting in lieu thereof "$300,000";

(3) by striking out "$47,000,000" in paragraph (4) and inserting in lieu thereof "$60,000,000";

(4) by striking out "$160,000" in subparagraph (A) of such paragraph and inserting in lieu thereof "$200,000";

(5) by striking out "$300,000" in subparagraph (B) of such paragraph and inserting in lieu thereof "$350,000"; and

(6) by adding at the end thereof the following new paragraph:

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary may increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

(b) Section 125(b) is amended to read as follows:

"(b) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.".

WITHHOLDING

SEC. 207. Section 127(1) is amended by inserting ", particularly sections 122(b)(3) or 122(f)" after "State plan". 42 USC 6027.

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. Section 130 is amended to read as follows: 42 USC 6030.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 130. For allotments under section 125, there are authorized to be appropriated $62,200,000 for fiscal year 1988, $69,900,000 for fiscal year 1989, and $77,400,000 for fiscal year 1990.".

TITLE III—PROTECTION AND ADVOCACY

REQUIREMENTS FOR SYSTEM

SEC. 301. (a) Section 142(a)(2) is amended— 42 USC 6042.

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (E), (F), and (G), respectively;

(2) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) have the authority to—

"(i) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such persons within Minorities.

the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of minority groups; and

"(ii) provide information on and referral to programs and services addressing the needs of persons with developmental disabilities;

"(B) have the authority to investigate incidents of abuse and neglect of persons with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred;

"(C) on an annual basis, provide the public with an opportunity to comment on priorities established by, and activities of, the system;

"(D) establish a grievance procedure for clients or prospective clients of the system to assure that persons with developmental disabilities have full access to services of the system;"; and

(3) by striking out subparagraph (G) (as redesignated by clause (1) of this subsection) and inserting in lieu thereof the following:

"(G) have access to all records of—

"(i) any person with developmental disabilities who is a client of the system if such person, or the legal guardian, conservator, or other legal representative of such person, has authorized the system to have such access; and

"(ii) any person with developmental disabilities—

"(I) who, by reason of the mental or physical condition of such person, is unable to authorize the system to have such access;

State and local governments.

"(II) who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the State; and

"(III) with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe that such person has been subject to abuse or neglect;".

(b) Section 142(c) is amended—

(1) by striking out "$11,000,000" in subparagraph (A) of paragraph (1) and inserting in lieu thereof "$20,000,000";

(2) by striking out "$80,000" in clause (i) of such subparagraph and inserting in lieu thereof "$107,000";

(3) by striking out "$150,000" in clause (ii) of such subparagraph and inserting in lieu thereof "$200,000";

(4) by striking out "$11,000,000" in subparagraph (B) of such paragraph and inserting in lieu thereof "$20,000,000";

(5) by striking out "$50,000" in such subparagraph and inserting in lieu thereof "$150,000, and the allotment of each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for such fiscal year shall not be less than $80,000";

(6) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(7) by inserting after paragraph (1) the following new paragraph:

"(2) In any case in which the total amount appropriated under section 143 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary may increase each of the minimum allotments under subparagraphs (A) and (B) of paragraph (1) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 143 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 143 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 143 for such preceding fiscal year.".

(c) Section 142 is further amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) (as amended by subsection (b) of this section) as subsection (b); and

(3) by adding at the end thereof the following new subsection:

State and local governments.

"(c) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.".

AUTHORIZATION OF APPROPRIATIONS

42 USC 6043.

Sec. 302. Section 143 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 143. For allotments under section 142, there are authorized to be appropriated $20,000,000 for fiscal year 1988, $22,000,000 for fiscal year 1989, and $24,200,000 for fiscal year 1990.".

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

Community development.

PURPOSE

42 USC 6061.

Sec. 401. (a) Section 151 is amended—

(1) by striking out "facilities" and inserting in lieu thereof "programs"; and

(2) by striking out "the conduct of service demonstration programs" and inserting in lieu thereof "the demonstration of exemplary services and technical assistance".

42 USC prec. 6061.

(b) The heading for part D is amended by striking out "Facilities" and inserting in lieu thereof "Programs".

GRANT AUTHORITY

42 USC 6062.

Sec. 402. (a) Section 152(a) is amended—

(1) by striking out "section 154" and inserting in lieu thereof "section 154(a)";

(2) by striking out "facilities" and inserting in lieu thereof "programs"; and

(3) by striking out "section 102(13)" and inserting in lieu thereof "section 102(18)".

(b) Section 152 is further amended—

(1) by striking out subsections (b) and (d);

(2) by redesignating subsection (c) as subsection (d) and (in such subsection)—

(A) by striking out "The" and inserting in lieu thereof "From amounts appropriated under section 154(a), the";

(B) by inserting "and may compete for grants under subsections (b) and (c)" before the period at the end of the second sentence; and

(C) by striking out "section 102(13)" and inserting in lieu thereof "section 102(18)";

Education.

(3) by inserting after subsection (a) the following new subsections:

"(b)(1)(A) From amounts appropriated under section 154(b), the Secretary shall make grants of sufficient size and scope to university affiliated programs receiving grants under subsection (a) to support training projects to train personnel to address the needs of persons with developmental disabilities in areas of emerging national significance, particularly projects to train personnel in the areas of early intervention programs (as described in paragraph (2)), programs for elderly persons with developmental disabilities (as described in paragraph (3)), and community-based service programs (as described in paragraph (4)).

"(B) The Secretary shall make determinations with respect to grants under this subsection based on information relating to present and projected needs for the training of personnel based on identified State, regional, or national shortages of personnel, the capacity of the university affiliated programs to train personnel, and such other information as may be determined necessary and appropriate by the Secretary.

"(C) Grants under this subsection may be used by university affiliated programs to (i) assist in paying the costs of courses of training or study for personnel to provide services for persons with developmental disabilities and (ii) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

"(2) Grants under this subsection for training projects with respect to early intervention programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide, or who will provide, interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on methods of working and collaborating with professionals and families of persons with developmental disabilities.

"(3) Grants under this subsection for training projects with respect to programs for elderly persons with developmental disabilities shall be for the purpose of supporting the planning, design, and implementation of coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for elderly persons with developmental disabilities.

"(4) Grants under this subsection for training projects with respect to community-based programs shall be for the purpose of providing interdisciplinary training to personnel who will provide direct supports and services for persons with developmental disabilities, including paraprofessionals who are employed or are preparing to be employed in community-based day programs or residential programs for persons with developmental disabilities. The Secretary shall ensure that all grants under this paragraph are made only to university affiliated programs that involve local community-level direct care programs and paraprofessional training programs in the preparation of the application for such grant and shall assure that any training under the university affiliated program will be coordinated with local programs.

"(c) From amounts appropriated under section 154(b), the Secretary may make grants to university affiliated programs receiving grants under subsection (a) to support one or more of the following activities:

"(1) The provision of service-related training to persons with developmental disabilities, family members of such persons, professionals, volunteers, or other personnel to enable such persons, family members, professionals, volunteers, or personnel to provide services to increase or maintain the independence, productivity, and integration into the community of persons with developmental disabilities.

"(2) The conduct of an applied research program designed to produce more efficient and effective methods for (A) the delivery of services to persons with developmental disabilities, and (B) the training of professionals, paraprofessionals, and parents who provide such services."; and

(4) by adding at the end thereof the following new subsection:

"(e) From amounts appropriated under section 154(a), the Secretary may make a grant to a university or a public or nonprofit entity which is associated with, or is an integral part of, a college or university, to study the feasibility of establishing a university affiliated program or a satellite center. Such study shall include an assessment of the needs of the area in which the university is located for such a program or center. The amount of a grant under this subsection may not exceed $35,000 for any fiscal year. A grant under this subsection may only be made in a State in which there is no university affiliated program or satellite center.".

APPLICATIONS

State and local governments.
42 USC 6063.

SEC. 403. (a) Section 153(a) is amended—

(1) by striking out "facilities" in the first sentence and inserting in lieu thereof "programs";

(2) by inserting "all" before "persons with developmental disabilities" in the second sentence; and

(3) by striking out "section 102(13)" in the second sentence and inserting in lieu thereof "section 102(18)".

(b) Section 153(b) is amended—

(1) by striking out "section 152" in the matter preceding paragraph (1) and inserting in lieu thereof "section 152(a)";

(2) by striking out "facility" each place it appears in paragraph (2) and inserting in lieu thereof "program";

(3) by striking out "is making" in clause (i) of subparagraph (B) of such paragraph and inserting in lieu thereof "will make";

(4) by striking out "and" at the end of such subparagraph;

(5) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(6) by adding at the end thereof the following new paragraphs:

"(4) the activities conducted under this part are consistent with, and to the extent feasible, complement and further, the objectives contained in the State plan required under section 122; and

"(5) before the submission of such application, an opportunity for comment has been provided to the general public and the State Planning Council of the State in which the program will be conducted or the satellite center is or will be located.".

(c) Section 153(c) is amended—

(1) by striking out "facility" and inserting in lieu thereof "program"; and

(2) by striking out "section 152" and inserting in lieu thereof "section 152(a)".

(d) Section 153(d) is amended—

(1) by striking out "facility" each place it appears and inserting in lieu thereof "program";

(2) by striking out "section 154" each place it appears and inserting in lieu thereof "section 154(a)";

(3) by striking out "$175,000" in paragraph (1) and inserting in lieu thereof "$200,000";

(4) by striking out "$75,000" in paragraph (1) and inserting in lieu thereof "$150,000"; and

(5) by adding at the end thereof the following new paragraph:

"(3)(A) For purposes of making grants under section 152(a), the Secretary shall consider applications for grants for four university affiliated programs or satellite centers for each of the fiscal years 1988, 1989, and 1990 which are in addition to the total number of university affiliated programs and satellite centers receiving grants under such section for the preceding fiscal year.

"(B) Such programs and centers shall, to the extent feasible, be geographically distributed for the purpose of serving States that are unserved by university affiliated programs and satellite centers under this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.

"(C) The Secretary may not deny an application for a university affiliated program or satellite center solely because of the size of the population proposed to be served by the program or center, if such application proposes to serve the population of an entire State.".

Regulations.

(e) Section 153 (as amended in this section) is further amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall by regulation require appropriate technical and qualitative peer review of applications for assistance under this part by peer review groups established under paragraph (4).

"(2) Regulations promulgated under paragraph (1) shall provide that the review of the application required by such paragraph shall be conducted by groups established under paragraph (4) that are composed of non-Federal individuals who, by experience or training, are highly qualified to assess the comparative quality of applications for assistance.

"(3)(A) The Secretary may approve an application under this part only if such application has been recommended by a peer review group that has conducted the peer review required under paragraph (1).

"(B) This paragraph shall apply to the approval of grant applications received for fiscal year 1990 and succeeding fiscal years.

"(4) The Secretary, acting through the Commissioner of the Administration on Developmental Disabilities, may, notwithstanding—

"(A) the provisions of title 5, United States Code, concerning appointments to the competitive service;

"(B) the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, concerning classification and General Schedule pay rates;

establish such peer review groups as are necessary to carry out this subsection, and appoint and set the rates of pay for members of such groups.

"(5) The Secretary may waive the provisions of paragraph (3) concerning approval of an application if the Secretary determines that exceptional circumstances warrant such a waiver.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 404. Section 154 is amended to read as follows: 42 USC 6064.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 154. (a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $9,400,000 for fiscal year 1988, $10,200,000 for fiscal year 1989, and $11,000,000 for fiscal year 1990. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

"(b) For the purpose of grants under sections 152(b) and 152(c), there are authorized to be appropriated $4,500,000 for fiscal year 1988, $5,000,000 for fiscal year 1989, and $5,500,000 for fiscal year 1990.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).

"(d) Of the amounts appropriated under subsection (b), at least 75 percent shall be used for grants under section 152(b) and the remainder shall be used for grants under section 152(c).".

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

PURPOSE

Contracts.

SEC. 501. (a) Section 161 is amended by striking out "for demonstration projects" and inserting in lieu thereof "and contracts for projects of national significance". 42 USC 6081.

(b) The heading for part E is amended to read as follows: 42 USC prec. 6081.

"PART E—PROJECTS OF NATIONAL SIGNIFICANCE".

GRANT AUTHORITY

SEC. 502. (a) Section 162(a) is amended— 42 USC 6082.

(1) by inserting "and enter into contracts with" after "make grants to" in the matter preceding paragraph (1);

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) projects of national significance relating to persons with developmental disabilities, including projects to educate policymakers, develop an ongoing data collection system, determine Minorities.

the feasibility and desirability of developing a nationwide information and referral system, and pursue Federal interagency initiatives, and other projects of sufficient size and scope and which hold promise of expanding or otherwise improving opportunities for persons with developmental disabilities (especially those who are multihandicapped or disadvantaged, including minority groups, Native Americans, Native Hawaiians, and other underserved groups); and"; and

State and local governments.

(3) by inserting "the advocacy functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and" after "otherwise improving" in paragraph (2).

(b) The last sentence of section 162(b) is amended—

(1) by striking out "for each" and inserting in lieu thereof "in such"; and

(2) by striking out "in which an applicant's project will be conducted".

(c) Section 162 is further amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

Federal Register, publication.

"(c) Not later than January 1 of each year, the Secretary shall publish in the Federal Register proposed priorities for grants and contracts under this part and shall allow a period of 60 days for public comments and suggestions concerning such proposed priorities. After analyzing and considering such comments, the Secretary shall publish final priorities for such grants and contracts in the Federal Register.".

AUTHORIZATION OF APPROPRIATIONS

42 USC 6083.

SEC. 503. Section 163 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 163. (a) To carry out this part, there are authorized to be appropriated $3,650,000 for fiscal year 1988, $3,650,000 for fiscal year 1989, and $3,650,000 for fiscal year 1990.

"(b) Of the amounts appropriated under subsection (a) for any fiscal year, $600,000 shall be available for grants and contracts under section 162(a)(1) for not more than three projects to determine the feasibility and desirability of developing a nationwide information and referral system for persons with developmental disabilities. The Secretary shall award grants and contracts under section 162(a)(1) for such projects within 6 months after the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.".

TITLE VI—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 601. This Act, and the amendments made by this Act, shall become effective on October 1, 1987.

42 USC 6000 note.

Approved October 29, 1987.

LEGISLATIVE HISTORY—S. 1417 (H.R. 1871):

SENATE REPORTS: No. 100-113 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 21, considered and passed Senate.
Aug. 4, H.R. 1871 considered and passed House; S. 1417, amended, passed in lieu.
Sept. 30, Senate concurred in House amendment with amendment.
Oct. 13, House concurred in Senate amendment.

○

PUBLIC LAW 100-147—OCT. 30, 1987

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT OF 1988

Public Law 100-147
100th Congress

An Act

Oct. 30, 1987
[H.R. 2782]

To authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities; and research and program management; and for other purposes.

National Aeronautics and Space Administration Authorization Act of 1988.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act of 1988".

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 101. (a) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1987, for "Research and development", for the following programs:

(1) Permanently manned space station, $767,000,000.

(2) Space transportation capability development, $553,600,000.

(3) Physics and astronomy, $581,800,000.

(4) Life sciences, $74,600,000.

(5) Planetary exploration, $320,300,000, of which $42,300,000 is authorized only for the purpose of preparing the Mars Observer Spacecraft for launch in 1992 and for procuring spare parts for a Planetary Observer program.

(6) Space applications, $651,400,000, of which $84,000,000 is authorized only for the Advanced Communications Technology Satellite.

(7) Technology utilization, $18,300,000.

(8) Commercial use of space, $30,700,000.

(9) Aeronautical research and technology, $387,000,000.

(10) Transatmospheric research and technology, $66,000,000.

(11) Space research and technology, $234,000,000.

(12) Safety, reliability, and quality assurance, $16,200,000.

(13) Tracking and data advanced systems, $18,100,000.

(b) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1987, for "Space flight, control and data communications", for the following programs:

(1) Space shuttle production and operational capability, $1,174,600,000, of which $76,000,000 is authorized only for initial lay-in spare parts for the space shuttle orbiter.

(2) Space transportation operations, $1,885,800,000, of which $106,700,000 is authorized only for flight spare parts for the space shuttle orbiter.

(3) Space and ground network, communications, and data systems, $924,900,000.

(4) Expendable launch vehicle operations, $60,000,000.

(c) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1987, for "Construction of facilities", including land acquisition, as follows:

(1) Construction of LC 39 Operations Support Building, Kennedy Space Center, $22,800,000.

(2) Construction of Spacecraft Systems Development and Integration Facility, Goddard Space Flight Center, $8,600,000.

(3) Modifications for utility reliability, Goddard Space Flight Center, $2,900,000.

(4) Construction of Integrated Test Facility, Dryden Flight Research Facility, $10,500,000.

(5) Modifications to Hypersonic Propulsion Facility for Vaccum Systems, Langley Research Center, $3,100,000.

(6) Construction of addition to the Research Analysis Center, Lewis Research Center, $9,800,000.

(7) Modifications for Fan/Compressor Research, Engine Research Building, Lewis Research Center, $6,500,000.

(8) Construction of Communications Development Antenna, Goldstone, California, Jet Propulsion Laboratories, $6,400,000.

(9) Repair of facilities at various locations, not in excess of $750,000 per project, $25,000,000.

(10) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $32,000,000.

(11) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $8,000,000.

(12) Environmental compliance and restoration, $23,900,000.

(13) Repair and modernization of the 12-foot pressure wind tunnel at the Ames Research Center, $41,000,000.

(14) Facility planning and design not otherwise provided for, $16,000,000.

(d) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1987, for "Research and program management", $1,583,000,000.

(e) The Administrator is authorized (to the extent provided in an appropriation Act) to transfer $22,000,000 from any funds which were made available for prior years, and which remain unobligated as of the date of the enactment of this Act, except for funds made available for Aeronautical and Space Research and Technology, Transatmospheric Research and Technology programs, Construction of Facilities activities, and Research and Program Management activities for the support of such programs, and use such funds for the preparation of the Mars Observer spacecraft for launch in 1992.

(f) Notwithstanding the provisions of subsection (h), appropriations authorized in this Act for "Research and development" and "Space flight, control and data communications" may be used for (1) any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration (hereinafter in this title referred to as the "Administration") for the performance of research and development contracts, and (2) grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator of the National Aeronautics and Space Administration (hereinafter in this title referred to as the "Administrator") determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the President of the Senate and the Speaker of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

42 USC 2459a.

(g) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development", for "Space flight, control and data communications", or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(h) Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(i) Of the funds appropriated pursuant to subsections (a), (b), and (d), not in excess of $100,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided,* That, of the funds appropriated pursuant to subsection (a) or (b), not in excess of $500,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs: *Provided further,* That, of the funds appropriated pursuant to subsection (d), not in excess of $500,000 per project, including collateral equipment, may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration.

SEC. 102. Authorization is granted whereby any of the amounts prescribed in paragraphs (1) through (13) of section 101(c) of this title—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward 10 percent; or

Reports.

(2) following a report by the Administrator or the Administrator's designee to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the circumstances of such action, may be varied upward 25 percent;

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 103. Not to exceed one-half of 1 percent of the funds appropriated pursuant to section 101 (a) or (b) of this title may be transferred to and merged with the "Construction of facilities" appropriation, and when so transferred, together with $10,000,000 of funds appropriated pursuant to section 101(c) of this title (other than funds appropriated pursuant to paragraph (14) of such section) shall be available for expenditure to construct, expand, and modify laboratories and other installations at any location (including locations specified in section 101(c)), if (1) the Administrator determines that such action is necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) the Administrator determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the President of the Senate and to the Speaker of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a written report containing a full and complete statement concerning (A) the nature of such construction, expansion, or modification, (B) the cost thereof including the cost of any real estate action pertaining thereto, and (C) the reason why such construction, expansion, or modification is necessary in the national interest.

Reports.

SEC. 104. Notwithstanding any other provision of this title, no amount appropriated pursuant to this title may be used for any program—

(1) deleted by the Congress from requests as originally made either to the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science, Space, and Technology of the House of Representatives;

(2) in excess of the amount actually authorized for that particular program by section 102 (a), (b), and (d); and

(3) which has not been presented to either such Committee;

unless a period of 30 days has passed after the receipt by the President of the Senate and the Speaker of the House of Representatives and each such committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

SEC. 105. No civil space station authorized under section 101(a)(1) of this title may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

42 USC 2451 note.

SEC. 106. (a) The Administrator is directed to undertake the construction of a permanently manned space station (hereinafter referred to as the "space station") to become operational in 1995. The space station will be used for the following purposes—

(1) the conduct of scientific experiments, applications experiments, and engineering experiments;

(2) the servicing, rehabilitation, and construction of satellites and space vehicles;

(3) the development and demonstration of commercial products and processes; and

(4) the establishment of a space base for other civilian and commercial space activities.

(b) The space station shall be developed and operated in a manner that supports other science and space activities.

(c) In order to reduce the cost of operations of the space station and its ground support system, the Administrator shall undertake the development of such advanced technologies as may be appropriate within the level of funding authorized in this Act.

(d) The Administrator shall seek to have portions of the space station constructed and operated by the private sector, where appropriate.

International agreements.
Canada.
Europe.
Japan.

(e) The Administrator shall promote international cooperation in the space station program by undertaking the development, construction, and operation of the space station in conjunction with (but not limited to) the Governments of Europe, Japan, and Canada.

(f) The space station shall be designed, developed, and operated in a manner that enables evolutionary enhancement.

42 USC 2451 note.

SEC. 107. (a) For each of the fiscal years 1989 through 1996, the Administrator, along with the President's submission to the Congress of the annual budget request for the National Aeronautics and Space Administration, shall submit a capital development plan for the space station program. Each such plan shall include the estimated cost of all direct research and development; space flight, control and data communications; construction of facilities; and research and program management for the fiscal year involved and the two succeeding fiscal years.

(b) For fiscal year 1989, the capital development plan shall also include a statement outlining the total cost, schedule, and configuration of the Administration's space station proposal, as well as an analysis of the "Report of the Committee on the Space Station of the National Research Council". Such analysis shall examine alternatives for the configuration of the space station including but not limited to low cost alternatives.

42 USC 2451 note.

SEC. 108. In order to ensure that the development of the space station is part of a balanced civilian space program, the Administrator is instructed to establish as a goal a funding profile that limits (1) space station total annual costs under the capital development plan in section 107 to 25 percent of the total budget request for the National Aeronautics and Space Administration and (2) all space station direct operations costs, except for those costs associated with the utilization of the space station, to 10 percent of the total budget request for the National Aeronautics and Space Administration.

42 USC 2451 note.

SEC. 109. (a) It is the sense of the Congress that the launching and servicing of the space station should be accomplished by the most cost-effective use of space transportation systems, including the space shuttle and expendable launch vehicles.

Reports.

(b) Not later than January 15, 1988, the Administrator shall submit a preliminary report on the cost-effective use of space transportation systems for the launch of space station elements during the development and operation of the space station. The Administrator shall consider—

(1) the potential use of future advanced or heavy lift expendable launch vehicles for purposes of the assembly and operation of the space station;

(2) the use of existing expendable launch vehicles of the National Aeronautics and Space Administration, the Department of Defense, and the Private Sector;

(3) the requirement for space shuttle launches; and

(4) the risk of capital losses from the use of expendable launch vehicles and the space shuttle.

42 USC 2451 note.

SEC. 110. (a) The Administrator shall set and collect reasonable user fees for the use and maintenance of the space station.

(b) The Administrator shall set user fees so as to—

(1) promote the use of the space station consistent with the policy set forth in section 106;

(2) recover the costs of the use of the space station, including reasonable charges for any enhancement needed for such use; and

(3) conserve and efficiently allocate the resources of the space station.

(c) The Administrator may, on a case-by-case basis, waive or modify such user fees when in the Administrator's judgment such waiver or modification will further the goals and purposes of the National Aeronautics and Space Act of 1958, including—

(1) the advancement of scientific or engineering knowledge;

(2) international cooperation; and

(3) the commercial use of space.

42 USC 2451 note.

SEC. 111. No later than September 30, 1988, the Administrator shall submit a detailed plan for collecting reimbursements for the utilization of the space station under section 110, including the services to be offered, the methodology and bases by which prices will be charged, and the estimated revenues.

International agreements.
Canada.
Europe.
Japan.
42 USC 2451 note.

SEC. 112. The Intergovernmental Agreement currently being negotiated between the United States Government and Canada, Japan, and member governments of the European Space Agency, and the Memorandum of Understanding currently being negotiated between the National Aeronautics and Space Administration and its counterpart agencies in Canada, Japan, and Europe concerning the detailed design, development, construction, operation, or utilization of the space station shall be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. No such agreement shall take effect until 30 days have passed after the receipt by such committees of the agreement.

42 USC 2459 note.

SEC. 113. (a) It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

Reports.

(b) The Administrator shall report to the Congress on the extent to which such consideration has been given and such ways and means explored during fiscal year 1987, and shall submit such report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by January 15, 1988.

International agreements.

SEC. 114. (a) The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this Act; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

SEC. 115. Title II of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) is amended by adding at the end the following:

"DONATIONS FOR SPACE SHUTTLE ORBITER

Gifts and property.
42 USC 2476b.

"SEC. 208. (a) The Administrator may accept gifts and donations of services, money, and real, personal, tangible, and intangible property, and use such gifts and donations for the construction of a space shuttle orbiter.

"(b)(1) The authority of the Administrator to accept gifts or donations pursuant to subsection (a) of this section shall terminate five years after the date of the enactment of this section.

"(2) All gifts and donations accepted by the Administrator pursuant to subsection (a) of this section which are not needed for construction of a space shuttle orbiter shall be used by the Administrator for an appropriate purpose—

"(A) in tribute to the dedicated crew of the space shuttle Challenger; and

"(B) in furtherance of the exploration of space.

"(c) The name of a space shuttle orbiter constructed in whole or in part with gifts or donations whose acceptance and use are authorized by subsection (a) of this section shall be selected by the Administrator from among suggestions submitted by students in elementary and secondary schools.".

SEC. 116. (a) It is the sense of the Congress that the space shuttle is a critical national resource that should be preserved; that it should be used primarily for those missions which require its unique capabilities; and that a diversified family of expendable launch vehicles should be incorporated by use into the Nation's civilian space flight program.

(b) The Administrator shall establish a program for launching payloads by means of expendable launch vehicles and, if available, by commerical launch services.

(c) The Administrator shall take such action as may be necessary to ensure that expendable launch vehicles or, if available, commerical launch services are obtained for the launch of the following payloads:

(1) Roentgen Satellite (ROSAT), for launch in 1990.

(2) Tracking and Data Relay Satellite (TDRS)-F, or a planetary mission.

(3) Extreme Ultraviolet Explorer (EUVE), for launch in 1991.

(4) Mars Observer, for launch in 1992.

Reports.

(d) The Administrator shall report to the Congress not later than January 15, 1988, on the Administrator's compliance with this section, and shall submit such report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

Sec. 117. Title III of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) is amended by adding at the end the following:

"CONTRACTS REGARDING EXPENDABLE LAUNCH VEHICLES

42 USC 2459c.

"Sec. 311. (a) The Administrator may enter into contracts for expendabe launch vehicle services that are for periods in excess of the period for which funds are otherwise available for obligation, provide for the payment for contingent liability which may accrue in excess of available appropriations in the event the Government for its convenience terminates such contracts, and provide for advance payments reasonably related to launch vehicle and related equipment, fabrication, and acquisition costs, if any such contract limits the amount of the payments that the Federal Government is allowed to make under such contract to amounts provided in advance in appropriation Acts. Such contracts may be limited to sources within the United States when the Administrator determines that such limitation is in the public interest.

"(b) If funds are not available to continue any such contract, the contract shall be terminated for the convenience of the Government, and the costs of such contract shall be paid from appropriations originally available for performance of the contract, from other, unobligated appropriations currently available for the procurement of launch services, or from funds appropriated for such payments.".

Sec. 118. (a) It is the sense of the Congress that the capital investment in space satellites and vehicles should be enhanced and protected by establishing a system of servicing, rehabilitation, and repair capabilities in orbit (hereinafter referred to as "satellite servicing").

(b) The Administrator shall conduct a thorough and comprehensive study of satellite servicing with a view toward establishing national goals and objectives for utilizing such capabilities.

(c) In conducting the study of satellite servicing under this section, the Administrator shall give consideration to—

(1) the use of the space shuttle, the space station, and other space vehicles to carry out or support satellite servicing;

(2) all potential users of satellite servicing capabilities, including civilian, defense, private, and foreign satellites and space vehicles;

(3) experience to date with in-orbit satellite servicing including the costs of such operations and the fees charged users that are not from the National Aeronautics and Space Administration;

Insurance.

(4) the pertinence of satellite servicing to insurance, including the character, cost, and availability of insurance;

(5) the pertinence of satellite servicing to satellite and vehicle design;

(6) the pertinence of satellite servicing to the National Aeronautics and Space Administration and other space programs, including science and applications programs; and

(7) the prices to be charged for satellite servicing such that the full costs of such servicing can be recovered.

Reports.

(d) The Administrator shall complete the study and present a full report on it to the Congress on or before January 15, 1988.

SEC. 119. The Administrator shall review the findings, recommendations, and proposed space agenda of the National Commission on Space as set forth in its report submitted under section 204(c) of the National Aeronautics and Space Administration Authorization Act, 1985 (Public Law 98-361; 98 Stat. 422), and shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives, within 60 days after the date of enactment of this Act, a recommendation for a long-range implementation plan, including an impact assessment of such implementation on personnel, budget, and other resources.

SEC. 120. Section 24 of the Commercial Space Launch Act (49 U.S.C. App. 2623) is amended by adding at the end thereof the following: "There is authorized to be appropriated to the Secretary to carry out this Act $4,548,000 for fiscal year 1988.".

SEC. 121. (a) It is the sense of the Congress that the solid rocket motor project of the space shuttle program would benefit from competition, and that an advanced solid rocket motor would enhance the margin of safety, reliability, and performance of the space shuttle.

(b) By the date on which the President submits to the Congress the fiscal year 1990 budget request for the National Aeronautics and Space Administration, the Administrator shall issue a request for proposals to acquire by means of a competitive procurement an advanced solid rocket motor. The Administrator shall also consider ways and means to improve quality control, reduce operational hazards, reduce costs, increase competition, and enhance manufacturing processes, including, but not limited to, constructing a government-owned and contractor-operated solid rocket motor production facility and providing for a dual source of supply of the advanced solid rocket motor.

(c) Until a request for proposals has been issued under subsection (b) of this section, no contract for the purchase of additional solid rocket motors shall be extended or signed by the Administrator. The Administrator may proceed with the procurement of long-lead materials for the solid rocket motors from the current contractor only after the Administrator has certified to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of

Representatives that such action is necessary to prevent a delay in the space shuttle launch schedule.

(d) The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives if the competitive procurement specified in subsection (b) cannot be conducted. The Administrator shall transmit such notice along with a complete explanation of the reasons supporting such determination. Following such determination, but no sooner than 30 days following the transmission of the notice required under this subsection, the Administrator shall—

(1) conduct a competition to select a qualified second source of supply (in addition to the current contractor) for flight sets of the redesigned solid rocket motor that is currently under development; or

(2) recompete the current source of supply for flight sets of the redesigned solid rocket motor.

(e) No later than March 31, 1988, the Administrator shall present to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a comprehensive acquisition plan for the advanced solid rocket motor in accordance with this section.

TITLE II—NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM

National Space Grant College and Fellowship Act.
Education.
Grants.
Contracts.
42 USC 2486 note.

SEC. 201. This title may be cited as the "National Space Grant College and Fellowship Act".

42 USC 2486.

SEC. 202. The Congress finds that—

(1) the vitality of the Nation and the quality of life of the citizens of the Nation depend increasingly on the understanding, assessment, development, and utilization of space resources;

(2) research and development of space science, space technology, and space commercialization will contribute to the quality of life, national security, and the enhancement of commerce;

(3) the understanding and development of the space frontiers require a broad commitment and an intense involvement on the part of the Federal Government in partnership with State and local governments, private industry, universities, organizations, and individuals concerned with the exploration and utilization of space;

(4) the National Aeronautics and Space Administration, through the national space grant college and fellowship program, offers the most suitable means for such commitment and involvement through the promotion of activities that will result in greater understanding, assessment, development, and utilization; and

(5) Federal support of the establishment, development, and operation of programs and projects by space grant colleges, space grant regional consortia, institutions of higher education, institutes, laboratories, and other appropriate public and private entities is the most cost-effective way to promote such activities.

42 USC 2486a.

SEC. 203. The purposes of this title are to—

(1) increase the understanding, assessment, development, and utilization of space resources by promoting a strong educational

base, responsive research and training activities, and broad and prompt dissemination of knowledge and techniques;

(2) utilize the abilities and talents of the universities of the Nation to support and contribute to the exploration and development of the resources and opportunities afforded by the space environment;

(3) encourage and support the existence of interdisciplinary and multidisciplinary programs of space research within the university community of the Nation, to engage in integrated activities of training, research and public service, to have cooperative programs with industry, and to be coordinated with the overall program of the National Aeronautics and Space Administration;

(4) encourage and support the existence of consortia, made up of university and industry members, to advance the exploration and development of space resources in cases in which national objectives can be better fulfilled than through the programs of single universities;

(5) encourage and support Federal funding for graduate fellowships in fields related to space; and

(6) support activities in colleges and universities generally for the purpose of creating and operating a network of institutional programs that will enhance achievements resulting from efforts under this title.

42 USC 2486b. SEC. 204. As used in this title, the term—

(1) "Administration" means the National Aeronautics and Space Administration;

(2) "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(3) "aeronautical and space activities" has the meaning given to such term in section 103(1) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2452(1));

(4) "field related to space" means any academic discipline or field of study (including the physical, natural, and biological sciences, and engineering, space technology, education, economics, sociology, communications, planning, law, international affairs, and public administration) which is concerned with or likely to improve the understanding, assessment, development, and utilization of space;

(5) "panel" means the space grant review panel established pursuant to section 210 of this title;

(6) "person" means any individual, any public or private corporation, partnership, or other association or entity (including any space grant college, space grant regional consortium, institution of higher education, institute, or laboratory), or any State, political subdivision of a State, or agency or officer of a State or political subdivision of a State;

(7) "space environment" means the environment beyond the sensible atmosphere of the Earth;

(8) "space grant college" means any public or private institution of higher education which is designated as such by the Administrator pursuant to section 208 of this title;

(9) "space grant program" means any program which—

(A) is administered by any space grant college, space grant regional consortium, institution of higher education, institute, laboratory, or State or local agency; and

(B) includes two or more projects involving education and one or more of the following activities in the fields related to space—

(i) research,

(ii) training, or

(iii) advisory services;

(10) "space grant regional consortium" means any association or other alliance which is designated as such by the Administrator pursuant to section 208 of this title;

(11) "space resource" means any tangible or intangible benefit which can only be realized from—

(A) aeronautical and space activities; or

(B) advancements in any field related to space; and

(12) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

42 USC 2486c.

SEC. 205. (a) The Administrator shall establish and maintain, within the Administration, a program to be known as the national space grant college and fellowship program. The national space grant college and fellowship program shall consist of the financial assistance and other activities provided for in this title. The Administrator shall establish long-range planning guidelines and priorities, and adequately evaluate the program.

(b) Within the Administration, the program shall—

(1) apply the long-range planning guidelines and the priorities established by the Administrator under subsection (a) of this section;

(2) advise the Administrator with respect to the expertise and capabilities which are available through the national space grant college and fellowship program, and make such expertise available to the Administration as directed by the Administrator;

(3) evaluate activities conducted under grants and contracts awarded pursuant to sections 206 and 207 of this title to assure that the purposes set forth in section 203 of this title are implemented;

(4) encourage other Federal departments, agencies, and instrumentalities to use and take advantage of the expertise and capabilities which are available through the national space grant college and fellowship program, on a cooperative or other basis;

(5) encourage cooperation and coordination with other Federal programs concerned with the development of space resources and fields related to space;

(6) advise the Administrator on the designation of recipients supported by the national space grant college and fellowship program and, in appropriate cases, on the termination or suspension of any such designation; and

(7) encourage the formation and growth of space grant and fellowship programs.

(c) To carry out the provisions of this title, the Administrator may—

Gifts and property.

(1) accept conditional or unconditional gifts or donations of services, money, or property, real, personal or mixed, tangible or intangible;

(2) accept and use funds from other Federal departments, agencies, and instrumentalities to pay for fellowships, grants, contracts, and other transactions; and

Regulations.

(3) issue such rules and regulations as may be necessary and appropriate.

42 USC 2486d.

SEC. 206. (a) The Administrator may make grants and enter into contracts or other transactions under this subsection to assist any space grant and fellowship program or project if the Administrator finds that such program or project will carry out the purposes set forth in section 203 of this title. The total amount paid pursuant to any such grant or contract may equal 66 percent, or any lesser percent, of the total cost of the space grant and fellowship program or project involved, except that this limitation shall not apply in the case of grants or contracts paid for with funds accepted by the Administrator pursuant to section 205(c)(2) of this title.

(b) The Administrator may make special grants under this subsection to carry out the purposes set forth in section 203 of this title. The amount of any such grant may equal 100 percent, or any lesser percent, of the total cost of the project involved. No grant may be made under this subsection, unless the Administrator finds that—

(1) no reasonable means is available through which the applicant can meet the matching requirement for a grant under subsection (a) of this section;

(2) the probable benefit of such project outweighs the public interest in such matching requirement; and

(3) the same or equivalent benefit cannot be obtained through the award of a contract or grant under subsection (a) of this section or section 207 of this title.

Regulations.

(c) Any person may apply to the Administrator for a grant or contract under this section. Application shall be made in such form and manner, and with such content and other submissions, as the Administrator shall by regulation prescribe.

(d)(1) Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in paragraphs (2) and (3) of this subsection and to such other terms, conditions and requirements as the Administrator considers necessary or appropriate.

(2) No payment under any grant or contract under this section may be applied to—

(A) the purchase of any land;

(B) the purchase, construction, preservation, or repair of any building; or

(C) the purchase or construction of any launch facility or launch vehicle.

(3) Notwithstanding paragraph (2) of this subsection, the items in subparagraphs (A), (B), and (C) of such paragraph may be leased upon written approval of the Administrator.

Regulations.

(4) Any person who receives or utilizes any proceeds of any grant or contract under this section shall keep such records as the Administrator shall by regulation prescribe as being necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition by such recipient of such proceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such cost which was provided through other sources. Such records shall be maintained for three years after the completion of such a program or project. The Administrator and the Comptroller

General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers and records of receipts which, in the opinion of the Administrator or the Comptroller General, may be related or pertinent to such grants and contracts.

SEC. 207. (a) The Administrator shall identify specific national needs and problems relating to space. The Administrator may make grants or enter into contracts under this section with respect to such needs or problems. The amount of any such grant or contract may equal 100 percent, or any lesser percent, of the total cost of the project involved. 42 USC 2486e.

(b) Any person may apply to the Administrator for a grant or contract under this section. In addition, the Administrator may invite applications with respect to specific national needs or problems identified under subsection (a) of this section. Application shall be made in such form and manner, and with such content and other submissions, as the Administrator shall by regulation prescribe. Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in section 206(d) (2) and (4) of this title and to such other terms, conditions, and requirements as the Administrator considers necessary or appropriate.

SEC. 208. (a)(1) The Administrator may designate— 42 USC 2486f.

(A) any institution of higher education as a space grant college; and

(B) any association or other alliance of two or more persons, other than individuals, as a space grant regional consortium.

(2) No institution of higher education may be designated as a space grant college, unless the Administrator finds that such institution—

(A) is maintaining a balanced program of research, education, training, and advisory services in fields related to space;

(B) will act in accordance with such guidelines as are prescribed under subsection (b)(2) of this section; and

(C) meets such other qualifications as the Administrator considers necessary or appropriate.

(3) No association or other alliance of two or more persons may be designated as a space grant regional consortium, unless the Administrator finds that such association or alliance—

(A) is established for the purpose of sharing expertise, research, educational facilities or training facilities, and other capabilities in order to facilitate research, education, training, and advisory services, in any field related to space;

(B) will encourage and follow a regional approach to solving problems or meeting needs relating to space, in cooperation with appropriate space grant colleges, space grant programs, and other persons in the region;

(C) will act in accordance with such guidelines as are prescribed under subsection (b)(2) of this section; and

(D) meets such other qualifications as the Administrator considers necessary or appropriate.

(b) The Administrator shall by regulation prescribe— Regulations.

(1) the qualifications required to be met under subsection (a)(2)(C) and (3)(D) of this section; and

(2) guidelines relating to the activities and responsibilities of space grant colleges and space grant regional consortia.

(c) The Administrator may, for cause and after an opportunity for hearing, suspend or terminate any designation under subsection (a) of this section.

42 USC 2486g. SEC. 209. (a) The Administrator shall support a space grant fellowship program to provide educational and training assistance to qualified individuals at the graduate level of education in fields related to space. Such fellowships shall be awarded pursuant to guidelines established by the Administrator. Space grant fellowships shall be awarded to individuals at space grant colleges, space grant regional consortia, other colleges and institutions of higher education, professional associations, and institutes in such a manner as to assure wide geographic and institutional diversity in the pursuit of research under the fellowship program.

(b) The total amount which may be provided for grants under the space grant fellowship program during any fiscal year shall not exceed an amount equal to 50 percent of the total funds appropriated for such year pursuant to this title.

(c) Nothing in this section shall be construed to prohibit the Administrator from sponsoring any research fellowship program, including any special emphasis program, which is established under an authority other than this title.

42 USC 2486h. SEC. 210. (a) The Administrator shall establish an independent committee known as the space grant review panel, which shall not be subject to the provisons of the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.; Public Law 92-463).

(b) The panel shall take such steps as may be necessary to review, and shall advise the Administrator with respect to—

(1) applications or proposals for, and performance under, grants and contracts awarded pursuant to sections 206 and 207 of this title;

(2) the space grant fellowship program;

(3) the designation and operation of space grant colleges and space grant regional consortia, and the operation of space grant and fellowship programs;

(4) the formulation and application of the planning guidelines and priorities pursuant to section 205 (a) and (b)(1) of this title; and

(5) such other matters as the Administrator refers to the panel for review and advice.

(c) The Administrator shall make available to the panel any information, personnel and administrative services and assistance which is reasonable to carry out the duties of the panel.

(d)(1) The Administrator shall appoint the voting members of the panel. A majority of the voting members shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields related to space. The other voting members shall be individuals who, by reason of knowledge, experience or training, are especially qualified in, or representative of, education, extension services, State government, industry, economics, planning, or any other activity related to efforts to enhance the understanding, assessment, development, or utilization of space resources. The Administrator shall consider the potential conflict of interest of any individual in making appointments to the panel.

(2) The Administrator shall select one voting member to serve as the Chairman and another voting member to serve as the Vice

Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

(3) Voting members of the panel who are not Federal employees shall be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

(4) The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Administrator.

(5) The panel may exercise such powers as are reasonably necessary in order to carry out the duties enumerated in subsection (b) of this section.

SEC. 211. Each department, agency or other instrumentality of the Federal Government which is engaged in or concerned with, or which has authority over, matters relating to space— 42 USC 2486i.

(1) may, upon a written request from the Administrator, make available, on a reimbursable basis or otherwise, any personnel (with their consent and without prejudice to their position and rating), service, or facility which the Administrator considers necessary to carry out any provision of this title;

(2) may, upon a written request from the Administrator, furnish any available data or other information which the Administrator considers necessary to carry out any provision of this title; and

(3) may cooperate with the Administration.

SEC. 212. (a) The Administrator shall submit to the Congress and the President, not later than January 1, 1989, and not later than February 15 of every odd-numbered year thereafter, a report on the activities of the national space grant and fellowship program. 42 USC 2486j.

(b) The Director of the Office of Management and Budget and the Director of the Office of Science and Technology Policy in the Executive Office of the President shall have the opportunity to review each report prepared pursuant to subsection (a) of this section. Such Directors may submit, for inclusion in such report, comments and recommendations and an independent evaluation of the national space grant college and fellowship program. Such comments and recommendations shall be submitted to the Administrator not later than 90 days before such a report is submitted pursuant to subsection (a) of this section and the Administrator shall include such comments and recommendations as a separate section in such report.

SEC. 213. The Administrator shall not under this title designate any space grant college or space grant regional consortium or award any fellowship, grant, or contract unless such designation or award is made in accordance with the competitive, merit-based review process employed by the Administration on the date of enactment of this Act. 42 USC 2486k.

SEC. 214. (a) There are authorized to be appropriated for the purposes of carrying out the provisions of this title sums not to exceed— Appropriation authorization. 42 USC 2486*l*.

(1) $10,000,000 for each of fiscal years 1988 and 1989; and

(2) $15,000,000 for each of fiscal years 1990 and 1991.

(b) Such sums as may be appropriated under this section shall remain available until expended.

Land Remote-Sensing Commercialization Act Amendments of 1987.
15 USC 4201 note.
15 USC 4201 note.

TITLE III—AMENDMENTS TO THE LAND REMOTE-SENSING COMMERCIALIZATION ACT OF 1984

SEC. 301. This title may be cited as the "Land Remote-Sensing Commercialization Act Amendments of 1987".

SEC. 302. The Congress finds and declares that—

(1) the implementation of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) has begun and some of the major milestones contained in that Act have been met;

(2) Congress remains strongly committed to the guiding principles set forth in that Act;

(3) notwithstanding the accomplishments thus far, the relationships among the involved Federal agencies and the private sector have not yet been adequately defined; and

(4) inasmuch as the technical development and commercial applications of future land remote-sensing systems cannot now be predicted with certainty, it is in the national interest of the United States that the involved Federal agencies and the private sector remain flexible in carrying out their respective responsibilities under that Act.

15 USC 4201 note.

SEC. 303. It is therefore the purpose of this title to set forth amendments to the Land Remote-Sensing Commercialization Act of 1984 to ensure that—

(1) the original intent of that Act is carried out in the most effective manner consistent with the guiding principles expressed therein;

(2) specific mechanisms for carrying out the original intent of that Act are provided in those cases where none have materialized thus far; and

(3) the working relationships among involved Federal agencies and private sector parties for the purpose of carrying out that Act are fully developed and mutually understood.

SEC. 304. Section 202(a)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4212(a)(4)) is amended by inserting before the semicolon at the end thereof the following: ", except in the case of research and development activities conducted in accordance with section 504".

SEC. 305. Title III of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4221 et seq.) is amended by adding at the end thereof the following new section:

"DISPOSITION OF GOVERNMENT ASSETS

Contracts.
15 USC 4228.

"SEC. 308. Following the completion of a contract made pursuant to this title, the Secretary may, upon 30 days advance notice to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives, dispose of assets (other than real property) under the control of the Secretary in a manner which best ensures the continuation of the contractor's commercial activity.".

SEC. 306. Section 502 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4262) is amended to read as follows:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF FEDERAL AGENCIES

"SEC. 502. Each Federal agency is authorized and encouraged to provide data gathered in experimental remote-sensing space programs to related research and development programs funded by the Federal Government (including application programs) and to cooperative research programs if the Federal agency involved determines that the data will not be used—

"(1) for any commercial purpose; or

"(2) in substantial competition with data available from a licensee under this Act;

except pursuant to section 503.".

SEC. 307. Title V of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4261 et seq.) is amended by adding at the end thereof the following new section:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF SYSTEM OPERATORS

"SEC. 504. Notwithstanding section 601, any system operator under title II, III, or IV of this Act, or any marketing entity under section 503 of this Act, may provide data for any research and development programs if— 15 USC 4264.

"(1) a complete and timely disclosure of the results of such research and development is made in the open technical literature or is otherwise made publicly available;

"(2) the system operator or marketing entity provides to the Secretary an annual report of all research and development data transactions including the nature of any cooperative agreements and the prices charged for data; and Reports.

"(3) the data are not used for commercial purposes or in substantial competition with data available from a licensee under this Act.".

SEC. 308. Section 603 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4273) is amended to read as follows:

"NONREPRODUCTION

"SEC. 603. In addition to such other terms and conditions as the system operator may set forth in compliance with section 601 of this Act, the system operator may require that unenhanced data not be reproduced or disseminated by any foreign or domestic purchaser.".

Approved October 30, 1987.

LEGISLATIVE HISTORY—H.R. 2782 (S. 1164):

HOUSE REPORTS: No. 100-204 (Comm. on Science, Space, and Technology).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 9, considered and passed House.
July 10, considered and passed Senate, amended, in lieu of S. 1164.
Oct. 8, House concurred in Senate amendment with amendment.
Oct. 13, Senate concurred in House amendment.

○

Public Law 100-148
100th Congress

An Act

Oct. 30, 1987
[S. 1628]

To extend the Aviation Insurance Program for five years.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1312 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1542) is amended by striking "1987" and inserting in lieu thereof "1992".

Approved October 30, 1987.

LEGISLATIVE HISTORY—S. 1628:

SENATE REPORTS: No. 100-147 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 10, considered and passed Senate.
Oct. 15, considered and passed House.

○

19-139 O - 87 (148)

Public Law 100-149
100th Congress

An Act

To amend the Wild and Scenic Rivers Act by designating a segment of the Merced River in California as a component of the National Wild and Scenic Rivers System.

Nov. 2, 1987
[H.R. 317]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF MERCED RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

National parks, monuments, etc.

"( ) MERCED, CALIFORNIA.—The main stem from its sources (including Red Peak Fork, Merced Peak Fork, Triple Peak Fork, and Lyell Fork) on the south side of Mount Lyell in Yosemite National Park to a point 300 feet upstream of the confluence with Bear Creek, consisting of approximately 71 miles, and the South Fork of the river from its source near Triple Divide Peak in Yosemite National Park to the confluence with the main stem, consisting of approximately 43 miles, both as generally depicted on the map entitled 'Merced River Wild and Scenic Rivers—Proposed', dated June 1987, to be administered by the Secretary of Agriculture and the Secretary of the Interior. With respect to the portions of the river designated by this paragraph which are within the boundaries of Yosemite National Park, and the El Portal Administrative Unit, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of park lands shall be undertaken that is inconsistent with the designation of such river segments. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this paragraph, except that no more than $235,000 may be appropriated to the Secretary of Agriculture for the acquisition of lands and interests in lands.".

Appropriation authorization.

SEC. 2. STUDY.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph at the end thereof—

"(96) MERCED, CALIFORNIA.—The segment from a point 300 feet upstream of the confluence with Bear Creek downstream to the point of maximum flood control storage of Lake McClure (elevation 867 feet mean sea level).".

(b) RENUMBERING.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by redesignating the paragraphs relating to the Klickitat and White Salmon as paragraphs (94) and (95) respectively.

Approved November 2, 1987.

LEGISLATIVE HISTORY—H.R. 317:

HOUSE REPORTS: No. 100-32 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-96 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Mar. 31, considered and passed House.
  July 8, considered and passed Senate, amended.
  Oct. 13, House concurred in Senate amendment with amendment.
  Oct. 16, Senate concurred in House amendment.

○

Public Law 100-150
100th Congress

An Act

To designate a segment of the Kings River in California as a wild and scenic river, and for other purposes.

Nov. 3, 1987
[H.R. 799]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF KINGS RIVER.

(a) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

National parks, monuments, etc.

"(62) KINGS, CALIFORNIA.—The Middle Fork of the Kings River from its headwaters at Lake Helen between Muir Pass and Black Giant Mountain to its confluence with the main stem; the South Fork, Kings River from its headwaters at Lake 11599 to its confluence with the main stem; and the main stem of the Kings River from the confluence of the Middle Fork and the South Fork to the point at elevation 1,595 feet above mean sea level. The segments within the Kings Canyon National Park shall be administered by the Secretary of the Interior. The remaining segments shall be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public and within one year after the enactment of this paragraph, the respective Secretaries shall take such action as is required under subsection (b) of this section. In the case of the segments of the river administered by the Secretary of the Interior, the requirements of subsection (b) shall be fulfilled through appropriate revisions to the general management plan for Kings Canyon National Park, and the boundaries, classification, and development plans for such segments need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of park lands shall be undertaken that is inconsistent with the designation of the river under this paragraph. For the purposes of the segments designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not to exceed $250,000, to the Secretary of Agriculture for development and land acquisition.".

State and local governments.

Appropriation authorization.

(b) RENUMBERING.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by redesignating the paragraphs relating to the Cache La Poudre River, the Saline Bayou, Black Creek, the Klickitat, and the White Salmon as paragraphs (57) through (61), respectively.

SEC. 2. SPECIAL MANAGEMENT AREA.

Conservation.
16 USC 539g.
National Forest System.

(a) ESTABLISHMENT.—In order to provide for public outdoor recreation use and enjoyment of certain areas within the Sierra National Forest and the Sequoia National Forest, to protect those areas' natural, archaeological, and scenic resources, and to provide for appropriate fish and wildlife management of those areas, there is hereby established the Kings River Special Management Area (hereinafter in this Act referred to as the "special management area"). The special management area shall be administered by the Secretary of Agriculture (hereinafter in this Act referred to as "the Secretary") through the Sierra National Forest.

Public information.

(b) AREA INCLUDED.—The special management area shall consist of the lands, waters, and interests therein within the area generally depicted on the map entitled "Boundary Map, Kings River Special Management Area", dated April 1987. The map shall be on file and available for public inspection in the offices of the National Forest Service, Department of Agriculture. The Secretary of Agriculture may from time to time make minor revisions of the boundary of the special management area.

National Forest System.

Forests and forest products.

(c) ADMINISTRATION.—The Secretary shall administer the special management area in accordance with this Act and with the provisions of law generally applicable to units of the National Forest System. In the case of any conflict between the provisions of such Acts, the provisions of this Act shall govern. In the administration of the special management area the Secretary may utilize such statutory authority as may be available to him for the conservation of wildlife and natural resources as he deems necessary to carry out the purposes of this Act. Nothing in this Act shall be construed to prohibit grazing within the special management area to the same extent, and in accordance with the same rules and regulations as applicable in the absence of this Act. The Secretary may permit the cutting of timber within the special management area only in those cases where in the judgment of the Secretary the cutting of such timber is required in order to control the attacks of fire, insects, or diseases or to otherwise conserve the scenery or the natural or historical objects in the area.

(d) MINING AND MINERAL LEASING.—Subject to valid existing rights, lands within the special management area are withdrawn from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States and from operation of the Geothermal Steam Act of 1970.

State and local governments.

(e) HUNTING AND FISHING.—The Secretary shall permit hunting and fishing on lands and waters within the special management area in accordance with applicable Federal and State law. The Secretary may designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife management or public use and enjoyment. Except in emergencies, regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(f) MANAGEMENT PLAN.—After consultation with the State of California, the Secretary shall publish a management plan for the special management area within three years after the enactment of this Act. The plan shall provide for public outdoor recreation use and enjoyment of the special management area, protect the area's natural, archeological, and scenic resources, and provide for appropriate fish and wildlife management within the area. The plan shall contain provisions for management of vegetation within the area designed to enhance the wildlife carrying capacity of the area. The plan shall permit off-road vehicular use of off-road trails to the same extent and in the same locations as was permitted before enactment of this Act. The plan shall provide for the development of hiking trails in the special management area and shall include a trail from Garlic Creek to Little Tehipite Valley.

(g) ACCESS TO PRIVATE LANDS.—If any State or privately owned land or any valid mining claim or other valid occupancy is within the special management area, or if State or private subsurface rights underlie public lands within the special management area, the Secretary shall provide the State or private owner, claimant, or occupier and their successors in interest such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the site concerned. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of the special management area, taking into account the traditional and customary means of access used prior to the enactment of this Act.

(h) SPECIFIC PROTECTIONS.—In recognition of the dispute that exists over whether a dam project should be constructed in the segment of the Main Stem of the Kings River from the point at elevation 1,595 feet above mean sea level downstream to the point at elevation 990 feet above mean sea level, Congress declares its intention at this time not to designate that segment of the Kings River as a component of the Wild and Scenic Rivers System. Notwithstanding any other provision of law, no Federal lands may be used for the construction of any dam or diversion within the boundaries of the special management area without specific authority of the Congress. In order to protect the natural, cultural, recreational, fishery, and wildlife values of the river segment referred to in this subsection, that segment shall be subject to the provisions of section 7(a) of the Act of October 2, 1968 (82 Stat. 906), in the same manner as if it were designated. Nothing in this Act shall preclude the Kings River Conservation District from conducting studies as it may deem appropriate. Dams.

Approved November 3, 1987.

LEGISLATIVE HISTORY—H.R. 799:

HOUSE REPORTS: No. 100-49 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-185 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Apr. 21, considered and passed House.
  Oct. 1, considered and passed Senate, amended.
  Oct. 13, House concurred in Senate amendments.

○

Public Law 100-151
100th Congress

An Act

Nov. 3, 1987
[H.R. 2893]

To reauthorize the Fishermen's Protective Act.

Fish and fishing.
Maritime affairs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(e) of the Fishermen's Protective Act (22 U.S.C. 1977(e)) is amended by striking "October 1, 1987" and substituting "October 1, 1988".

46 USC 12102 note.

SEC. 2. The Act entitled "An Act to temporarily restrict the ability to document foreign-built fish processing vessels under the laws of the United States", approved August 20, 1987 (Public Law 100-111; 101 Stat. 733), is amended by striking "October" and inserting in lieu thereof "November".

SEC. 3. The Act entitled "An Act to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries", approved October 22, 1982 (Public Law 97-360; 96 Stat. 1718), is amended—

(1) by striking "to the peoples of developing countries" wherever it is found; and

(2) in section 7, by striking "five calendar years after the date of enactment." and inserting in lieu thereof the following: "on October 22, 1989.".

Approved November 3, 1987.

LEGISLATIVE HISTORY—H.R. 2893:

HOUSE REPORTS: No. 100-299 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 29, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 20, House concurred in Senate amendments.

○

Public Law 100-152
100th Congress

An Act

To designate the segment of Corridor V in the State of Alabama as the Robert E. (Bob) Jones, Jr. Highway.

Nov. 3, 1987
[H.R. 3325]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The segment of the highway on the Appalachian development highway system known as "Corridor V" which is within the boundaries of the State of Alabama shall hereafter be known and designated as the "Robert E. (Bob) Jones, Jr. Highway".

SEC. 2. REFERENCE.

Any reference in a law, map, regulation, document, or other paper of the United States to the highway referred to in section 1 shall be deemed to be a reference to the "Robert E. (Bob) Jones, Jr. Highway".

Approved November 3, 1987.

LEGISLATIVE HISTORY—H.R. 3325:

HOUSE REPORTS: No. 100-317 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 29, considered and passed House.
Oct. 20, considered and passed Senate.

○

PUBLIC LAW 100-153—NOV. 5, 1987

INDIAN LAW TECHNICAL AMENDMENTS OF 1987

19-139 O - 87 (153)

Public Law 100-153
100th Congress

An Act

Nov. 5, 1987
[H.R. 2937]

To make miscellaneous technical and minor amendments to laws relating to Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Law Technical Amendments of 1987.
25 USC 331 note.
25 USC 373.

SECTION 1. This Act may be cited as the “Indian Law Technical Amendments of 1987”.

SEC. 2. Section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended, is further amended by deleting the phrase “the age of twenty-one years, or over” and inserting, in lieu thereof, the phrase “the age of eighteen years or older”.

SEC. 3. (a) The Act of September 14, 1961 (75 Stat. 500) is amended by—

(1) deleting the phrase “Section 5, lots 7 and 8;” in section 1, and

(2) inserting the phrase “Section 5, lots 7 and 8;” after the phrase “Township 15 north, range 3 east:” in section 2.

(b) Subsection (e) of section 2 of the Act of October 28, 1986 (100 Stat. 3243) is hereby repealed.

25 USC 1401.

SEC. 4. Section 1 of the Act of October 19, 1973 (87 Stat. 466) is amended by—

(1) inserting “(a)” before the word “That”;

(2) deleting the phrase “any interest earned thereon” and inserting, in lieu thereof, the phrase “any investment income earned thereon”; and

(3) adding the following new subsections—

“(b) Except as provided in the Act of September 22, 1961 (75 Stat. 584), amounts which the Secretary of the Interior has remaining after execution of either a plan under this Act, or another Act enacted heretofore or hereafter providing for the use or distribution of amounts awarded in satisfaction of a judgment in favor of an Indian tribe or tribes, together with any investment income earned thereon and after payment of attorney fees and litigation expenses, shall be held in trust by the Secretary for the tribe or tribes involved if the plan or Act does not otherwise provide for the use of such amounts.

Indian Tribal Judgment Funds Use or Distribution Act.
25 USC 2301.

“(c) This Act may be cited as the ‘Indian Tribal Judgment Funds Use or Distribution Act’.”.

SEC. 5. Paragraph (2) of section 2 of the Old Age Assistance Claims Settlement Act (98 Stat. 2317) is amended by inserting a colon after the phrase “trust property” and the following proviso—

Federal Register, publication.

“*Provided*, That, except for purposes of section 4, the term also includes the reimbursements for welfare payments identified in either the list published on April 17, 1985, at page 15290 of volume 50 of the Federal Register, as modified or amended on November 13, 1985, at page 46835 of volume 50 of the Federal Register, or the list published on March 31, 1983, at page 13698 of volume 48 of the Federal Register, as modified or amended on

November 7, 1983, at page 51204 of volume 48 of the Federal Register".

Minnesota. 25 USC 331 note.

SEC. 6. (a) Paragraph (1) of section 3 of the White Earth Reservation Land Settlement Act of 1985 (100 Stat. 61, 62) is amended to read as follows—

"(1) 'Heir' means a person who received or was entitled to receive an allotment or interest as a result of testate or intestate succession under applicable Federal or Minnesota law, or one who is determined under section 9, by the application of the inheritance laws of Minnesota in effect on March 26, 1986, to be entitled to receive compensation payable under section 8.".

25 USC 331 note.

(b) Subsection (b) of section 5 of the White Earth Reservation Land Settlement Act is amended to read as follows—

"(b) The 'proper county recording officer', as that term is used in subsection (a) of this section, shall be a county recorder, registrar of titles, or probate court in Becker, Clearwater, or Mahnomen Counties, Minnesota.".

Appropriation authorization.

(c) Notwithstanding any other provision of law, the Secretary of the Treasury is authorized and directed to transfer to the White Earth Economic Development and Tribal Government Fund, out of funds in the Treasury of the United States not otherwise appropriated, an amount equal to the sum of—

(1) $55,917 for the interest that would have accrued on the settlement funds appropriated pursuant to section 15 of the White Earth Reservation Land Settlement Act of 1985 if such funds had been properly invested during the period beginning on November 17, 1986, and ending on January 12, 1987, plus

(2) an amount equal to the interest that would have accrued on $55,917 during the period beginning on January 12, 1987, and ending on the date the transfer required under this subsection is made by the Secretary of the Treasury if $55,917 had been invested as part of the White Earth Economic Development and Tribal Government Fund on January 12, 1987.

Amounts transferred to the White Earth Economic Development and Tribal Government Fund under this subsection shall be treated as interest accrued on such Fund.

Alaska.

SEC. 7. The Secretary of the Interior shall calculate and certify to the Secretary of the Treasury for payment out of funds in the judgments, awards, and compromise settlements account of the United States Treasury to Cook Inlet Region, Inc., pursuant to section 2 (a) and (e) of Public Law 94-204 (89 Stat. 1146), as amended by section 1411 of Public Law 96-487 (94 Stat. 2497) and section 22 of Public Law 99-396 (100 Stat. 846), a final determination of interest on funds withheld from revenues owed to Cook Inlet Region, Inc. under section 14(g) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1613(g), and paid to the Treasury as windfall profits taxes on oil production from the Swanson River and Beaver Creek units in Alaska of which Cook Inlet Region, Inc. may be regarded as a producer under 26 U.S.C. 4996(a)(1), as though such funds had been withheld before conveyance to Cook Inlet Region, Inc. of interests in leases within those units. Such interest shall be calculated and paid for the period from the dates on which such funds otherwise would have been paid to Cook Inlet Region, Inc. to the date of refund of the principal amounts withheld.

SEC. 8. Section 1514 of the Higher Education Amendments of 1986 (20 U.S.C. 4421) is amended—

(1) by striking out "During the 2-year period beginning on the date referred to in subsection (f) of this section" in subsection (d) and inserting in lieu thereof "Unless the Board provides otherwise",

(2) by inserting ", until October 1, 1989," after "Secretary of the Interior shall" in subsection (d), and

(3) by striking out subsections (e) and (f) and inserting in lieu thereof the following:

"(e)(1) The transfers required under subsection (b) shall be completed by no later than June 1, 1988.

"(2) The Institute shall be under the direction and control of the Secretary of the Interior until the earlier of—

"(A) June 1, 1988, or

"(B) a date agreed to by the Board and the Secretary of the Interior.

New Mexico. Contracts. Schools and colleges.

"(f)(1) Before the later of October 15, 1987, or the date that is 10 days after the date of enactment of the Indian Law Technical Amendments of 1987, the Secretary of the Interior shall enter into a contract with the University of New Mexico, the terms of which shall—

"(A) include all administrative systems which are customary to the operation of a national art institute,

"(B) require the provision by the University of New Mexico of technical assistance to the Institute, including the monitoring of the transfers that are required to be made under subsection (b),

"(C) provide for the establishment by the University of New Mexico of an advisory council that makes recommendations to the University of New Mexico with respect to the operation of the contract,

"(D) allow the University of New Mexico to fulfill its obligations under the contract through subcontracts that are entered into in accordance with section 7 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e),

"(E) provide for the expiration of the contract on the date that is 6 months after the date the contract is entered into, but the Board and the University of New Mexico may mutually agree to extend the contract for an additional 2-month period,

"(F) provide that any materials furnished to the Secretary of the Interior by the University of New Mexico, or any subcontractor of the University of New Mexico, under the contract shall become the property of the Institute, and

"(G) include such other terms as the Secretary of the Interior determines to be necessary.

"(2) The advisory council that is required to be established under the contract entered into under paragraph (1) shall be composed of—

"(A) a delegate of the executive director of the National Congress of American Indians,

"(B) a delegate of the president of the American Indian Higher Education Consortium, and

"(C) at least 5 individuals possessing knowledge and experience in Indian arts and culture and in postsecondary education, a majority of whom shall be Indians.".

SEC. 9. Subsection (e) of section 3 of the Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act (100 Stat. 675) is amended—

(1) by striking "Payments" in paragraph (4)(B) and inserting in lieu thereof "Except as otherwise provided in paragraph (5), payments",

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and

(3) by inserting after paragraph (4) the following new paragraph:

"(5)(A) The Tribal Council may accelerate the payment of the aggregate sum of $3,000 to those members of the tribe certified under paragraph (3) who—

Health and medical care.

"(i) are certified by a physician to be—

"(I) terminally ill, or

"(II) at least 50 percent permanently disabled, or

"(ii) are at least 60 years of age.

"(B) Notwithstanding any other provision of this Act, the Tribal Council may use interest accrued on the Investment Fund for the purpose of making accelerated payments under subparagraph (A).".

Washington. Contracts. Grants.

SEC. 10. The Frank's Landing Indian Community in the State of Washington is hereby recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and is recognized as eligible to contract, and to receive grants, under the Indian Self-Determination and Education Assistance Act for such services, but the proviso in section 4(c) of such Act (25 U.S.C. 450b(c)) shall not apply with respect to grants awarded to, and contracts entered into with, such Community.

Approved November 5, 1987.

LEGISLATIVE HISTORY—H.R. 2937:

HOUSE REPORTS: No. 100-250 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-186 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 3, considered and passed House.
Oct. 1, considered and passed Senate, amended.
Oct. 22, House concurred in Senate amendments.

○

Public Law 100-154
100th Congress

Joint Resolution

Nov. 5, 1987
[S.J. Res. 209]

To provide for the extension of certain programs relating to housing and community development, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That each provision of law amended by Public Law 100-122, including those provisions amended by section 2 of such Public Law, is amended by striking out "October 31, 1987" wherever it appears and inserting in lieu thereof "November 15, 1987".

Ante, p. 793.

Approved November 5, 1987.

LEGISLATIVE HISTORY—S.J. Res. 209:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 30, considered and passed Senate.
Nov. 3, considered and passed House.

○

Public Law 100-155
100th Congress
Joint Resolution

Designating the week beginning November 8, 1987, as "National Women Veterans Recognition Week".

Nov. 6, 1987
[S.J. Res. 171]

Whereas there are about one million two hundred thousand women veterans in this country, representing 4.2 per centum of the total veteran population;

Whereas the number and proportion of women veterans will continue to grow as the number and proportion of women serving in the Armed Forces continue to increase;

Whereas women veterans through honorable military service often involving hardship and danger have contributed greatly to our national security;

Whereas women veterans continue to contribute greatly to our society in civilian life, bringing with them their valuable military service experience and expertise;

Whereas the contributions and sacrifices of women veterans on behalf of this Nation deserve greater public recognition and appreciation;

Whereas the special needs of women veterans, especially in the area of health care, have in the past been overlooked or inadequately addressed by the Federal Government;

Whereas this lack of attention to the special needs of women veterans was among the factors that tended to discourage or prevent women veterans from taking full advantage of the benefits and services to which they are entitled as veterans of the United States Armed Forces;

Whereas important steps have been taken to improve the accessibility and quality of health care for women veterans, yet women veterans are still far less likely than male veterans to utilize their Veterans' Administration benefits; and

Whereas recognition of women veterans by the Congress and the President through enactment of legislation declaring the week beginning on November 8, 1987, as "National Women Veterans Recognition Week" would serve to create greater public awareness and recognition of the contribution of women veterans, to express the Nation's appreciation for their service, to inspire more responsive care and services for women veterans, and to continue and reinforce important gains made in this regard in the last three years as a result of the designation of the first, second, and third National Women Veterans Recognition Weeks in November of 1984, 1985, and 1986: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 8, 1987, is designated "National Women Veterans Recognition Week". The President is requested to issue a proclamation calling upon all citizens, community leaders, interested organizations, and Government officials to observe that week with appropriate programs, ceremonies, and activities.

Approved November 6, 1987.

LEGISLATIVE HISTORY—S.J. Res. 171:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 15, considered and passed Senate.
Oct. 27, considered and passed House.

○

Public Law 100-156
100th Congress

An Act

To designate the Federal Building and United States Post Office located at 315 West Allegan Street in Lansing, Michigan, as the "Charles E. Chamberlain Federal Building and United States Post Office".

Nov. 9, 1987
[H.R. 307]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building and United States Post Office located at 315 West Allegan Street in Lansing, Michigan, shall hereafter be known and designated as the "Charles E. Chamberlain Federal Building and United States Post Office".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Charles E. Chamberlain Federal Building and United States Post Office".

Approved November 9, 1987.

LEGISLATIVE HISTORY—H.R. 307:

HOUSE REPORTS: No. 100-128 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 15, considered and passed House.
Oct. 27, considered and passed Senate.

○

Public Law 100-157
100th Congress

An Act

Nov. 9, 1987
[H.R. 1366]

To provide for the transfer of certain lands in the State of Arizona, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Real property.
Schools and colleges.

SECTION 1. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized and directed to convey the property described in section 2 of this Act to the Payson Unified School District No. 10, Arizona (hereafter, the "school district"), in accordance with this Act.

SEC. 2. The property referred to in section 1 is that parcel of land comprising approximately sixty acres, known as the Payson School Site, in the town of Payson, county of Gila, Arizona.

SEC. 3. (a) Conveyance of the property described in section 2 shall be made upon a request of the governing body of the school district submitted to the Secretary of Agriculture no later than thirty years after the date of enactment of this Act.

(b) Conveyance of title to the property described in section 2, upon a timely request by the school district shall be in consideration for payment to the United States of an amount equal to—

(1) administrative costs associated with the preparation of title and legal description of such property, and the fair market value of such property (as determined by the Secretary of Agriculture on the basis of continued use of the property for school purposes) as of December 1, 1986,

(2) reduced by an amount equal to the total amounts paid to the United States by the school district for use of such property (pursuant to agreements between the school district and the Secretary of Agriculture) subsequent to January 1, 1961 and prior to the date of the request by the school district for conveyance of such property pursuant to this Act (but such reduction shall not be greater than the total amount described in paragraph 1).

SEC. 4. Any conveyance made pursuant to this Act shall be subject to such terms and conditions, consistent with this Act, as the Secretary of Agriculture determines necessary or desirable in the public interest, including but not limited to the treatment of existing easements or rights-of-way for roads and other purposes.

SEC. 5. During the period specified in section 3(a), the Secretary of Agriculture shall permit the school district to continue to occupy and use the property described in section 2 for school purposes upon condition that the school district make annual payments to the United States for such use of the property, but such payments shall not exceed $12,500 in any one year.

SEC. 6. Payments pursuant to section 3 and section 5 shall be considered to have been deposited with the Secretary of Agriculture pursuant to the Act of December 4, 1967, as amended (16 U.S.C.

484a), and shall be handled in the same manner as amounts so deposited pursuant to such Act.

SEC. 7. (a) Title to any real property conveyed pursuant to this Act shall revert to the United States if the school district attempts to convey or otherwise transfer ownership of any portion of such property to any other party or attempts to encumber such title, or permits the use of any portion of such property for any purpose incompatible with the purposes specified in subsection (b) of this section.

(b) Real property conveyed pursuant to this Act shall be used for a public school.

Approved November 9, 1987.

LEGISLATIVE HISTORY—H.R. 1366:

HOUSE REPORTS: No. 100-188 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-196 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
    June 29, considered and passed House.
    Oct. 22, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
    Nov. 9, Presidential statement.

○

PUBLIC LAW 100-158—NOV. 9, 1987

CIVIC ACHIEVEMENT AWARD PROGRAM SUPPORT

Public Law 100-158
100th Congress

Joint Resolution

Nov. 9, 1987
[H.J. Res. 309]

Providing support for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives.

Education.
Close Up Foundation.
2 USC 1001 note.

Whereas the continuing strength and vitality of American democratic traditions depend on the civic awareness of future generations;

Whereas there is a need to improve the level of civic literacy of American elementary school students and to better their understanding of American history, government, geography, economics, and current events;

Whereas students in the fifth grade through the eighth grade are at a critical stage for development of values, character, and attitudes;

Whereas school libraries and local libraries, as repositories of the record of American history and democratic traditions, are appropriate focal points for civic literacy education;

Whereas in view of the central role of the House of Representatives in our system of government, it is appropriate, in conjunction with the Bicentennial of the House of Representatives and in honor of the office of Speaker of the House of Representatives, to suppport a national civic achievement award program for students, classes, and schools;

Whereas the Library of Congress, as a national symbol of learning, literacy, and culture, is an appropriate institution to assist in this endeavor; and

Whereas the Close Up Foundation, a nonpartisan, nonprofit, educational organization for citizen involvement in government, is an appropriate organization to conduct such a program: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

2 USC 1001.

SECTION 1. SUPPORT FOR THE CIVIC ACHIEVEMENT AWARD PROGRAM IN HONOR OF THE OFFICE OF SPEAKER OF THE HOUSE OF REPRESENTATIVES.

The Librarian of Congress is authorized to make disbursements to the Close Up Foundation, a nonpartisan, nonprofit organization incorporated under the laws of the District of Columbia. Such disbursements—

Regulations.

(1) shall be made upon application by the Foundation and in such form and manner as the Librarian may prescribe by regulation; and

(2) shall be solely for the purpose of assisting the Foundation in conducting the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives described in section 2.

SEC. 2. DESCRIPTION OF THE PROGRAM.

2 USC 1002.

(a) IN GENERAL.—The Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives shall be conducted by the Close Up Foundation, in cooperation with the National Association of Elementary School Principals. The program—

(1) shall be designed to inspire learning of American history, government, geography, economics and current events in the fifth, sixth, seventh, and eighth grades;

(2) shall recognize achievement in civic literacy by students, classes, and schools throughout the Nation;

(3) shall be based upon a specially designed set of learning materials and activities that will allow students to develop and demonstrate civic knowledge and skills; and

(4) may include such program elements as individual and group projects, mastery of academic materials, development of library skills, and community service.

(b) AWARDS.—The Close Up Foundation shall provide annual awards for the program. The awards, in the form of certificates signed by the Speaker of the House of Representatives and other persons designated by the Speaker, shall be presented in the following categories:

(1) Individual students who satisfy award standards.

(2) Classes with a specified percentage of students who satisfy award standards.

(3) Schools with a specified percentage of students who satisfy award standards.

Establishment.

(c) NATIONAL ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Speaker of the House of Representatives (in consultation with the minority leader of the House of Representatives) shall appoint 11 persons who, together with the Librarian of Congress, one representative of the Close Up Foundation, and one representative of the National Association of Elementary School Principals, shall constitute a national committee to advise the Close Up Foundation on the structure and administration of the program. The 11 persons appointed under the preceding sentence shall serve at the pleasure of the Speaker.

(2) EXPENSES.—Members of the committee shall serve without compensation, except that, while away from their homes or regular places of business in the performance of services for the committee, members shall be allowed expenses in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) PARTICIPATION BY LIBRARIES.—School libraries and local libraries shall, to the extent practicable, serve as the primary centers for the distribution of materials and the coordination of testing and evaluation for the program.

SEC. 3. AUDITS AND REPORTS.

2 USC 1003.

(a) AUDITS.—The Comptroller General shall conduct annual and other necessary audits of the program and shall submit reports of such audits to the House of Representatives and to the Librarian of Congress.

(b) REPORTS.—The Close Up Foundation shall submit to the House of Representatives and to the Librarian of Congress semiannual reports of the activities of the program as follows: (1) not later than July 31 of each year, a report relating to the 6-month period ending on the preceding June 30; and (2) not later than January 31 of each year, a report relating to the 6-month period ending on the preceding December 31.

2 USC 1004.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this joint resolution not more than $680,000 for the fiscal year ending September 30, 1988 (of which not more than $100,000 shall be available for reimbursement of expenses of the program incurred during the period beginning on July 1, 1987, and ending on September 30, 1987), and $680,000 for the fiscal year ending September 30, 1989.

Approved November 9, 1987.

LEGISLATIVE HISTORY—H.J. Res. 309:

HOUSE REPORTS: No. 100-221 (Comm. on House Administration).
SENATE REPORTS: No. 100-172 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 21, considered and passed House.
Oct. 1, considered and passed Senate, amended.
Oct. 27, House concurred in Senate amendment.

○

Public Law 100-159
100th Congress

An Act

To amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities.

Nov. 9, 1987
[S. 442]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

17 USC 914 note.

(a) Findings.—The Congress finds that—

(1) section 914 of title 17, United States Code, which authorizes the Secretary of Commerce to issue orders extending interim protection under chapter 9 of title 17, United States Code, to mask works fixed in semiconductor chip products and orginating in foreign countries that are making good faith efforts and reasonable progress toward providing protection, by treaty or legislation, to mask works of United States nationals, has resulted in substantial and positive legislative developments in foreign countries regarding protection of mask works;

(2) the Secretary of Commerce has determined that most of the industrialized countries of the world are eligible for orders affording interim protection under section 914 of title 17, United States Code;

International agreements.

(3) the World Intellectual Property Organization has commenced meetings to draft an international convention regarding the protection of integrated electronic circuits;

(4) these bilateral and multilateral developments are encouraging steps toward improving international protection of mask works in a consistent and harmonious manner; and

(5) it is inherent in section 902 of title 17, United States Code, that the President has the authority to revise, suspend, or revoke, as well as issue, proclamations extending mask work protection to nationals, domiciliaries, and sovereign authorities of other countries, if conditions warrant.

(b) Purposes.—The purposes of this Act are—

(1) to extend the period within which the Secretary of Commerce may grant interim protective orders under section 914 of title 17, United States Code, to continue this incentive for the bilateral and multilateral protection of mask works; and

(2) to codify the President's existing authority to revoke, suspend, or limit the protection extended to mask works of foreign entities in nations that extend mask work protection to United States nationals.

SEC. 2. AUTHORITY TO ISSUE PROTECTIVE ORDERS.

Section 914(e) of title 17, United States Code, is amended by striking out "three years after such date of enactment" and inserting in lieu thereof "on July 1, 1991".

SEC. 3. AUTHORITY TO ISSUE PROCLAMATIONS.

President of U.S.

Section 902(a)(2) of title 17, United States Code, is amended by adding at the end thereof the following: "The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection extended under any such proclamation.".

SEC. 4. REPORT TO CONGRESS.

Section 914(f) of title 17, United States Code, is amended by adding at the end the following: "Not later than July 1, 1990, the Secretary of Commerce, in consultation with the Register of Copyrights, shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report updating the matters contained in the report transmitted under the preceding sentence.".

Approved November 9, 1987.

LEGISLATIVE HISTORY—S. 442 (H.R. 1951):

HOUSE REPORTS: No. 100-388 accompanying H.R. 1951 (Comm. on the Judiciary).
SENATE REPORTS: No. 100-66 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 133 (1987):
 June 26, considered and passed Senate.
 Oct. 27, H.R. 1951 considered and passed House; proceedings vacated and S. 442, amended, passed in lieu.
 Nov. 4, Senate concurred in House amendments.

○

Public Law 100-160
100th Congress

An Act

To designate the new United States courthouse in Birmingham, Alabama, as the "Hugo L. Black United States Courthouse".

Nov. 10, 1987
[H.R. 614]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States courthouse located at 5th Avenue and 17th Street North in Birmingham, Alabama, shall be known and designated as the "Hugo L. Black United States Courthouse". Each reference to such courthouse in a law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "Hugo L. Black United States Courthouse".

Approved November 10, 1987.

LEGISLATIVE HISTORY—H.R. 614:

HOUSE REPORTS: No. 100-131 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 100-207 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  June 15, considered and passed House.
  Oct. 28, considered and passed Senate.

○

Public Law 100-161
100th Congress

Joint Resolution

Nov. 10, 1987
[H.J. Res. 368]

Designating the week of November 8 through November 14, 1987, as "National Food Bank Week".

Whereas although the United States is a nation of abundance, it has been reported that at least 20,000,000 Americans go hungry at some time during every month;

Whereas the assistance of the private sector is needed to meet the increasing demand for food from families, children, the elderly, unemployed workers, and the homeless;

Whereas an extraordinary yearlong effort to feed the hungry is being coordinated by Second Harvest, America's Food Bank Network;

Whereas the 200 local food banks of the non-profit Second Harvest network are committed to channeling the surplus products of food manufacturers and retailers to the needy;

Whereas Second Harvest food banks rely upon the generous donations of hundreds of national food corporations, thousands of local food companies, and millions of concerned individuals;

Whereas in 1986 Second Harvest was able to distribute 352,000,000 pounds of wholesome, nutritious food valued at $500,000,000 to 38,000 charitable feeding programs nationwide; and

Whereas the upcoming Thanksgiving season is a time not only to count one's own blessings but to support those who are extending a helping hand to our fellow Americans in need: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 8 through November 14, 1987, is designated as "National Food Bank Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 10, 1987.

LEGISLATIVE HISTORY—H.J. Res. 368 (S.J. Res. 200):

CONGRESSIONAL RECORD, Vol. 133 (1987):
Nov. 3, considered and passed House.
Nov. 4, S.J. Res. 200 and H.J. Res. 368, considered and passed Senate.

○

Public Law 100-162
100th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Nov. 10, 1987
[H.J. Res. 394]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of the joint resolution of September 30, 1987 (Public Law 100-120), is hereby amended by striking out "November 10, 1987" and inserting in lieu thereof "December 16, 1987".

Ante, p. 790.

Approved November 10, 1987.

LEGISLATIVE HISTORY—H.J. Res. 394:

HOUSE REPORTS: No. 100-414 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Nov. 5, considered and passed House.
Nov. 6, considered and passed Senate.

○

19-139 O - 87 (162)

Public Law 100-163
100th Congress

Joint Resolution

Nov. 12, 1987
[S.J. Res. 154]

To designate the period commencing on November 15, 1987, and ending on November 22, 1987, as "National Arts Week".

Whereas the performing arts, the visual arts, and literature are central to human expression;
Whereas our identity as a people and as a Nation is expressed through the arts;
Whereas support of the arts has been a partnership of Federal, State, and local government entities, businesses, and individuals;
Whereas designating a National Arts Week provides a focal point to celebrate the diverse cultural heritage of the United States and the vitality of contemporary writers, artists, and performers; and
Whereas designating a National Arts Week brings together the public and private sectors to restate support of the arts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on November 15, 1987, and ending on November 22, 1987, is designated as "National Arts Week", and the President is authorized and requested to issue a proclamation calling upon the citizens of the United States to observe such period with appropriate programs and activities.

Approved November 12, 1987.

LEGISLATIVE HISTORY—S.J. Res. 154:

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 25, considered and passed Senate.
Nov. 3, considered and passed House.

○

Public Law 100-164
100th Congress

Joint Resolution

To recognize the Disabled American Veterans Vietnam Veterans National Memorial as a memorial of national significance.

Nov. 13, 1987
[H.J. Res. 97]

New Mexico.

Whereas in August, 1968, following the tragic death of their eldest son and brother, First Lieutenant Victor Davis Westphall, III, in the southeast Asian conflict, Dr. and Mrs. Victor Westphall and their younger son, Douglas, began construction of a memorial chapel at Angel Fire Recreation Area, near Eagle Nest, New Mexico, to honor Vietnam veterans;

Whereas the chapel was opened in 1971 as a memorial to all Vietnam veterans: the living, the dead, and the maimed in body and spirit;

Whereas the Disabled American Veterans and other interested persons have contributed much financial assistance toward the chapel;

Whereas in September, 1982, the Disabled American Veterans established a non-profit corporation to improve and perpetuate the chapel;

Whereas the chapel was rededicated and named the Disabled American Veterans Vietnam Veterans National Memorial in May, 1983;

Whereas the chapel has become known to millions of people in this Nation and abroad through extensive publicity in the national and international news media;

Whereas the chapel has inspired the construction of other memorials to Vietnam veterans throughout the United States, including the Vietnam Veterans Memorial in Washington, D.C.;

Whereas the chapel has received an award for architectural excellence from the New Mexico Society of Architects;

Whereas Dr. Westphall has received the New Mexico Medal of Merit in recognition of his services in connection with the chapel and its programs over the years;

Whereas to many persons, especially Vietnam veterans, the chapel is literally sacred; and

Whereas the chapel has served for more than 15 years as a national shrine without benefit of an official national designation: Now, therefore, be it

16 USC 431 note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Disabled American Veterans Vietnam Veterans National Memorial near Eagle Nest, New Mexico, is hereby recognized as a memorial of national significance, and the President is requested to issue a proclamation commemorating the occasion of this recognition and saluting the efforts of those individuals who have made the creation and continued existence of the Memorial possible.

Approved November 13, 1987.

LEGISLATIVE HISTORY—H.J. Res. 97:

CONGRESSIONAL RECORD, Vol. 133 (1987):
May 4, considered and passed House.
Oct. 30, considered and passed Senate.

○

Public Law 100-165
100th Congress

Joint Resolution

To designate the week beginning November 22, 1987, as "National Family Caregivers Week".

Nov. 13, 1987
[H.J. Res. 130]

Whereas the number of Americans who are sixty-five or older is growing, with an unprecedented increase in the number of persons eighty-five or older;

Whereas the incidences of frailty and disability increase among persons of advanced age;

Whereas approximately 5.2 million older persons who reside in the community have disabilities that leave them in need of help with such daily tasks as food preparation, dressing, and bathing;

Whereas families provide older persons help with such tasks, in addition to between 80 and 90 percent of the medical care, household maintenance, transportation, and shopping needed by older persons;

Whereas families who give care to older persons face many additional expenses due to home modifications, equipment rental, and higher heating bills;

Whereas 80 percent of the disabled elderly receive care from family members, most of whom are wives, daughters, and daughters-in-law, who often must sacrifice employment opportunities to provide such care;

Whereas the role of the aged spouse as a principal caregiver has generally been understated;

Whereas family caregivers are often physically and emotionally exhausted from the time and stress involved in caregiving activities;

Whereas family caregivers need information about available community resources;

Whereas family caregivers need respite from the strains of their caregiving roles;

Whereas the contribution of family caregivers helps maintain strong family ties and assures support among generations; and

Whereas there is a need for greater public awareness of and support for the care that family caregivers are providing: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning

November 22, 1987, is designated "National Family Caregivers Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 13, 1987.

LEGISLATIVE HISTORY—H.J. Res. 130:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 6, considered and passed House.
Oct. 30, considered and passed Senate.

○

Public Law 100-166
100th Congress

Joint Resolution

To designate the week of November 22, 1987, through November 28, 1987, as "National Family Week".

Nov. 13, 1987
[S.J. Res. 66]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of November 22, 1987, through November 28, 1987, as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 13, 1987.

LEGISLATIVE HISTORY—S.J. Res. 66 (H.J. Res. 34):

CONGRESSIONAL RECORD, Vol. 133 (1987):
  Sept. 15, H.J. Res. 34 considered and passed House.
  Oct. 30, S.J. Res. 66 considered and passed Senate.
  Nov. 3, considered and passed House.

○

Public Law 100-167
100th Congress

An Act

Nov. 17, 1987
[H.R. 3428]

To provide for the distribution within the United States of the film entitled "America The Way I See It".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISTRIBUTION WITHIN THE UNITED STATES OF THE USIA FILM ENTITLED "AMERICA THE WAY I SEE IT".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "America The Way I See It"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

Public information.

(C) make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

Approved November 17, 1987.

LEGISLATIVE HISTORY—H.R. 3428:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 19, considered and passed House.
Nov. 4, considered and passed Senate.

○

Public Law 100-168
100th Congress

Joint Resolution

Designating the week beginning November 15, 1987, as "African American Education Week".

Nov. 17, 1987
[S.J. Res. 174]

Whereas the enrollment of African American students in urban public school districts is expected to increase significantly by 1990, but the number of African American educators available to teach these students is expected to decline;

Whereas a critical shortage of African American educators already exists in the teaching force, and the percentage of African Americans pursuing careers in education has declined significantly in recent years;

Whereas the National Alliance of Black School Educators promotes academic excellence as the cornerstone of achievement and upward mobility for African American students and promotes teaching as a viable career option for African Americans;

Whereas the commitment of the National Alliance of Black School Educators to African American education is consistent with the current movement in the United States to reform education in the public schools; and

Whereas the National Alliance of Black School Educators has initiated and will coordinate a celebration of African American education that will occur during the week of November 15, 1987: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 15, 1987, is designated as "African American Education Week", and the President is authorized and requested to issue a proclamation calling upon—

(1) the Department of Education, and State and local governments, to support appropriate ceremonies and activities carried out to observe such week;

(2) schools and communities in which African Americans are represented to demonstrate their commitment to the education of African Americans; and

(3) community organizations that share an interest in the education of African Americans to intensify their efforts to support the achievement of academic excellence by African Americans.

Approved November 17, 1987.

LEGISLATIVE HISTORY—S.J. Res. 174:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 30, considered and passed Senate.
Nov. 10, considered and passed House.

○

Public Law 100-169
100th Congress

Joint Resolution

Expressing the sense of the Congress that United Nations General Assembly Resolution 3379 (XXX) should be overturned, and for other purposes.

Nov. 17, 1987
[S.J. Res. 205]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby—

(1) declares that United Nations General Assembly Resolution 3379 (XXX), which equates Zionism with racism—

(A) has been unhelpful in the context of the search for a settlement in the Middle East;

(B) is inconsistent with the Charter of the United Nations;

(C) remains unacceptable as a misrepresentation of Zionism; and

(D) has served to escalate religious animosity and incite anti-Semitism; and

(2) recommends that the United States Government should lend support to efforts to overturn Resolution 3379 (XXX) in the United Nations.

Approved November 17, 1987.

LEGISLATIVE HISTORY—S.J. Res. 205:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 23, considered and passed Senate.
Nov. 9, considered and passed House.

○

Public Law 100-170
100th Congress

Joint Resolution

Nov. 17, 1987
[S.J. Res. 220]

To provide for the extension of certain programs relating to housing and community development, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That each provision of law amended by Public Law 100-154 is amended by striking "November 15, 1987" and inserting "December 2, 1987".

Ante, p. 890.

Approved November 17, 1987.

LEGISLATIVE HISTORY—S.J. Res. 220:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Nov. 13, considered and passed Senate.
Nov. 16, considered and passed House.

○

Public Law 100-171
100th Congress

Joint Resolution

To designate the period commencing November 22, 1987, and ending November 28, 1987, as "American Indian Week".

Nov. 19, 1987
[S.J. Res. 53]

Whereas American Indians were the original inhabitants of the lands that now constitute the United States;

Whereas American Indians have made a unique and essential contribution to the United States;

Whereas the people of the United States should be reminded of the assistance American Indians provided to the Founding Fathers of our Nation;

Whereas the people of the United States should consider the present relationship between American Indians and the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing November 22, 1987, and ending November 28, 1987, is designated as "American Indian Week", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved November 19, 1987.

LEGISLATIVE HISTORY—S.J. Res. 53:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 15, considered and passed Senate.
Nov. 10, considered and passed House.

○

Public Law 100-172
100th Congress

Joint Resolution

Nov. 19, 1987
[S.J. Res. 97]

To designate the week beginning November 22, 1987, as "National Adoption Week".

Whereas Thanksgiving week has been commemorated as "National Adoption Week" for the past ten years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving, permanent family as every child's basic right;

Whereas approximately fifty thousand children who have special needs—school age children, children within sibling groups, children who are members of minorities, or children with physical, mental, or emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would insure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 22, 1987, through November 28, 1987, is designated "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 19, 1987.

LEGISLATIVE HISTORY—S.J. Res. 97 (H.J. Res. 274):

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 20, H.J. Res. 274 considered and passed House.
Oct. 30, S.J. Res. 97 considered and passed Senate.
Nov. 10, considered and passed House.

○

Public Law 100-173
100th Congress

An Act

To amend the Packers and Stockyards Act, 1921, to provide financial protection to poultry growers and sellers, and to clarify Federal jurisdiction under such Act.

Nov. 23, 1987
[H.R. 3457]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Poultry Producers Financial Protection Act of 1987.
7 USC 181 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Poultry Producers Financial Protection Act of 1987".

SEC. 2. DEFINITIONS.

Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182), is amended—

(1) in paragraph (5) by striking "and" at the end;

(2) by redesignating paragraph (6) as paragraph (11); and

(3) by inserting after paragraph (5) the following:

"(6) The term 'poultry' means chickens, turkeys, ducks, geese, and other domestic fowl;

"(7) The term 'poultry product' means any product or byproduct of the business of slaughtering poultry and processing poultry after slaughter;

"(8) The term 'poultry grower' means any person engaged in the business of raising and caring for live poultry for slaughter by another, whether the poultry is owned by such person or by another, but not an employee of the owner of such poultry;

"(9) The term 'poultry growing arrangement' means any growout contract, marketing agreement, or other arrangement under which a poultry grower raises and cares for live poultry for delivery, in accord with another's instructions, for slaughter;

"(10) The term 'live poultry dealer' means any person engaged in the business of obtaining live poultry by purchase or under a poultry growing arrangement for the purpose of either slaughtering it or selling it for slaughter by another, if poultry is obtained by such person in commerce, or if poultry obtained by such person is sold or shipped in commerce, or if poultry products from poultry obtained by such person are sold or shipped in commerce; and".

SEC. 3. UNLAWFUL PRACTICES.

Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) by striking "It shall be unlawful with respect to livestock, meats, meat food products, livestock products in unmanufactured form, poultry or poultry products for any packer or any live poultry dealer or handler to:" and inserting "It shall be unlawful for any packer with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, or for any live poultry dealer with respect to live poultry, to:"; and

(2) in subdivision (c) by striking "Sell or otherwise transfer to or for any other packer or any live poultry dealer or handler, or

buy or otherwise receive from or for any other packer or any live poultry dealer or handler, any article for the purpose or with the effect of apportioning the supply between any such packers," and inserting "Sell or otherwise transfer to or for any other packer or any live poultry dealer, or buy or otherwise receive from or for any other packer or any live poultry dealer. any article for the purpose or with the effect of apportioning the supply between any such persons,".

SEC. 4. STATUTORY TRUST ESTABLISHED.

The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.), is amended by inserting after section 206 the following:

7 USC 197.

"SEC. 207. (a) It is hereby found that a burden on and obstruction to commerce in poultry is caused by financing arrangements under which live poultry dealers encumber, give lenders security interest in, or place liens on, poultry obtained by such persons by purchase in cash sales or by poultry growing arrangements, or on inventories of or receivables or proceeds from such poultry or poultry products therefrom, when payment is not made for the poultry and that such financing arrangements are contrary to the public interest. This section is intended to remedy such burden on and obstruction to commerce in poultry and protect the public interest.

"(b) All poultry obtained by a live poultry dealer, by purchase in cash sales or by poultry growing arrangement, and all inventories of, or receivables or proceeds from such poultry or poultry products derived therefrom, shall be held by such live poultry dealer in trust for the benefit of all unpaid cash sellers or poultry growers of such poultry, until full payment has been received by such unpaid cash sellers or poultry growers, unless such live poultry dealer does not have average annual sales of live poultry, or average annual value of live poultry obtained by purchase or by poultry growing arrangement, in excess of $100,000.

"(c) Payment shall not be considered to have been made if the cash seller or poultry grower receives a payment instrument which is dishonored.

"(d) The unpaid cash seller or poultry grower shall lose the benefit of such trust if, in the event that a payment instrument has not been received, within 30 days of the final date for making payment under section 410, or within 15 business days after the seller or poultry grower has received notice that the payment instrument promptly presented for payment has been dishonored, the seller or poultry grower has not preserved his trust under this section. The trust shall be preserved by giving written notice to the live poultry dealer and by filing such notice with the Secretary.

"(e) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.".

SEC. 5. LIABILITY AND ENFORCEMENT.

Section 308(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 209(a)), is amended by inserting "the purchase or sale of poultry, or relating to any poultry growing arrangement," after "livestock,".

SEC. 6. RECORDS AND RESPONSIBILITY.

Sections 401 and 403 of the Packers and Stockyards Act, 1921 (7 U.S.C. 221, 223), are each amended by striking, "or any live poultry dealer or handler," each place it appears and inserting ", any live poultry dealer,".

SEC. 7. POWERS OF FEDERAL TRADE COMMISSION AND SECRETARY OF AGRICULTURE.

Section 406 of the Packers and Stockyards Act, 1921 (7 U.S.C. 227), is amended—

(1) in subsection (b)—

(A) in the first sentence of paragraph (2)—

(i) by striking "or poultry products"; and

(ii) by inserting "or" before "livestock products in unmanufactured form."; and

(B) by amending paragraph (3) to read as follows:

Margarine.
Meat.

"(3) Over all transactions in commerce in margarine, oleomargarine, or poultry products and over retail sales of meat, meat food products and livestock products in unmanufactured form.";

(2) by amending subsection (d) to read as follows:

"(d) The Secretary of Agriculture shall exercise power or jurisdiction over oleomargarine or retail sales of meat, meat food products, or livestock products in unmanufactured form only when he determines, in any investigation of, or any proceeding for the prevention of, an alleged violation of this Act, that such action is necessary to avoid impairment of his power or jurisdiction over acts or transactions involving livestock, meat, meat food products, livestock products in unmanufactured form, or poultry other than retail sales thereof. In order to avoid unnecessary duplication of effort by the Government and burdens upon the industry, the Secretary shall notify the Federal Trade Commission of such determination, the reasons therefor, and the acts or transactions involved, and shall not exercise power or jurisdiction with respect to acts or transactions involving oleomargarine or retail sales of meat, meat food products, or livestock products in unmanufactured form if the Commission within 10 days from the date of receipt of such notice notifies the Secretary that there is pending in the Commission an investigation of, or proceeding for the prevention of, an alleged violation of any Act administered by the Commission involving the same subject matter.";

(3) by redesignating subsection (e) as subsection (f);

(4) by inserting after subsection (d) the following:

"(e) The Secretary of Agriculture shall exercise jurisdiction over poultry products only in a proceeding brought under section 207 or section 410 when such action is necessary to avoid impairment of his jurisdiction."; and

(5) in subsection (f), as so redesignated, by striking "and (d)" and inserting ", (d), and (e)".

SEC. 8. AUTHORITY OF SECRETARY TO REQUEST INJUNCTIVE RELIEF.

Section 408 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228a), is amended by inserting after "unmanufactured form," the following: "or live poultry, or has failed to pay any poultry grower what is due on account of poultry obtained under a poultry growing arrangement,".

SEC. 9. PROMPT PAYMENT FOR PURCHASE OF POULTRY.

The Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.), is amended—

7 USC 228c, 229.

(1) by redesignating sections 410 and 411 as sections 414 and 415, respectively; and

(2) by inserting after section 409 the following:

7 USC 228b-1.

"SEC. 410. (a) Each live poultry dealer obtaining live poultry by purchase in a cash sale shall, before the close of the next business day following the purchase of poultry, and each live poultry dealer obtaining live poultry under a poultry growing arrangement shall, before the close of the fifteenth day following the week in which the poultry is slaughtered, deliver, to the cash seller or poultry grower from whom such live poultry dealer obtains the poultry, the full amount due to such cash seller or poultry grower on account of such poultry.

"(b) Any delay or attempt to delay, by a live poultry dealer which is a party to any such transaction, the collection of funds as herein provided, or otherwise for the purpose of or resulting in extending the normal period of payment for poultry obtained by poultry growing arrangement or purchased in a cash sale, shall be considered an 'unfair practice' in violation of this Act. Nothing in this section shall be deemed to limit the meaning of the term 'unfair practice' as used in this Act.

"(c) For the purpose of this section, a cash sale means a sale in which the seller does not expressly extend credit to the buyer.

7 USC 228b-2.

"SEC. 411. (a) Whenever the Secretary has reason to believe that any live poultry dealer has violated or is violating any provision of section 207 or section 410 of this Act, he shall cause a complaint in writing to be served upon the live poultry dealer, stating his charges in that respect, and requiring the live poultry dealer to attend and testify at a hearing at a time and place designated therein, at least 30 days after the service of such complaint; and at such time and place there shall be afforded the live poultry dealer a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may, on application, be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing, the Secretary may amend the complaint; but in case of any amendment adding new charges, the hearing shall, on the request of the live poultry dealer, be adjourned for a period not exceeding 15 days.

Reports.

"(b) If, after such hearing, the Secretary finds that the live poultry dealer has violated, or is violating, any provisions of section 207 or section 410 of this Act covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the live poultry dealer an order requiring such live poultry dealer to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture. The Secretary may also assess a civil penalty of not more than $20,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business: *Provided, however,* That in no event can the penalty assessed by the Secretary take priority over or impede the ability of the live poultry dealer to pay any unpaid cash seller or poultry grower. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General, who may recover such penalty by an action in the appropriate District Court of the United States.

"(c) Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 412, the Secretary, at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the live poultry dealer to be heard, may amend or set aside the report or order, in whole or in part.

"(d) Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 5 of the Act entitled 'An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes', approved September 26, 1914.

7 USC 228b-3.

"SEC. 412. (a) An order made under section 411 shall be final and conclusive unless within 30 days after service the live poultry dealer appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such live poultry dealer will pay the costs of the proceedings if the court so directs.

"(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record in such proceedings, as provided in section 2112 of title 28, United States Code. If before such record is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

"(c) At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary injunction, restraining, to the extent it deems proper, the live poultry dealer and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

"(d) The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.

"(e) The court may affirm, modify, or set aside the order of the Secretary.

"(f) If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

"(g) If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the live poultry dealer, and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

"(h) The court of appeals shall have jurisdiction which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, United States Code, if such writ is duly applied for within 60 days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction, unless so ordered by the Supreme Court.

7 USC 228b-4. "SEC. 413. Any live poultry dealer, or any officer, director, agent, or employee of a live poultry dealer, who fails to obey any order of the Secretary issued under the provisions of section 411, or such order as modified—

"(1) after the expiration of the time allowed for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time;

"(2) after the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

"(3) after such order, or such order as modified, has been sustained by the courts as provided in section 412;

shall on conviction be fined not less than $1,000 nor more than $20,000. Each day during which such failure continues shall be deemed a separate offense.".

SEC. 10. REPEALER.

Title V of the Packers and Stockyards Act, 1921 (7 U.S.C. 218-218d), is repealed.

SEC. 11. CONSTRUCTION.

7 USC 227 note. (a) GENERAL RULE.—The amendments made by this Act to the Packers and Stockyards Act, 1921, shall not be construed to limit or otherwise affect the power or jurisdiction of the Federal Trade Commission under the Federal Trade Commission Act to prevent the use of—

(1) unfair methods of competition in or affecting commerce, and

(2) unfair and deceptive acts or practices in or affecting commerce,

involving poultry products.

(b) **Secretary's Authority.**—Subsection (a) shall not be construed to limit or otherwise affect the authority of the Secretary of Agriculture under section 406(e), as amended, of the Packers and Stockyards Act, 1921.

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 90 days after the date of the enactment of this Act. 7 USC 182 note.

Approved November 23, 1987.

LEGISLATIVE HISTORY—H.R. 3457:

HOUSE REPORTS: No. 100-397 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 27, considered and passed House.
Nov. 3, considered and passed Senate.

○

Public Law 100-174
100th Congress

An Act

Nov. 24, 1987
[S. 247]

To designate the Kern River as a national wild and scenic river.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraphs at the end:

"( ) (A) North Fork Kern River, California.—The segment of the main stem from the Tulare-Kern County line to its headwaters in Sequoia National Park, as generally depicted on a map entitled 'Kern River Wild and Scenic River—Proposed' and dated June, 1987; to be administered by the Secretary of Agriculture; except that portion of the river within the boundaries of the Sequoia National Park shall be administered by the Secretary of the Interior. With respect to the portion of the river segment designated by this paragraph which is within the boundaries of Sequoia National Park, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portion need not be published in the Federal Register. Such revision to the general management plan for the park shall assure that no developments or use of park lands shall be undertaken that is inconsistent with the designation of such river segment.

"(B) South Fork Kern River, California.—The segment from its headwaters in the Inyo National Forest to the southern boundary of the Domelands Wilderness in the Sequoia National Forest, as generally depicted on a map entitled 'Kern River Wild and Scenic River—Proposed' and dated June 1987; to be administered by the Secretary of Agriculture.

"(C) Nothing in this Act shall affect the continued operation and maintenance of the existing diversion project, owned by Southern California Edison on the North Fork of the Kern River, including reconstruction or replacement of facilities to the same extent as existed on the date of enactment of this paragraph.

"(D) For the purposes of the segments designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not to exceed $100,000, to the Secretary of Agriculture for development and land acquisition.".

Appropriation authorization.

Approved November 24, 1987.

LEGISLATIVE HISTORY—S. 247:

HOUSE REPORTS: No. 100-424 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-184 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 1, considered and passed Senate.
Nov. 9, considered and passed House.

○

PUBLIC LAW 100-175—NOV. 29, 1987

OLDER AMERICANS ACT AMENDMENTS OF 1987

19-139 O - 87 - 1 (175)

Public Law 100-175
100th Congress

An Act

Nov. 29, 1987
[H.R. 1451]

To amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991; to amend the Native Americans Programs Act of 1974 to authorize appropriations for such fiscal years; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Older Americans Act Amendments of 1987.
42 USC 3001 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

This Act may be cited as the "Older Americans Act Amendments of 1987".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

PART A—OBJECTIVES AND ADMINISTRATION

Sec. 101. Objectives.
Sec. 102. Establishment of Administration on Aging.
Sec. 103. Data collection; reports.
Sec. 104. Veterans' programs.
Sec. 105. Mental health.
Sec. 106. Older individuals with disabilities.
Sec. 107. Older Native Americans.
Sec. 108. Federal Council on Aging.
Sec. 109. Regulations.
Sec. 110. Publication of goals.
Sec. 111. Assessment of unsatisfied demand for supportive services provided at senior centers and other sites.

PART B—GRANTS FOR SUPPORTIVE SERVICES, NUTRITION, AND OTHER ACTIVITIES

Sec. 121. Purpose.
Sec. 122. Reauthorization for State and community programs on aging.
Sec. 123. Administrative expenses of area agencies on aging.
Sec. 124. Area agencies on aging as separate units.
Sec. 125. Area plans.
Sec. 126. Daycare and respite services provided by volunteers.
Sec. 127. Coordination of certain programs relating to older victims of Alzheimer's disease.
Sec. 128. Public hearings.
Sec. 129. Ombudsman office and program.
Sec. 130. Flexibility of services; legal assistance.
Sec. 131. Documentation regarding minority participation.
Sec. 132. Targeting of services.
Sec. 133. Coordination relating to mental health services.
Sec. 134. Services to older Native Americans.
Sec. 135. Outreach regarding tuition free post-secondary education.
Sec. 136. Services to individuals with disabilities.
Sec. 137. Confidentiality of information relating to legal assistance provided.
Sec. 138. Coordination of community-based services.
Sec. 139. Payments.
Sec. 140. In-home services for frail older individuals.
Sec. 141. Assistance for special needs.
Sec. 142. State plan information regarding services to older individuals residing in rural areas.
Sec. 143. Health education and promotion for older individuals.
Sec. 144. Prevention of abuse of older individuals.
Sec. 145. Limitation on certain authority to make appropriations.

Sec. 146. Assistive technology information.

PART C—DEMONSTRATION GRANTS

Sec. 151. Demonstration projects; purpose.
Sec. 152. Demonstration projects.
Sec. 153. Volunteer opportunities.
Sec. 154. Special projects in comprehensive long-term care.
Sec. 155. Outreach to SSI, medicaid, and food stamp recipients.
Sec. 156. Demonstration grants for individuals with disabilities.
Sec. 157. Consumer protection demonstration projects for services provided in the home.
Sec. 158. Authorization of appropriations for training, research, and discretionary projects and programs.
Sec. 159. Limitation on certain authority to make appropriations.

PART D—COMMUNITY SERVICE EMPLOYMENT

Sec. 161. Administrative costs of employment projects.
Sec. 162. Community service employment special needs assurance.
Sec. 163. Information on age discrimination prohibitions.
Sec. 164. Definitions.
Sec. 165. Authorization of appropriations for community service employment for older Americans.
Sec. 166. Employment assistance and other programs.

PART E—NATIVE AMERICAN PROGRAMS

Sec. 171. Native American programs.

PART F—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Sec. 181. Repeal of older Americans personal health education and training program.
Sec. 182. Technical amendments.

PART G—CONSUMER PRICE INDEX FOR OLDER AMERICANS

Sec. 191. Index authorized.

TITLE II—1991 WHITE HOUSE CONFERENCE ON AGING

Sec. 201. White House conference authorized.
Sec. 202. Authorization of the conference.
Sec. 203. Conference administration.
Sec. 204. Conference committees.
Sec. 205. Report of the conference.
Sec. 206. Definitions.
Sec. 207. Authorization of appropriations.

TITLE III—ALZHEIMER'S DISEASE RESEARCH

Sec. 301. Requirement for clinical trials.
Sec. 302. Authorization of appropriations.

TITLE IV—NATIONAL SCHOOL LUNCH ACT AMENDMENT

Sec. 401. Participation of older persons and chronically impaired disabled persons in child care food program.

TITLE V—NATIVE AMERICAN PROGRAMS

Sec. 501. Short title.
Sec. 502. Review of applications for assistance.
Sec. 503. Procedural requirements.
Sec. 504. Inclusion of other Native American Pacific Islanders.
Sec. 505. Authorization of appropriations.
Sec. 506. Revolving loan fund for Native Hawaiians.

TITLE VI—HEALTH CARE SERVICES IN THE HOME

Sec. 601. Short title.
Sec. 602. Establishment of grant programs for demonstration projects.

TITLE VII—GENERAL PROVISIONS

Sec. 701. Effective dates; application of amendments.

TITLE I—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

PART A—OBJECTIVES AND ADMINISTRATION

SEC. 101. OBJECTIVES.

Section 101 of the Older Americans Act of 1965 (42 U.S.C. 3001) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "United States and" and inserting "United States,", and

Indians. (B) by inserting ", and of Indian tribes" after "subdivisions",

(2) in paragraph (3) by striking "Suitable" and inserting "Obtaining and maintaining suitable",

(3) in paragraph (7) by striking "Pursuit of" and inserting "Participating in and contributing to", and

(4) in paragraph (10)—

(A) by striking "lives and" and inserting "lives,", and

(B) by inserting ", and protection against abuse, neglect, and exploitation" before the period at the end.

SEC. 102. ESTABLISHMENT OF ADMINISTRATION ON AGING.

Section 201(a) of the Older Americans Act of 1965 (42 U.S.C. 3011(a)) is amended in the third and fourth sentences by striking "the Office of".

SEC. 103. DATA COLLECTION; REPORTS.

(a) Collection Required.—Section 202(a) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)) is amended—

(1) in paragraph (17) by striking "and" at the end,

(2) in paragraph (18) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(19) collect for each fiscal year, for fiscal years beginning after September 30, 1988, directly or by contract, statistical data regarding programs and activities carried out with funds provided under this Act, including—

"(A) with respect to each type of service provided with such funds—

"(i) the aggregate amount of such funds expended to provide such service;

"(ii) the number of individuals who received such service; and

"(iii) the number of units of such service provided;

"(B) the number of senior centers which received such funds; and

"(C) the extent to which each area agency on aging designated under section 305(a) satisfied the requirements of paragraphs (2) and (5)(A) of section 306(a).".

(b) Reports.—The last sentence of section 207(a) of the Older Americans Act of 1965 (42 U.S.C. 3018(a)) is amended to read as follows: "Such annual reports shall include—

"(1) statistical data reflecting services and activities provided to individuals during the preceding fiscal year;

"(2) statistical data collected under section 202(a)(19);

"(3) an analysis of the information received under section 306(b)(2)(D) by the Commissioner; and

"(4) statistical data and an analysis of information regarding the effectiveness of the State agency and area agencies on aging in targeting services to older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals, low-income individuals, and frail individuals (including individuals with any physical or mental functional impairment).".

State and local governments.
Minorities.
Handicapped persons.

(c) REPORT TO CONGRESS ON OMBUDSMAN PROGRAM.—Section 207 of the Older Americans Act of 1965 (42 U.S.C. 3018) is amended by striking subsection (b) and inserting the following:

"(b)(1) Not later than January 15 of each year, the Commissioner shall compile a report—

"(A) summarizing and analyzing the data collected under section 307(a)(12)(C) for the then most recently concluded fiscal year;

"(B) identifying significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents' rights);

"(C) discussing current issues concerning the long-term care ombudsman programs of the States; and

State and local governments.

"(D) making recommendations regarding legislation and administrative actions to resolve such problems.

"(2) The Commissioner shall submit the report required by paragraph (1) to—

"(A) the Select Committee on Aging of the House of Representatives;

"(B) the Special Committee on Aging of the Senate;

"(C) the Committee on Education and Labor of the House of Representatives; and

"(D) the Committee on Labor and Human Resources of the Senate.

"(3) The Commissioner shall provide the report required by paragraph (1), and make the State reports required by section 307(a)(12)(H)(i) available, to—

"(A) the Administrator of the Health Care Finance Administration;

"(B) the Office of the Inspector General of the Department of Health and Human Services;

"(C) the Office of Civil Rights of the Department of Health and Human Services;

"(D) the Administrator of the Veterans' Administration; and

"(E) the public agencies and private organizations designated under section 307(a)(12)(A).".

SEC. 104. VETERANS' PROGRAMS.

(a) CONSULTATION.—Section 203(b) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)) is amended—

(1) in paragraph (13) by striking "and" at the end,

(2) in paragraph (14) by striking the period at the end and inserting ", and", and

(3) by adding at the end the following:

"(15) parts II and III of title 38, United States Code.".

(b) TECHNICAL ASSISTANCE AND COOPERATION UNDER TITLE III.—Section 301(b)(2) of the Older Americans Act of 1965 (42 U.S.C.

3021(b)(2)) is amended by inserting ", the Veterans' Administration," after "Office of Community Services".

(c) Area Plans.—Section 306(a)(6)(F) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)(F)) is amended by inserting "providers of veterans' health care (if appropriate)," after "elected officials,".

(d) Technical Assistance and Cooperation Under Title IV.—Section 402(b) of the Older Americans Act of 1965 (42 U.S.C. 3030bb(b)) is amended by inserting "the Veterans' Administration," after "National Institutes of Health,".

SEC. 105. MENTAL HEALTH.

(a) Functions of Commissioner.—Section 202(a)(5) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(5)) is amended by inserting "(including mental health)" after "health".

Grants.

(b) Federal Agency Consultation.—Section 203(b)(10) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)(10)) is amended by inserting ", including block grants under title XIX of such Act" before the comma.

(c) Administration of Title III.—Section 301(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3021(b)(2)), as amended by section 104(b), is amended by inserting "the Alcohol, Drug Abuse, and Mental Health Administration," after "Veterans' Administration,".

(d) Administration of Title IV.—Section 402(b) of the Older Americans Act of 1965 (42 U.S.C. 3030bb(b)), as amended by section 104(d), is amended by inserting "Alcohol, Drug Abuse, and Mental Health Administration," after "Veterans' Administration,".

(e) Education and Training.—(1) Section 411(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3031(a)(1)) is amended by inserting "(including mental health)" after "health".

(2) The first sentence of section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended by inserting "(including mental health)" after "health".

(f) Special Projects in Comprehensive Long-Term Care.—The second sentence of section 423(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3035b(a)(3)) is amended by inserting "mental health services;" after "in-home services;".

SEC. 106. OLDER INDIVIDUALS WITH DISABILITIES.

(a) Planning.—Section 202(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3012(b)(1)) is amended—

(1) by striking "and" and inserting a comma, and

(2) by inserting after "Act" the following: ", with the Alcohol, Drug Abuse, and Mental Health Administration and the Administration on Developmental Disabilities".

(b) Agency Consultation.—Section 203(b) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)), as amended by section 104(a), is amended—

(1) in paragraph (14) by striking "and" at the end,

(2) in paragraph (15) by striking the period at the end and inserting a comma, and

(3) by adding after paragraph (15) the following:

"(16) the Rehabilitation Act of 1973, and

"(17) the Developmental Disabilities and Bill of Rights Act.".

(c) Evaluation.—The second sentence of section 206(c) of the Older Americans Act of 1965 (42 U.S.C. 3017(c)) is amended by inserting "and older individuals with disabilities" before the period at the end.

SEC. 107. OLDER NATIVE AMERICANS.

Indians.

(a) IMPROVED ADMINISTRATION FOR NATIVE AMERICAN PROGRAMS.—Section 201 of the Older Americans Act of 1965 (42 U.S.C. 3011) is amended by adding at the end the following:

"(c)(1) There is established in the Administration on Aging an Office for American Indian, Alaskan Native, and Native Hawaiian Programs.

"(2) The Office shall be headed by an Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging appointed by the Commissioner.

"(3) The Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging shall—

"(A)(i) evaluate the adequacy of outreach under title III and title VI for older Native Americans and recommend to the Commissioner necessary action to improve service delivery, outreach, coordination between title III and title VI services, and particular problems faced by older Indians and Native Hawaiians; and

Reports.

"(ii) include a description of the results of such evaluation and recommendations in the annual report required by section 207(a) to be submitted by the Commissioner;

"(B) serve as the effective and visible advocate in behalf of older Native Americans within the Department of Health and Human Services and with other departments and agencies of the Federal Government regarding all Federal policies affecting older Native Americans;

"(C) coordinate activities between other Federal departments and agencies to assure a continuum of improved services through memoranda of agreements or through other appropriate means of coordination;

Grants.

"(D) administer and evaluate the grants provided under this Act to Indian tribes, public agencies and nonprofit private organizations serving Native Hawaiians;

"(E) recommend to the Commissioner policies and priorities with respect to the development and operation of programs and activities conducted under the Act relating to older Native Americans;

"(F) collect and disseminate information related to problems experienced by older Native Americans;

"(G) develop research plans, and conduct and arrange for research, in the field of American Native aging with a special emphasis on the gathering of statistics on the status of older Native Americans; and

"(H) develop and provide technical assistance and training programs to grantees under title VI.".

(b) FEDERAL COUNCIL ON AGING.—The third sentence of section 204(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)(1)) is amended by inserting "Indian tribes" after "minorities".

(c) CONTRACTING AUTHORITY.—Section 212 of the Older Americans Act of 1965 (42 U.S.C. 3020c) is amended by inserting after "State agency" the following: "(or in the case of a grantee under title VI, subject to the recommendation of the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and the approval of the Commissioner)".

SEC. 108. FEDERAL COUNCIL ON AGING.

(a) MEMBERSHIP.—The fourth sentence of section 204(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)(1)) is amended by striking "two" and inserting "three".

(b) REAUTHORIZATION.—Section 204(g) of the Older Americans Act of 1965 (42 U.S.C. 3015(g)) is amended to read as follows:

Appropriation authorizations.

"(g) There are authorized to be appropriated to carry out the provisions of this section $210,000 for the fiscal year 1988, $221,000 for the fiscal year 1989, $232,000 for the fiscal year 1990, and $243,000 for the fiscal year 1991.".

SEC. 109. REGULATIONS.

Section 205(c) of the Older Americans Act of 1965 (42 U.S.C. 3016(c)) is amended by striking "1984" and inserting "1987".

SEC. 110. PUBLICATION OF GOALS.

Section 205 of the Older Americans Act of 1965 (42 U.S.C. 3016) is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) by inserting after subsection (c) the following:

"(d) Not later than September 1 of each fiscal year, the Commissioner shall make available to the public, for the purpose of facilitating informed public comment, a statement of proposed specific goals to be achieved by implementing this Act in the first fiscal year beginning after the date on which such statement is made available.".

SEC. 111. ASSESSMENT OF UNSATISFIED DEMAND FOR SUPPORTIVE SERVICES PROVIDED AT SENIOR CENTERS AND OTHER SITES.

42 USC 3027 note.

(a) REPORT.—Not later than September 30, 1989, the Commissioner on Aging shall submit to the Congress a report—

(1) assessing the national unmet need for supportive services, nutrition services, and multipurpose senior centers by summarizing in detail for each State the results of the most recent evaluation conducted by the State agency under the then current plan (including any revision thereof) submitted under section 307(a)(3)(A) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(3)(A)), and

(2) containing the recommendations of the Secretary with respect to the need for administrative action and legislation relating to satisfying the demand for supportive services provided at senior centers established under such title and at other sites.

(b) ISSUANCE OF REGULATIONS.—For purposes of obtaining adequate information to be included in the report required by subsection (a), the Commissioner on Aging shall issue, under the authority of section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), such regulations as may be necessary to ensure that the evaluations required to be summarized in such report include data that are objectively collected and statistically valid.

PART B—GRANTS FOR SUPPORTIVE SERVICES, NUTRITION, AND OTHER ACTIVITIES

SEC. 121. PURPOSE.

Indians.

Section 301(a) of the Older Americans Act of 1965 (42 U.S.C. 3021(a)) is amended by inserting ", with Indian tribes, tribal organizations, and Native Hawaiian organizations," after "agencies" the second place it appears.

SEC. 122. REAUTHORIZATION FOR STATE AND COMMUNITY PROGRAMS ON AGING.

Appropriation authorizations.
Grants.

(a) Supportive Services and Senior Centers.—Section 303(a) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)) is amended to read as follows:

"(a) There are authorized to be appropriated $379,575,000 for the fiscal year 1988, $398,554,000 for the fiscal year 1989, $418,481,000 for the fiscal year 1990, and $439,406,000 for the fiscal year 1991, for the purpose of making grants under part B of this title (relating to supportive services and senior centers).".

(b) Nutrition Services.—Section 303(b) of the Older Americans Act of 1965 (42 U.S.C. 3023(b)) is amended to read as follows:

"(b)(1) There are authorized to be appropriated $414,750,000 for the fiscal year 1988, $435,488,000 for the fiscal year 1989, $457,262,000 for the fiscal year 1990, and $480,125,000 for the fiscal year 1991, for the purpose of making grants under subpart 1 of part C of this title (relating to congregate nutrition services).

"(2) There are authorized to be appropriated $79,380,000 for the fiscal year 1988, $83,349,000 for the fiscal year 1989, $87,516,000 for the fiscal year 1990, and $91,892,000 for the fiscal year 1991, for the purpose of making grants under subpart 2 of part C of this title (relating to home delivered nutrition services).".

(c) Surplus Commodities Program.—(1) Section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)) is amended—

(A) by striking "fiscal year 1986 and during each fiscal year thereafter" and inserting "fiscal years 1986 through 1991", and

(B) by striking the second and third sentences.

(2) Subparagraph (A) of section 311(c)(1) of the Older Americans Act of 1965 (42 U.S.C. 3030a(c)(1)(A)) is amended to read as follows:

"(A) There are authorized to be appropriated $151,000,000 for the fiscal year 1988, $166,000,000 for the fiscal year 1989, $183,000,000 for the fiscal year 1990, and $201,000,000 for the fiscal year 1991, to carry out the provisions of this section (other than subsection (a)(1)).".

SEC. 123. ADMINISTRATIVE EXPENSES OF AREA AGENCIES ON AGING.

Section 304(d)(1)(A) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)(A)) is amended by striking "8.5" and inserting "10".

SEC. 124. AREA AGENCIES ON AGING AS SEPARATE UNITS.

Section 305(c) of the Older Americans Act of 1965 (42 U.S.C. 3025(c)) is amended—

(1) in paragraph (2) by inserting "to function only" after "designated",

(2) in paragraph (3) by inserting "only" after "act", and

(3) in paragraph (4)—

(A) by inserting ", or any separate organizational unit within such agency," after "area" the first place it appears, and

(B) by striking "engage" and inserting "and will engage only".

SEC. 125. AREA PLANS.

Section 306(a)(6)(A) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)(A)) is amended by inserting ", and public hearings on," after "evaluations of".

SEC. 126. DAYCARE AND RESPITE SERVICES PROVIDED BY VOLUNTEERS.

Section 306(a)(6)(E) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)(E)) is amended—

(1) by inserting "or adults, and respite for families," after "for children", and

(2) by inserting ", adults, and families" after "to children".

SEC. 127. COORDINATION OF CERTAIN PROGRAMS RELATING TO OLDER VICTIMS OF ALZHEIMER'S DISEASE.

Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)) is amended—

(1) in subparagraph (J) by striking "and" at the end,

(2) in subparagraph (K) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(L) coordinate the categories of services specified in paragraph (2) for which the area agency on aging is required to expend funds under part B, with activities of community-based organizations established for the benefit of victims of Alzheimer's disease and the families of such victims.".

SEC. 128. PUBLIC HEARINGS.

Section 307(a)(8) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(8)) is amended by inserting ", and public hearings on," after "evaluations of".

SEC. 129. OMBUDSMAN OFFICE AND PROGRAM.

(a) TECHNICAL ASSISTANCE.—Section 301 of the Older Americans Act of 1965 (42 U.S.C. 3021) is amended by adding at the end the following:

State and local governments.
Contracts.
Grants.

"(c) The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to State long-term care ombudsman programs established under section 307(a)(12), and to individuals designated under such section to be representatives of a long-term care ombudsman, in order to enable such ombudsmen and such representatives to carry out the ombudsman program effectively.".

42 USC 3027 note.

(b) STUDY OF OMBUDSMAN PROGRAM.—(1) The Commissioner on Aging shall conduct a study concerning involvement in the ombudsman program established under section 307(a)(12) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(12)) and its impact upon issues and problems affecting—

(A) residents of board and care facilities and other similar adult care homes who are older individuals (as defined in section 302(10) of such Act), including recommendations for expanding and improving ombudsman services in such facilities, and

Voluntarism.

(B) the effectiveness of recruiting, supervising, and retaining volunteer ombudsmen.

Reports.

(2) The Commissioner shall prepare and submit a report to the Congress on the findings and recommendations of the study described in paragraph (1) not later than December 31, 1989.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 303(a) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)), as amended by section 122(a), is amended—

(A) by inserting "(1)" after "(a)", and

(B) by adding at the end the following:

"(2) Subject to subsection (h), there are authorized to be appropriated $20,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 to carry out section 307(a)(12).".

(2) Section 308(b)(5) of the Older Americans Act of 1965 (42 U.S.C. 3028(b)(5)) is amended—

(A) in subparagraph (A) by striking "subsection (a)" and inserting "subsection (a)(1)", and

(B) in subparagraph (B) by inserting "subsections (a)(1) and (b) of" after "under" the first place it appears.

(d) STATE PLANS.—Section 307(a)(12) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(12)) is amended to read as follows:

"(12) The plan shall provide the following assurances, with respect to a long-term care ombudsman program:

Contracts.

"(A) The State agency will establish and operate, either directly or by contract or other arrangement with any public agency or other appropriate private nonprofit organization, other than an agency or organization which is responsible for licensing or certifying long-term care services in the State or which is an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals), an Office of the State Long-Term Care Ombudsman (in this paragraph referred to as the 'Office') and shall carry out through the Office a long-term care ombudsman program which provides an individual who will, on a full-time basis—

"(i) investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term care facilities relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies, or of social service agencies, which may adversely affect the health, safety, welfare, or rights of such residents;

"(ii) provide for training staff and volunteers and promote the development of citizen organizations to participate in the ombudsman program; and

"(iii) carry out such other activities as the Commissioner deems appropriate.

Classified information.

"(B) The State agency will establish procedures for appropriate access by the ombudsman to long-term care facilities and patients' records, including procedures to protect the confidentiality of such records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of such complainant or resident, or upon court order.

"(C) The State agency will establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the agency of the State responsible for licensing or certifying long-term care facilities in the State and to the Commissioner on a regular basis.

"(D) The State agency will establish procedures to assure that any files maintained by the ombudsman program shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless—

"(i) such complainant or resident, or the individual's legal representative, consents in writing to such disclosure; or

"(ii) such disclosure is required by court order.

"(E) In planning and operating the ombudsman program, the State agency will consider the views of area agencies on aging, older individuals, and provider agencies.

"(F) The State agency will—

"(i) ensure that no individual involved in the designation of the long-term care ombudsman (whether by appointment or otherwise) or the designation of the head of any subdivision of the Office is subject to a conflict of interest;

"(ii) ensure that no officer, employee, or other representative of the Office is subject to a conflict of interest; and

"(iii) ensure that mechanisms are in place to identify and remedy any such or other similar conflicts.

"(G) The State agency will—

"(i) ensure that adequate legal counsel is available to the Office for advice and consultation and that legal representation is provided to any representative of the Office against whom suit or other legal action is brought in connection with the performance of such representative's official duties; and

"(ii) ensure that the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities.

"(H) The State agency will require the Office to—

Reports.

"(i) prepare an annual report containing data and findings regarding the types of problems experienced and complaints received by or on behalf of individuals residing in long-term care facilities, and to provide policy, regulatory, and legislative recommendations to solve such problems, resolve such complaints, and improve the quality of care and life in long-term care facilities;

"(ii) analyze and monitor the development and implementation of Federal, State, and local laws, regulations, and policies with respect to long-term care facilities and services in that State, and recommend any changes in such laws, regulations, and policies deemed by the Office to be appropriate;

"(iii) provide information to public agencies, legislators, and others, as deemed necessary by the Office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities;

Public information.

"(iv) provide for the training of the Office staff, including volunteers and other representatives of the Office, in—

Education.

"(I) Federal, State, and local laws, regulations, and policies with respect to long-term care facilities in the State;

"(II) investigative techniques; and

"(III) such other matters as the State deems appropriate;

"(v) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illness established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319); and

Health and medical care.
Handicapped persons.

"(vi) include any area or local ombudsman entity designated by the State Long-Term Care Ombudsman as a subdivision of the Office. Any representative of an entity designated in accordance with the preceding sentence (whether an employee or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this paragraph.

"(I) The State will ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

"(J) The State will—

"(i) ensure that willful interference with representatives of the Office in the performance of their official duties (as defined by the Commissioner) shall be unlawful;

"(ii) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident or employee for having filed a complaint with, or providing information to, the Office;

"(iii) provide for appropriate sanctions with respect to such interference, retaliation, and reprisals; and

"(iv) ensure that representatives of the Office shall have—

"(I) access to long-term care facilities and their residents; and

"(II) with the permission of a resident or resident's legal guardian, have access to review the resident's medical and social records or, if a resident is unable to consent to such review and has no legal guardian, appropriate access to the resident's medical and social records.

"(K) The State agency will prohibit any officer, employee, or other representative of the Office to investigate any complaint filed with the Office unless the individual has received such training as may be required under subparagraph (G)(iv) and has been approved by the long-term care ombudsman as qualified to investigate such complaints.".

(e) MINIMUM EXPENDITURE FOR OMBUDSMAN SERVICES.—Section 307(a)(21) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(21)) is amended to read as follows:

"(21) The State plan shall provide that the State agency, from funds allotted under section 304(a) for part B and for paragraph (12) (relating to the State long-term care ombudsman) shall expend to carry out paragraph (12), for each fiscal year in which the allotment for part B for the State is not less than the allotment for fiscal year 1987 for part B for such State, an amount which is not less than the amount expended from funds received under this Act by such State in fiscal year 1987 to carry out paragraph (12) as in effect before the effective date of the Older Americans Act Amendments of 1987. This paragraph shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

SEC. 130. FLEXIBILITY OF SERVICES; LEGAL ASSISTANCE.

(a) AREA PLANS.—(1) Section 306(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(2)) is amended by inserting ", as required under section 307(a)(22)," after "adequate proportion".

(2) Section 306(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3026(b)(2)) is amended by adding at the end the following:

State and local governments.

"(C) Whenever the State agency proposes to grant a waiver to an area agency under this subsection, the State agency shall publish the intention to grant such a waiver together with the justification for the waiver at least 30 days prior to the effective date of the decision to grant the waiver. An individual or a service provider from the area with respect to which the proposed waiver applies is entitled to request a hearing before the State agency on the request to grant such waiver. If, within the 30-day period described in the first sentence of this subparagraph, an individual or service provider requests a hearing under this subparagraph, the State agency shall afford such individual or provider an opportunity for a hearing.

State and local governments.

"(D) If the State agency waives the requirement described in clause (2) of subsection (a), the State agency shall provide to the Commissioner—

"(i) a report regarding such waiver that details the demonstration made by the area agency on aging to obtain such waiver;

"(ii) a copy of the record of the public hearing conducted pursuant to subparagraph (A); and

"(iii) a copy of the record of any public hearing conducted pursuant to subparagraph (C).".

(b) MINIMUM EXPENDITURE OF FUNDS.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended by adding at the end the following:

"(22) The plan shall specify a minimum percentage of the funds received by each area agency for part B that will be expended, in the absence of the waiver granted under section 306(b)(1), by such area agency to provide each of the categories of services specified in section 306(a)(2).".

SEC. 131. DOCUMENTATION REGARDING MINORITY PARTICIPATION.

(a) AREA PLANS.—Section 306(a)(5)(A) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(5)(A)) is amended—

(1) by inserting "(i)" after "(5)(A)", and

(2) in subparagraph (A)(i), as so redesignated—

(A) by striking "and" at the end, and

(B) by inserting after clause (i) the following:

"(ii) provide assurances that the area agency will include in each agreement made with a provider of any service under this title, a requirement that such provider will—

"(I) specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider; and

"(II) attempt to provide services to low-income minority individuals in at least the same proportion as the population of low-income minority older individuals bears to the population of older individuals of the area served by such provider; and

"(iii) with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

"(I) identify the number of low-income minority older individuals in the planning and service area; and

"(II) describe the methods used to satisfy the service needs of such minority older individuals; and".

(b) STATE PLAN.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by section 130(c), is amended by adding at the end the following:

"(23) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

"(A) identify the number of low-income minority older individuals in the State; and

"(B) describe the methods used to satisfy the service needs of such minority older individuals.".

SEC. 132. TARGETING OF SERVICES.

(a) ORGANIZATION.—(1) Section 305(a)(1)(E) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)(E)) is amended—

(A) by striking "the distribution of older individuals who have low incomes residing in such areas", and

(B) by inserting after "legal services," the following: "the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas, the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such areas,".

(2) Section 305(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(2)) is amended—

(A) in subparagraph (D) by striking "and" at the end,

(B) in subparagraph (E) by striking the period at the end and inserting "; and", and

(C) by inserting after subparagraph (E) the following:

"(F) assure the use of outreach efforts that will identify individuals eligible for assistance under this Act, with special emphasis on older individuals with the greatest economic or social needs (with particular attention to low-income minority individuals) and inform such individuals of the availability of such assistance.".

(b) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)) is amended—

(1) in paragraph (1) by inserting after "residing in such area" the following: ", the number of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such area, the number of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such area,",

(2) in paragraph (5)(B) by inserting after "rural elderly," the following: "older individuals who have greatest economic need (with particular attention to low-income minority individuals), older individuals who have greatest social need (with particular attention to low-income minority individuals),", and

(3) in paragraph (6)(A) by inserting before the semicolon at the end the following: "and an annual evaluation of the effectiveness of outreach conducted under paragraph (5)(B)".

(c) STATE PLAN.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c) and 131(b), is amended—

(1) in paragraph (8) by inserting before the semicolon the following: ", including an evaluation of the effectiveness of the State agency in reaching older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals", and

(2) by adding at the end the following:

"(24) The plan shall provide assurances that the State agency will require outreach efforts that will—

"(A) identify older individuals who are eligible for assistance under this title, with special emphasis on older individuals with greatest economic need (with particular attention to low-income minority individuals), older individuals with greatest social need (with particular attention to low-income minority individuals), and older individuals who reside in rural areas; and

"(B) inform such individuals of the availability of such assistance.".

SEC. 133. COORDINATION RELATING TO MENTAL HEALTH SERVICES.

Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)), as amended by section 127, is amended—

(1) in subparagraph (K) by striking "and", and

(2) in subparagraph (L) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(M) coordinate any mental health services provided with funds expended by the area agency on aging for part B with the mental health services provided by community health centers and by other public agencies and nonprofit private organizations.".

Indians.

SEC. 134. SERVICES TO OLDER NATIVE AMERICANS.

(a) ORGANIZATION.—(1) Section 305(a)(1)(E) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)(E)), as amended by section 132(a)(1), is amended by inserting "the distribution of older Indians residing in such areas," after "such areas," the second place it appears.

(2) Section 306(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(1)), as amended by section 132(b)(1), is amended by inserting ", and the number of older Indians residing in such area," before "and" the last place it appears in the parenthetical.

(b) AREA PLANS.—Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)), as amended by sections 127 and 133, is amended—

(1) by striking "and" at the end of subparagraph (L),

(2) by striking the period at the end of subparagraph (M) and inserting "; and", and

(3) by adding at the end the following:

"(N) if there is a significant population of older Indians in the planning and service area of the area agency, the area agency shall conduct outreach activities to identify older Indians in such area and shall inform such older Indians of the availability of assistance under this Act.".

(c) EDUCATION AND TRAINING.—(1) Section 402 of the Act (42 U.S.C. 3030bb) is amended by adding at the end the following:

Grants.
Contracts.

"(c) The Commissioner shall ensure that grants and contracts under this title are equitably awarded to agencies, organizations, and institutions representing minorities.".

(2) Section 410(5) of the Older Americans Act of 1965 (42 U.S.C. 3030jj(5)) is amended by inserting "(including centers of gerontology to improve, enhance, and expand minority personnel and training programs)" after "gerontology".

(3) Section 411(a) of the Older Americans Act of 1965 (42 U.S.C. 3031(a)) is amended by adding at the end the following:

"(4) To provide in-service training opportunities and courses of instruction on aging to Indian tribes through public and nonprofit Indian aging organizations.".

(4) The matter in parentheses in the first sentence of section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended—

(A) by striking "and" and inserting a comma, and

(B) by inserting "and minority populations" after "services".

(5) Section 423(a) of the Older Americans Act of 1965 (42 U.S.C. 3035b(a)) is amended by adding at the end the following:

Grants.
Contracts.

"(4) The Commissioner shall ensure that grants and contracts under this section are equitably awarded to agencies, organizations, and institutions representing minorities.".

(6) Section 425(a) of the Older Americans Act of 1965 (42 U.S.C. 3035d(a)) is amended—

(A) by striking "(1)" and "(2)" and inserting "(A)" and "(B)", respectively,

(B) by inserting "(1)" after "(a)", and

(C) by adding at the end the following:

Grants.
Contracts.

"(2) The Commissioner shall carry out, directly or through grants or contracts, special training programs and technical assistance designed to improve services to minorities.".

42 USC 3057b note.

(d) TASK FORCE.—(1) The Commissioner on Aging shall establish a permanent interagency task force that is representative of departments and agencies of the Federal Government with an interest in older Indians and their welfare, and is designed to make recommendations with respect to facilitating the coordination of services and the improvement of services to older Indians.

(2) The task force shall be chaired by the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging

and shall submit its findings and recommendations to the Commissioner at 6-month intervals beginning after the date of the enactment of this Act. Such findings and recommendations shall be included in the annual report required by section 207(a) of the Older Americans Act of 1965 to be submitted by the Commissioner.

Reports.

Contracts.
42 USC 3057b note.

(e) SPECIAL REPORT ON SERVICES FOR OLDER INDIANS.—(1) The Commissioner on Aging shall enter into a contract with a public agency or nonprofit private organization to conduct a thorough study of the availability and quality of services under the Older Americans Act of 1965 to older Indians. The study shall include—

(A) an analysis of how many Indians now participate in programs under titles III and VI of such Act as compared to how many older Indians are eligible to participate in such programs,

Grants.

(B) a description of how grants under titles III and VI of such Act are made to Indian tribes and how services are made available to older Indians, and

(C) a determination of what services are currently provided through title VI of such Act to older Indians and how well the Administration on Aging assures that supportive services under title VI of such Act to Indians are commensurate with supportive services under title III of such Act with special consideration to information and referral services, legal services, transportation services, and the ombudsman services.

(2) Not later than December 31, 1988, the Commissioner on Aging shall prepare and submit to the Congress a report on the study required by this subsection, together with such recommendations, including recommendations for legislation, as the Commissioner considers to be appropriate.

SEC. 135. OUTREACH REGARDING TUITION-FREE POST-SECONDARY EDUCATION.

Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)), as amended by sections 127, 133, and 134(b), is amended—

(1) in subparagraph (M) by striking "and" at the end,

(2) in subparagraph (N) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(O)(i) compile available information on institutions of higher education in the planning and service area regarding—

"(I) the courses of study offered to older individuals by such institutions; and

"(II) the policies of such institutions with respect to the enrollment of older individuals with little or no payment of tuition, on a space available basis, or on another special basis;

and include in such compilation such related supplementary information as may be necessary; and

"(ii) based on the results of such compilation, make a summary of such information available to older individuals at multipurpose senior centers, congregate nutrition sites, and other appropriate places.".

SEC. 136. SERVICES TO INDIVIDUALS WITH DISABILITIES.

(a) DEFINITIONS.—(1) Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended by adding at the end the following:

"(8) The term 'disability' means (except when such term is used in the phrase 'severe disability', 'developmental disabilities', 'physical or mental disability', 'physical and mental disabilities', or 'physical disabilities') a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in 1 or more of the following areas of major life activity: (A) self-care, (B) receptive and expressive language, (C) learning, (D) mobility, (E) self-direction, (F) capacity for independent living, (G) economic self-sufficiency, (H) cognitive functioning, and (I) emotional adjustment.

"(9) The term 'severe disability' means a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that—

"(A) is likely to continue indefinitely; and

"(B) results in substantial functional limitation in 3 or more of the major life activities specified in subparagraphs (A) through (G) of paragraph (8).".

(2) Section 302(11) of the Older Americans Act of 1965 (42 U.S.C. 3022(11)) is amended by inserting "(including mental health)" after "health".

(b) AREA PLANS.—Section 306(a)(5)(B) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(5)(B)), as amended by section 132(b)(2), is amended by inserting "and older individuals with severe disabilities," after "individuals)," the second place it appears.

(c) STATE PLANS.—(1) Section 307(a)(13)(I) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(13)(I)) is amended by inserting before the semicolon at the end the following: ", and to individuals with disabilities who reside at home with and accompany older individuals who are eligible under this Act".

(2) Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), and 132(c), is amended by adding at the end the following:

"(25) The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will coordinate planning, identification, assessment of needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with disabilities, including severe disabilities, and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.".

(d) SUPPORTIVE SERVICES.—(1) Section 321(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)(1)) is amended by inserting after "health" the following: "(including mental health)".

(2) Section 321(a)(4)(B) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)(4)(B)) is amended by striking "suffering from physical disabilities" and inserting "who have physical disabilities".

SEC. 137. CONFIDENTIALITY OF INFORMATION RELATING TO LEGAL ASSISTANCE PROVIDED.

(a) AREA AGENCY ON AGING.—Section 306 of the Older Americans Act of 1965 (42 U.S.C. 3026) is amended by adding at the end the following:

"(d) An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.".

(b) STATE AND STATE AGENCY.—Section 307 of the Older Americans Act of 1965 (42 U.S.C. 3027) is amended by adding at the end the following:

"(g) Neither a State, nor a State agency, may require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.".

SEC. 138. COORDINATION OF COMMUNITY-BASED SERVICES.

Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), and 136(c)(3), is amended by adding at the end the following:

"(26) The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 306(a)(6)(I), for older individuals who—

"(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;

"(B) are patients in hospitals and are at risk of prolonged institutionalization; or

"(C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.".

SEC. 139. PAYMENTS.

Section 309(c) of the Older Americans Act of 1965 (42 U.S.C. 3029(c)) is amended—

(1) by inserting "average annual" after "less than its", and

(2) by striking "preceding fiscal year" and inserting "period of 3 fiscal years preceding such year".

SEC. 140. IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023) is amended by adding at the end the following:

"(d) There are authorized to be appropriated $25,000,000 for fiscal year 1988, $26,250,000 for fiscal year 1989, $27,563,000 for fiscal year 1990, and $28,941,000 for fiscal year 1991 for the purpose of making grants under part D of this title (relating to in-home services).".

(b) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)) is amended—

(1) in paragraph (6) by striking the period at the end and inserting "; and", and

(2) by adding at the end the following:

"(7) provide assurances that any amount received under part D will be expended in accordance with such part.".

(c) STATE PLANS.—(1) Section 307(a)(10) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(10)) is amended by striking "including nutrition services," and inserting "nutrition services, or in-home services (as defined in section 342(1))".

(2) Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), and 138 is amended by adding at the end the following:

"(27) The plan shall provide assurances of consultation and coordination in planning and provision of in-home services under section 341 with State and local agencies and private nonprofit organizations which administer and provide services relating to health, social services, rehabilitation, and mental health services.".

(d) PROGRAM.—Title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.) is amended by adding at the end the following:

"PART D—IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS

"PROGRAM AUTHORIZED

"SEC. 341. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide in-home services to frail older individuals, including in-home supportive services for older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and to the families of such victims.

Grants.
42 USC 3030h.

"(b) In carrying out the provisions of this part, each area agency shall coordinate with other community agencies and voluntary organizations providing counseling and training for family caregivers and support service personnel in management of care, functional and needs assessment services, assistance with locating, arranging for, and coordinating services, case management, and counseling prior to admission to nursing home to prevent premature institutionalization.

"DEFINITIONS

"SEC. 342. For purposes of this part—

42 USC 3030i.

"(1) the term 'in-home services' includes—

"(A) homemaker and home health aides;

"(B) visiting and telephone reassurance;

"(C) chore maintenance;

"(D) in-home respite care for families, and adult day care as a respite service for families; and

"(E) minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home and that is not available under other programs, except that not more than $150 per client may be expended under this part for such modification; and

"(2) the term 'frail' means having a physical or mental disability, including having Alzheimer's disease or a related disorder with neurological or organic brain dysfunction, that restricts the ability of an individual to perform normal daily tasks or which threatens the capacity of an individual to live independently.

"STATE CRITERIA

"SEC. 343. The State agency shall develop eligibility criteria for providing in-home services to frail older individuals which shall take into account—

42 USC 3030j.

"(1) age;

"(2) greatest economic need;

"(3) noneconomic factors contributing to the frail condition; and

"(4) noneconomic and nonhealth factors contributing to the need for such services.

"MAINTENANCE OF EFFORT

42 USC 3030k.

"SEC. 344. Funds made available under this part shall be in addition to, and may not be used to supplant, any funds that are or would otherwise be expended under any Federal, State, or local law by a State or unit of general purpose local government (including area agencies on aging which have in their planning and services areas existing services which primarily serve older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and the families of such victims).".

SEC. 141. ASSISTANCE FOR SPECIAL NEEDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023), as amended by section 140(a), is amended by adding at the end the following:

"(e) Subject to subsection (h), there are authorized to be appropriated $25,000,000 for fiscal year 1988, $25,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991 to carry out part E (relating to special needs).".

(b) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)), as amended by section 140(b), is amended—

(1) in paragraph (6) by striking "and" at the end,

(2) in paragraph (7) by striking the period at the end and inserting "; and", and

(3) by inserting after paragraph (7) the following:

"(8) provide assurances that any amount received under part E will be expended in accordance with such part;".

(c) STATE PLANS.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), 138, and 140(c)(2), is amended by adding at the end the following:

"(28) The plan shall provide assurances that if the State receives funds appropriated under section 303(e), the State agency and area agencies on aging will expend such funds to carry out part E.".

(d) GRANTS FOR SPECIAL NEEDS.—Title III of the Older Americans Act of 1965 (42 U.S.C. 3021-3030g), as amended by section 140(d), is amended by adding at the end the following:

"PART E—ADDITIONAL ASSISTANCE FOR SPECIAL NEEDS OF OLDER INDIVIDUALS

"PROGRAM AUTHORIZED

Grants.
42 USC 3030*l*.

"SEC. 351. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide services, consistent with the purpose of this title, designed to satisfy special needs of older individuals. Such services include—

"(1) transportation associated with services provided under this title;

"(2) outreach regarding such services;

"(3) targeting such services to older individuals with greatest economic need or greatest social need;

"(4) services under the ombudsman program established under section 307(a)(12); and

"(5) any other service under this title—

"(A) for which the State demonstrates to satisfaction of the Commissioner that there is unmet need; and

"(B) which is appropriate to improve the quality of life of older individuals, particularly those with greatest economic need and those with greatest social need.".

SEC. 142. STATE PLAN INFORMATION REGARDING SERVICES TO OLDER INDIVIDUALS RESIDING IN RURAL AREAS.

Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), 138, 140(c)(2), and 141(c), is amended by adding at the end the following:

"(29) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared, describe the methods used to satisfy the service needs of older individuals who reside in rural areas.".

SEC. 143. HEALTH EDUCATION AND PROMOTION FOR OLDER INDIVIDUALS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023), as amended by sections 140(a) and 141(a), is amended by adding at the end the following:

"(f) Subject to subsection (h), there are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 for the purpose of making grants under part F of this title (relating to periodic preventive health, health education, and promotion services).".

(b) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)), as amended by sections 140(b) and 141(b), is amended—

(1) in paragraph (7) by striking "and" at the end,

(2) in paragraph (8) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(9) provide assurances that any amount received under part F will be expended in accordance with such part.".

(c) PROGRAM.—Title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.), as amended by sections 140(d) and 141(d), is amended by adding at the end the following:

"PART F—PREVENTIVE HEALTH SERVICES

"PROGRAM AUTHORIZED

Grants.
42 USC 3030m.

"SEC. 361. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for periodic preventive health services to be provided at senior centers or alternative sites as appropriate.

"(b) Preventive health services under this part may not include services eligible for reimbursement under Medicare.

"(c) The Commissioner shall, to the extent possible, assure that services provided by other community organizations and agencies are used to carry out the provisions of this part.

"DISTRIBUTION TO AREA AGENCIES

State and local governments.
42 USC 3030n.

"SEC. 362. The State agency shall give priority, in carrying out this part, to areas of the State—

"(1) which are medically underserved; and

"(2) in which there are a large number of older individuals who have the greatest economic need for such services.

"DEFINITIONS

42 USC 3030*o*.

"SEC. 363. For the purpose of this part and section 307 the term 'preventive health services' means—

"(1) routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision and hearing screening;

"(2) group exercise programs;

"(3) home injury control services, including screening of high-risk home environments and educational programs on injury protection in the home environment;

"(4) nutritional counseling and educational services;

"(5) screening for the prevention of depression, coordination of community mental health services, educational activities, and referral to psychiatric and psychological services;

"(6) educational programs on the benefits and limitations of Medicare and various supplemental insurance coverage, including individual policy screening and health insurance-needs counseling; and

"(7) counseling regarding followup health services based on any of the services provided for above.".

SEC. 144. PREVENTION OF ABUSE OF OLDER INDIVIDUALS.

(a) DEFINITIONS.—Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022), as amended by section 136(a), is amended by adding at the end the following:

"(15) The term 'abuse' means the willful—

"(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or

"(B) deprivation by a caretaker of goods or services which are necessary to avoid physical harm, mental anguish, or mental illness.

"(16) The term 'elder abuse' means abuse of an older individual.

"(17) The term 'caretaker' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, receipt of payment for care, as a result of family relationship, or by order of a court of competent jurisdiction.

"(18) The term 'exploitation' means the illegal or improper act or process of a caretaker using the resources of an older individual for monetary or personal benefit, profit, or gain.

"(19) The term 'neglect' means the failure to provide for oneself the goods or services which are necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

"(20) The term 'physical harm' means bodily pain, injury, impairment, or disease.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023), as amended by sections 140(a), 141(a), and 143(a), is amended by adding at the end the following:

"(g) Subject to subsection (h), there are authorized to be appropriated $5,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991, to carry out part G (relating to abuse, neglect, and exploitation of older individuals).".

(c) AREA PLANS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)), as amended by sections 140(b), 141(b), and 143(b), is amended—

(1) in paragraph (8) by striking "and" at the end,

(2) in paragraph (9) by striking the period at the end and inserting "; and", and

(3) by adding at end the following:

"(10) provide assurances that any amount received under part G will be expended in accordance with such part.".

(d) STATE PLAN.—(1) Section 307(a)(16) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(16)) is amended by striking "provide" the second place it appears and inserting ", if funds are not appropriated under section 303(g) for a fiscal year, provide that for such fiscal year".

(2) Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), 138, 140(c)(2), 141(c), and 142, is amended by adding at the end the following:

"(30) The plan shall provide assurances that if the State receives funds appropriated under section 303(g), the State agency and area agencies on aging will expend such funds to carry out part G.".

(e) ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS.—Title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.), as amended by sections 140(d), 141(d), and 143(c), is amended by adding at the end the following:

"PART G—PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS

"PROGRAM AUTHORIZED

Grants.
42 USC 3030p.

"SEC. 371. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to carry out a program with respect to the prevention of abuse, neglect, and exploitation of older individuals. The program shall—

"(1) be consistent with relevant State law and coordinated with State adult protective service activities and other State and local elder abuse prevention and protection;

"(2) provide for—

Education.

"(A) public education and outreach services to identify and prevent abuse, neglect, and exploitation of older individuals;

Reports.

"(B) receipt of reports of such abuse, neglect, and exploitation;

"(C) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and with the consent of the older individuals to be referred; and

"(D) the referral of complaints and other reports of abuse, neglect, or exploitation of older individuals to law enforcement agencies, public protective service agencies, licensing and certification agencies, ombudsman programs, or protection and advocacy system if appropriate;

"(3) not permit involuntary or coerced participation in such program by alleged victims, abusers, or their households; and

"(4) require that all information gathered in the course of receiving such a complaint or report, and making such a referral, shall remain confidential unless—

"(A) all parties to such complaint or report consent in writing to the release of such information; or

"(B) the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system.".

SEC. 145. LIMITATION ON CERTAIN AUTHORITY TO MAKE APPROPRIATIONS.

42 USC 3023.

Section 303 of the Older Americans Act of 1965 (42 U.S.C. 2023), as amended by sections 140(a), 141(a), 143(a), and 144(b), is amended by adding at the end the following:

"(h) No funds may be appropriated under subsection (a)(2), (a)(3), (e), (f), or (g) for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out this title (other than sections 306(a)(6)(P), 307(a)(12), and 311, and parts E, F, and G), title IV (other than sections 427 and 428), title V, and title VI exceeds 105 percent of the aggregate amount appropriated for the preceding fiscal year to carry out such titles.".

SEC. 146. ASSISTIVE TECHNOLOGY INFORMATION.

(a) DEFINITIONS.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended by adding at the end the following:

"(8) The term 'assistive technology' means technology, engineering methodologies, or scientific principles appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations.

"(9) The term 'information and referral' includes information relating to assistive technology.".

(b) CLIENT ASSESSMENT THROUGH CASE MANAGEMENT.—Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended by adding at the end the following: "For purposes of paragraph (5), the term 'client assessment through case management' includes providing information relating to assistive technology.".

(c) MULTIDISCIPLINARY CENTERS OF GERONTOLOGY.—Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended—

(1) in paragraph (5) by striking "and" at the end,

(2) in paragraph (6) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(7) if appropriate, provide information relating to assistive technology.".

PART C—DEMONSTRATION GRANTS

SEC. 151. DEMONSTRATION PROJECTS; PURPOSE.

Minorities. Disadvantaged persons. Handicapped persons.

Section 401(1) of the Older Americans Act of 1965 (42 U.S.C. 3030aa(1)) is amended by inserting before the semicolon the following: ", with special emphasis on minority individuals, low-income individuals, frail individuals, and individuals with disabilities".

SEC. 152. DEMONSTRATION PROJECTS.

Section 422 of the Older Americans Act of 1965 (42 U.S.C. 3035a) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)", and

(B) by adding at the end the following:

State and local governments. Contracts. Schools and colleges. Health and medical care.

"(2) The Commissioner may, after consultation with the State agency in the State involved, make grants to or enter into contracts with public or private institutions of higher education having graduate programs with capability in public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, or gerontology, for the purpose of designing and developing prototype health education and promotion programs for the use of State and area agencies on aging in implementing preventive health service programs.", and

(2) in subsection (b) by striking "this section" and inserting "subsection (a)(1)".

SEC. 153. VOLUNTEER OPPORTUNITIES.

Section 422(b) of the Older Americans Act of 1965 (42 U.S.C. 3035a) is amended—

(1) in paragraph (7) by striking "and" at the end,

(2) in paragraph (8) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(9) provide expanded, innovative volunteer opportunities to older individuals which are designed to fulfill unmet community needs, while at the same time avoiding duplication of existing volunteer programs, which may include—

Children and youth.

"(A) projects furnishing intergenerational services by older individuals addressing the needs of children, such as—

"(i) tutorial services in elementary and special schools;

"(ii) after school programs for latch key children;

"(iii) voluntary services for day care center programs; and

"(B) volunteer service credit projects operated in conjunction with ACTION, permitting elderly volunteers to earn credits for services furnished, which may later be redeemed for similar volunteer services.".

SEC. 154. SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE.

Section 423(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3035b(a)(1)), as amended by section 134(c)(5), is amended by striking "may" and inserting "shall".

State and local governments.

SEC. 155. OUTREACH TO SSI, MEDICAID, AND FOOD STAMP RECIPIENTS.

(a) OUTREACH AND APPLICATION ASSISTANCE FUNCTIONS OF ADMINISTRATION ON AGING.—Section 202(a) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)), as amended by section 103(a), is amended—

(1) in paragraph (18) by striking "and" at the end,

(2) in paragraph (19) by striking the period and inserting "; and", and

(3) by adding at the end the following:

"(20) obtain from—

"(A) the Department of Agriculture information explaining the requirements for eligibility to receive benefits under the Food Stamp Act of 1977; and

"(B) the Social Security Administration information explaining the requirements for eligibility to receive supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act);

and distribute such information, in written form, to State agencies, for redistribution to area agencies on aging, to carry out outreach activities and application assistance under section 307(a)(31).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)), as amended by sections 122(a) and 129(c), is amended—

(1) in paragraph (1) by inserting "for purposes other than outreach activities and application assistance under section 307(a)(31)" before the period at the end, and

(2) by adding at the end the following:

"(3) Subject to subsection (h), there are authorized to be appropriated $10,000,000 for fiscal year 1989, $10,000,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991 to carry out section 306(a)(6)(P). Amounts appropriated under this subsection shall remain available until expended.".

(c) ALLOTMENT, STATE MIMINUM.—(1)(A) The first sentence of section 304(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)(1)) is amended by striking "paragraph (2)" and inserting "paragraphs (2) and (3)".

(B) The last sentence of section 304(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)(1)) is amended by striking "purpose of" and inserting "purposes of paragraph (3) and".

(2) Section 304(a) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)) is amended—

(A) by redesignating paragraph (3) as paragraph (4), and

(B) by inserting after paragraph (2) the following:

"(3) No State shall be allotted, from the amount appropriated pursuant to section 303(a)(3), less than $50,000 for any fiscal year.".

(d) ADMINISTRATIVE EXPENSES.—Subparagraphs (B) and (C) of section 304(d)(1) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)) are each amended by inserting "(excluding any amount attributable to funds appropriated under section 303(a)(3))" after "amount".

(e) OUTREACH AND APPLICATION ASSISTANCE.—

(1) AREA PLANS.—Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)), as amended by sections 127, 133, 134(b), and 135, is amended—

(A) in subparagraph (N) by striking "and" at the end,

(B) in subparagraph (O) by striking the period at the end and inserting "; and", and

(C) by adding at the end the following:

"(P) with funds and information received under section 307(a)(31) from the State agency—

"(i) carry out activities to identify older individuals with greatest economic need who may be eligible to receive, but are not receiving, supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act), medical assistance under title XIX of the Social Security Act, and benefits under the Food Stamp Act of 1977;

"(ii) conduct outreach activities to inform older individuals of the requirements for eligibility to receive such assistance and such benefits; and

"(iii) assist older individuals to apply for such assistance and such benefits;".

(2) STATE PLANS.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)), as amended by sections 130(c), 131(b), 132(c), 136(c)(3), 138, 140(c)(2), 141(c), 142, and 144(d), is amended—

(A) in paragraph (20)(A) by striking "section 306(a)(2)(A)" and inserting "sections 306(a)(2)(A) and 306(a)(6)(P)", and

(B) by adding at the end the following:

"(31) The plan shall provide that the State agency—

"(A) from funds allotted for fiscal year 1989 under section 304(a) for part B that are attributable to the amount appropriated under section 303(a)(3), will make funds available to eligible area agencies on aging to carry out section 306(a)(6)(P) and, in distributing such funds among eligible area agencies, will give priority to area agencies on aging based on—

"(i) the number of older individuals with greatest economic need (as defined in section 302(20)) residing in their respective planning and service areas; and

"(ii) the inadequacy in such areas of outreach activities and application assistance of the type specified in section 306(a)(6)(P);

"(B) will require, as a condition of eligibility to receive funds under this paragraph, an area agency on aging to submit an application that—

"(i) describes the activities for which such funds are sought;

"(ii) provides for an evaluation of such activities by the area agency; and

"(iii) includes assurances that the area agency will prepare and submit to the State agency a report of the activities conducted with funds provided under this paragraph and the evaluation of such activities;

Public information.

"(C) will distribute to area agencies on aging—

"(i) the eligibility information received under section 202(a)(20) from the Administration; and

"(ii) information, in written form, explaining the requirements for eligibility to receive medical assistance under title XIX of the Social Security Act; and

"(D) will submit to the Commissioner a report on the evaluations required to be submitted under section 307(a)(31)(B).".

(f) REPORT.—Section 207 of the Older Americans Act of 1965 (42 U.S.C. 3018) is amended by adding at the end the following:

"(c) The Commissioner shall, as part of the annual report submitted under subsection (a), prepare and submit a report on the evaluations required to be submitted under section 307(a)(31)(D), together with such recommendations as the Commissioner deems appropriate. In carrying out this subsection, the Commissioner shall consider—

"(1) the number of older individuals reached through outreach activities supported under section 306(a)(6)(P);

"(2) the dollar amount of the assistance and benefits received by older individuals as a result of such activities;

"(3) the cost of such activities in terms of the number of individuals reached and the dollar amount described in paragraph (2); and

"(4) the effect of such activities on supportive services and nutrition services furnished under title III of this Act.".

42 USC 3026 note.

(g) IMPLEMENTATION INFORMATION.—Not later than September 1, 1988, the Commissioner on Aging shall—

(1) analyze and compile information on successful and unsuccessful activities carried out to conduct outreach of the type described in section 306(a)(6)(P) of the Older Americans Act of 1965, as added by subsection (e), and

Public information.

(2) distribute such information to the State agencies on aging for dissemination to interested area agencies on aging to assist such area agencies in designing outreach activities to be carried out under section 306(a)(6)(P) of such Act.

42 USC 3026 note.

(h) EVALUATION GUIDELINES.—The Commissioner on Aging shall issue guidelines to be followed by State agencies on aging and area agencies on aging in conducting evaluations of outreach activities carried out under section 306(a)(6)(P), of the Older Americans Act of 1965, as added by subsection (e). Such guidelines shall be designed to ensure that such evaluations are based on uniform criteria that provide a basis for the valid comparison of such outreach activities conducted by the various area agencies.

SEC. 156. DEMONSTRATION GRANTS FOR INDIVIDUALS WITH DISABILITIES.

(a) TRAINING.—Section 411(c) of the Older Americans Act of 1965 (42 U.S.C. 3031(c)) is amended—

(1) by striking "custodial and skilled care for older individuals who suffer from" and inserting "services to individuals with disabilities and to individuals with", and

(2) by striking "other neurological and organic brain disorders of the Alzheimer's type" and inserting "and related disorders with neurological and organic brain dysfunction".

(b) MULTIDISCIPLINARY CENTERS.—Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended by inserting "disabilities (including severe disabilities)," before "income maintenance".

(c) DEMONSTRATION GRANTS.—Section 422(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3035a(b)(2)) is amended—

(1) in subparagraph (C) by striking "and" at the end,

(2) in subparagraph (D) by inserting "and" at the end, and

(3) by adding at the end the following:

"(E) the identification and provision of services to older individuals with severe disabilities;".

(d) LONG-TERM CARE SPECIAL PROJECTS.—Section 423(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3035b(a)(3)) is amended by inserting after "geriatric health maintenance organizations;" the following: "services to older individuals with severe disabilities residing in nursing homes;".

(e) ADDITIONAL SPECIAL PROJECTS.—(1) Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034 et seq.) is amended by adding at the end the following:

"OMBUDSMAN AND ADVOCACY DEMONSTRATION PROJECTS

State and local governments.
42 USC 3035f.

"SEC. 427. (a) The Commissioner is authorized to make grants to not less than three nor more than ten States to demonstrate and evaluate cooperative projects between the State long-term care ombudsman program and the State protection and advocacy systems for developmental disabilities and mental illness, established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319).

Reports.

"(b) The Commissioner on Aging shall prepare and submit to the Congress a report of the study and evaluation required by subsection (a). Such report shall contain such recommendations as the Commissioner on Aging deems appropriate.".

(2) Section 431(a) of the Older Americans Act of 1965 (42 U.S.C. 3037(a)) is amended—

(A) by inserting "(other than section 427)" after "title",

(B) by inserting "(1)" after "(a)", and

(C) by adding at the end the following:

Appropriation authorizations.

"(2) Subject to subsection (b), there is authorized to be appropriated $1,000,000 for fiscal year 1989 to carry out the provisions of section 427. The funds appropriated pursuant to this paragraph shall remain available for expenditure for fiscal year 1990.".

SEC. 157. CONSUMER PROTECTION DEMONSTRATION PROJECTS FOR SERVICES PROVIDED IN THE HOME.

(a) DEMONSTRATION PROJECTS AUTHORIZED.—Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034 et seq.), as amended by section 156(e)(1), is amended by adding at the end the following:

"CONSUMER PROTECTION DEMONSTRATION PROJECTS FOR SERVICES PROVIDED IN THE HOME

State and local governments.
42 USC 3035g.

"SEC. 428. (a)(1) The Commissioner is authorized to make grants to not fewer than 6 nor more than 10 States to demonstrate and evaluate the effectiveness of consumer protection projects for services (other than medical services) provided to older individuals in the home that are furnished or assisted with public funds.

"(2) Grants made under this section shall be used to test different approaches to protecting older individuals with regard to services in the home. Such projects may provide consumer protection through State and local ombudsmen, legal assistance agencies, and other community service agencies.

"(b) No grant may be made under this section unless an application is made to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each such application shall—

"(1) describe activities for which assistance is sought;

"(2) provide for an evaluation of the activities for which assistance is sought; and

"(3) provide assurances that the applicant will prepare and submit a report to the Commissioner on the activities conducted with assistance under this section and the evaluation of such activities.

"(c) In approving applications under this section, the Commissioner shall assure equitable geographic distribution of assistance.

Reports.

"(d) The Commissioner shall, as part of the annual report submitted under section 207, prepare and submit a report on the evaluations submitted under this section, together with such recommendations as the Commissioner deems appropriate. In carrying out this section, the Commissioner shall include in the report—

"(1) a description of the demonstration projects assisted under this section;

"(2) an evaluation of the effectiveness of each such project; and

"(3) recommendations of the Commissioner with respect to the desirability and feasibility of carrying out on a nationwide basis a consumer protection program for services in the home.

"(e) Consumer protection projects carried out under this section—

"(1) may include, but are not limited to, consumer education, the use of consumer hotlines, receipt and resolution of consumer complaints, and advocacy; and

"(2) may not address medical services.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431(a)(1) of the Older Americans Act of 1965 (42 U.S.C 3037(a)(1)), as amended by section 156(e)(2), is amended—

(1) by striking "section 427" in the parenthetical and inserting "sections 427 and 428", and

(2) by adding at the end the following:

"(3) Subject to subsection (b), there is authorized to be appropriated $2,000,000 for each of the fiscal years 1989 and 1990 to carry out the provisions of section 428.".

SEC. 158. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS.

Paragraph (1) of section 431(a) of the Older Americans Act of 1965 (42 U.S.C. 3037(a)(1)), as amended by sections 156(e)(2) and 157(b), is amended to read as follows:

"(1) There are authorized to be appropriated to carry out the provisions of this title (other than sections 427 and 428) $32,970,000 for the fiscal year 1988, $34,619,000 for the fiscal year 1989, $36,349,000 for the fiscal year 1990, and $38,167,000 for the fiscal year 1991.

SEC. 159. LIMITATION ON CERTAIN AUTHORITY TO MAKE APPROPRIATIONS.

Section 431 of the Older Americans Act of 1965 (42 U.S.C. 3037) is amended—

(1) by redesignating subsection (b) as subsection (c), and

(2) by inserting after subsection (a) the following:

"(b) No funds may be appropriated under paragraph (2) or (3) of subsection (a) for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out this title (other than sections 427 and 428), title III (other than sections 306(a)(6)(P), 307(a)(12), and 311, and parts E, F, and G), title V, and title VI exceeds 105 percent of the aggregate amount appropriated for the preceding fiscal year to carry out such titles.".

PART D—COMMUNITY SERVICE EMPLOYMENT

SEC. 161. ADMINISTRATIVE COSTS OF EMPLOYMENT PROJECTS.

Section 502(c)(3) of the Older Americans Act of 1965 (42 U.S.C. 3056(c)(3)) is amended to read as follows:

"(3) Of the amount for any project to be paid by the Secretary under this subsection, not more than 13.5 percent for fiscal year 1987 and each fiscal year thereafter shall be available for paying the costs of administration for such project, except that—

"(A) whenever the Secretary determines that it is necessary to carry out the project assisted under this title, based on information submitted by the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b), the Secretary may increase the amount available for paying the cost of administration to an amount not more than 15 percent of the cost of such project; and

"(B) whenever the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b) demonstrates to the Secretary that—

"(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers' compensation, costs associated with achieving unsubsidized placement goals, and other operation requirements imposed by the Secretary;

"(ii) the number of employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available for paying the cost of administration is not increased; or

"(iii) the size of the project is so small that the amount of administrative expenses incurred to carry out the project necessarily exceed 13.5 percent of the amount for such project;

the Secretary shall increase the amount available for the fiscal year for paying the cost of administration to an amount not more than 15 percent of the cost of such project.".

SEC. 162. COMMUNITY SERVICE EMPLOYMENT SPECIAL NEEDS ASSURANCE.

(a) PROGRAM ASSURANCE.—Section 502(b)(1)(M) of the Older Americans Act of 1965 (42 U.S.C. 3056(b)(1)(M)) is amended to read as follows:

Minorities.
Indians.

"(M) will assure, that to the extent feasible, such project will serve the needs of minority, limited English-speaking, and Indian eligible individuals in proportion to their numbers in the State and take into consideration their rates of poverty and unemployment;".

Grants.
Contracts.
Indians.
Employment and unemployment.

(b) RESERVATION OF FUNDS.—Section 506(a)(1)(A) of the Older Americans Act of 1965 (42 U.S.C 3056d(a)(1)(A)) is amended by inserting after the first sentence the following: "Beginning with the first fiscal year in which the amount appropriated to carry out this title exceeds the amount appropriated for fiscal year 1987 to carry out this title, the Secretary shall next reserve such sums as may be necessary for national grants or contracts with public or nonprofit national Indian aging organizations with the ability to provide employment services to older Indians and with national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide employment services to older Pacific Island and Asian Americans.".

SEC. 163. INFORMATION ON AGE DISCRIMINATION PROHIBITIONS.

Section 503(b) of the Older Americans Act of 1965 (42 U.S.C. 3056a(b)) is amended—

(1) by inserting "(1)" after "(b)", and

(2) by adding at the end the following:

Grants.

"(2) The Secretary shall distribute to grantees under this title, for distribution to program enrollees, and at no cost to grantees or enrollees, informational materials developed and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies which the Secretary determines are designed to help enrollees identify age discrimination and understand their rights under the Age Discrimination in Employment Act of 1967.".

SEC. 164. DEFINITIONS.

(a) COMMUNITY SERVICES.—Section 507(3) of the Older Americans Act of 1965 (42 U.S.C. 3056e(3)) is amended by inserting "(particularly literacy tutoring)" after "educational services".

(b) PACIFIC ISLAND AND ASIAN AMERICANS.—Section 507 of the Older Americans Act of 1965 (42 U.S.C. 3056e) is amended—

(1) in paragraph (3) by striking "and" at the end,

(2) in paragraph (4) by striking the period at the end, and

(3) by adding at the end the following:

"(5) the term 'Pacific Island and Asian Americans' means Americans having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.".

SEC. 165. AUTHORIZATION OF APPROPRIATIONS FOR COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS.

Section 508(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3056f(a)(1)) is amended to read as follows:

"(1) $386,715,000 for the fiscal year 1988, $406,051,000 for the fiscal year 1989, $426,353,000 for the fiscal year 1990, and $447,671,000 for the fiscal year 1991.".

SEC. 166. EMPLOYMENT ASSISTANCE AND OTHER PROGRAMS.

Title V of the Older Americans Act of 1965 (42 U.S.C. 3056–3056f) is amended by adding at the end the following:

"EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS

42 USC 3056g.

"SEC. 509. Funds received by eligible individuals from projects carried out under the program established in this title shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other persons, to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977.".

PART E—NATIVE AMERICAN PROGRAMS

SEC. 171. NATIVE AMERICAN PROGRAMS.

Title VI of the Older Americans Act of 1965 (42 U.S.C. 3057-3057g) is amended to read as follows:

"TITLE VI—GRANTS FOR NATIVE AMERICANS

Indians.

"STATEMENT OF PURPOSE

"SEC. 601. It is the purpose of this title to promote the delivery of supportive services, including nutrition services to American Indians, Alaskan Natives, and Native Hawaiians that are comparable to services provided under title III.

42 USC 3057.

"SENSE OF CONGRESS

"SEC. 602. It is the sense of the Congress that older Indians, older Alaskan Natives, and older Native Hawaiians are a vital resource entitled to all benefits and services available and that such services and benefits should be provided in a manner that preserves and restores their respective dignity, self-respect, and cultural identities.

42 USC 3057a.

"PART A—INDIAN PROGRAM

"FINDINGS

"SEC. 611. (a) The Congress finds that the older Indians of the United States—

42 USC 3057b.

"(1) are a rapidly increasing population;

"(2) suffer from high unemployment;

"(3) live in poverty at a rate estimated to be as high as 61 percent;

"(4) have a life expectancy between 3 and 4 years less than the general population;

"(5) lack sufficient nursing homes, other long-term care facilities, and other health care facilities;

"(6) lack sufficient Indian area agencies on aging;

"(7) frequently live in substandard and over-crowded housing;

"(8) receive less than adequate health care;

"(9) are served under this title at a rate of less than 19 percent of the total national Indian elderly population living on Indian reservations; and

"(10) are served under title III at a rate of less than 1 percent of the total participants under that title.

"ELIGIBILITY

"SEC. 612. (a) A tribal organization of an Indian tribe is eligible for assistance under this part only if—

42 USC 3057c.

"(1) the tribal organization represents at least 50 individuals who are 60 years of age or older; and

"(2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services.

"(b) For the purposes of this part the terms 'Indian tribe' and 'tribal organization' have the same meaning as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"GRANTS AUTHORIZED

42 USC 3057d.

"SEC. 613. The Commissioner may make grants to eligible tribal organizations to pay all of the costs for delivery of supportive services and nutrition services for older Indians.

"APPLICATIONS

42 USC 3057e.

"SEC. 614. (a) No grant may be made under this part unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

"(1) provide that the eligible tribal organization will evaluate the need for supportive and nutrition services among older Indians to be represented by the tribal organization;

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

Reports.

"(3) provide that the tribal organization will make such reports in such form and containing such information, as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

"(4) provide for periodic evaluation of activities and projects carried out under the application;

"(5) establish objectives consistent with the purposes of this part toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles;

"(6) provide for establishing and maintaining information and referral services to assure that older Indians to be served by the assistance made available under this part will have reasonably convenient access to such services;

"(7) provide a preference for Indians aged 60 and older for full or part-time staff positions wherever feasible;

Contracts.

"(8) provide assurances that either directly or by way of grant or contract with appropriate entities nutrition services will be delivered to older Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III, except that in any case in which the need for nutritional services for older Indians represented by the tribal organization is already met from other sources, the tribal organization may use the funds otherwise required to be expended under this clause for supportive services;

"(9) contain assurances that the provisions of sections 307(a)(14)(A) (i) and (iii), 307(a)(14)(B), and 307(a)(14)(C) will be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers;

"(10) provide that any legal or ombudsman services made available to older Indians represented by the tribal organization will be substantially in compliance with the provisions of title III relating to the furnishing of similar services; and

"(11) provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract.

"(b) For the purpose of any application submitted under this part, the tribal organization may develop its own population statistics, with certification from the Bureau of Indian Affairs, in order to establish eligibility.

"(c) The Commission shall approve any application which complies with the provisions of subsection (a).

"(d) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commission shall—

"(1) state objections in writing to the tribal organization within 60 days after such decision;

"(2) provide to the extent practicable technical assistance to the tribal organization to overcome such stated objections; and

"(3) provide the tribal organization with a hearing, under such rules and regulations as the Commissioner may prescribe.

"(e) Whenever the Commissioner approves an application of a tribal organization under this part, funds shall be awarded for not less than 12 months.

"SURPLUS EDUCATIONAL FACILITIES

"SEC. 615. (a) Notwithstanding any other provision of law, the Secretary of the Interior through the Bureau of Indian Affairs shall make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, nutrition services, child care services, and other supportive services. 42 USC 3057f.

"(b) Each eligible tribal organization desiring to take advantage of such surplus facilities shall submit an application to the Secretary of the Interior at such time and in such manner, and containing or accompanied by such information, as the Secretary of the Interior determines to be necessary to carry out the provisions of this section.

"PART B—NATIVE HAWAIIAN PROGRAM

"FINDINGS

"SEC. 621. The Congress finds the older Native Hawaiians— 42 USC 3057g.

"(1) have a life expectancy 10 years less than any other ethnic group in the State of Hawaii;

"(2) rank lowest on 9 of 11 standard health indicies for all ethnic groups in Hawaii;

"(3) are often unaware of social services and do not know how to go about seeking such assistance; and

"(4) live in poverty at a rate of 34 percent.

"ELIGIBILITY

"SEC. 622. A public or nonprofit private organization having the capacity to provide services under this part for Native Hawaiians is eligible for assistance under this part only if— 42 USC 3057h.

"(1) the organization will serve at least 50 individuals who have attained 60 years of age or older; and

"(2) the organization demonstrates the ability to deliver supportive services, including nutrition services.

"GRANTS AUTHORIZED

42 USC 3057i.

"SEC. 623. The Commissioner may make grants to public and nonprofit private organizations to pay all of the costs for the delivery of supportive services and nutrition services to older Native Hawaiians.

"APPLICATION

42 USC 3057j.

"SEC. 624. (a) No grant may be made under this part unless the public or nonprofit private organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

"(1) provide that the organization will evaluate the need for supportive and nutrition services among older Native Hawaiians to be represented by the organization;

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

"(3) provide assurances that the organization will coordinate its activities with the State agency on aging;

Reports.

"(4) provide that the organization will make such reports in such form and containing such information as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to ensure the correctness of such reports;

"(5) provide for periodic evaluation of activities and projects carried out under the application;

"(6) establish objectives, consistent with the purpose of this title, toward which activities described in the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the organization proposes to overcome such obstacles;

"(7) provide for establishing and maintaining information and referral services to assure that older Native Hawaiians to be served by the assistance made available under this part will have reasonably convenient access to such services;

"(8) provide a preference for Native Hawaiians 60 years of age and older for full or part-time staff positions wherever feasible;

"(9) provide that any legal or ombudsman services made available to older Native Hawaiians represented by the nonprofit private organization will be substantially in compliance with the provisions of title III relating to the furnishing and similar services; and

"(10) provide satisfactory assurances that the fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the nonprofit private organization, including any funds paid by the organization to a recipient of a grant or contract.

"(b) The Commissioner shall approve any application which complies with the provisions of subsection (a).

"(c) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commissioner shall—

"(1) state objections in writing to the nonprofit private organization within 60 days after such decision;

"(2) provide to the extent practicable technical assistance to the nonprofit private organization to overcome such stated objections; and

"(3) provide the organization with a hearing under such rules and regulations as the Commissioner may prescribe.

"(d) Whenever the Commissioner approves an application of a nonprofit private or public organization under this part funds shall be awarded for not less than 12 months.

"DEFINITION

"SEC. 625. For the purpose of this part, the term 'Native Hawaiian' means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778. 42 USC 3057k.

"PART C—GENERAL PROVISIONS

"ADMINISTRATION

"SEC. 631. In establishing regulations for the purpose of part A the Commissioner shall consult with the Secretary of the Interior. 42 USC 3057*l*.

"PAYMENTS

"SEC. 632. Payments may be made under this title (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement in such installments and on such conditions, as the Commissioner may determine. 42 USC 3057m.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 633. (a) Subject to subsection (b), there are authorized to be appropriated to carry out this title (other than section 615)— 42 USC 3057n.

"(1) $13,400,000 for fiscal year 1988, of which $12,100,000 shall be available to carry out part A and $1,300,000 shall be available to carry out part B;

"(2) $16,265,000 for fiscal year 1989, of which $14,900,000 shall be available to carry out part A and $1,365,000 shall be available to carry out part B;

"(3) $19,133,000 for fiscal year 1990, of which $17,700,000 shall be available to carry out part A and $1,433,000 shall be available to carry out part B; and

"(4) $22,105,000 for fiscal year 1991, of which $20,600,000 shall be available to carry out part A and $1,505,000 shall be available to carry out part B.".

"(b)(1) If the amount appropriated under subsection (a) for a fiscal year does not exceed the amount appropriated to carry out this title (as in effect before the effective date of the Older Americans Act Amendments of 1987) in fiscal year 1987, then the amount appropriated under subsection (a) for such fiscal year shall be available only to carry out part A.

"(2) If the amount appropriated under subsection (a) for a fiscal year exceeds the amount appropriated to carry out this title (as in effect before the effective date of the Older Americans Act Amendments of 1987) in fiscal year 1987, then—

"(A) $250,000 of such excess shall be made available to carry out part B; and

"(B) one-half of the remaining amount of such excess shall be made available to carry out part B;

except that the aggregate amount made available to carry out part B may not exceed the amount required (without regard to this paragraph) by subsection (a) to be made available to carry out part B.".

PART F—MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 181. REPEAL OF OLDER AMERICANS PERSONAL HEALTH EDUCATION AND TRAINING PROGRAM.

Title VII of the Older Americans Act of 1965 (42 U.S.C. 3058-3058d) is repealed.

SEC. 182. TECHNICAL AMENDMENTS.

(a) Section 102(1) of the Older Americans Act of 1965 (42 U.S.C. 3002(1)) is amended by striking "other than for purposes of title V" and inserting "except that for purposes of title V such term means the Secretary of Labor".

(b)(1) Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended—

(A) in paragraph (3)—

(i) by striking "includes" and inserting "means any of the several States,", and

(ii) by striking "Puerto Rico" and inserting "the Commonwealth of Puerto Rico", and

(B) by adding at the end the following:

"(8) The term 'Trust Territory of the Pacific Islands' includes the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.".

(2) Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022), as amended by sections 136(a) and 144(a), is amended—

(A) by striking paragraph (6), and

(B) by redesignating paragraphs (7) through (20) as paragraphs (6) through (19), respectively.

(3) Section 506(a)(4)(A) of the Older Americans Act of 1965 (42 U.S.C. 3056d(a)(4)(A)) is amended by striking "Puerto Rico" and inserting "the Commonwealth of Puerto Rico".

(4) Section 507 of the Older Americans Act of 1965 (42 U.S.C. 3056e), as amended by section 164(b), is amended—

(A) by striking paragraph (1), and

(B) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(c) Section 201(a) of the Older Americans Act of 1965 (42 U.S.C. 3011(a)) is amended by striking "his functions" and inserting "the functions of the Commissioner".

(d) Section 204(d)(3) of the Older Americans Act of 1965 (42 U.S.C. 3015(d)(3)) is amended by inserting "to" after "Secretary,".

(e)(1) Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022), as amended by subsection (b)(2) and sections 136(a) and 144(a), is amended by adding at the end the following:

"(20) The term 'greatest economic need' means the need resulting from an income level at or below the poverty levels established by the Office of Management and Budget.

"(21) The term 'greatest social need' means the need caused by noneconomic factors which include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation including that caused by racial or ethnic status which restricts an individual's ability to perform normal daily tasks or which threatens such individual's capacity to live independently.".

(2) Section 305(d) of the Older Americans Act of 1965 (42 U.S.C. 3025(d)) is amended—

(A) by striking "(d)(1)" and inserting "(d)", and

(B) by striking paragraph (2).

(3) Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)) is amended by striking the last sentence.

(f) Section 304(d)(1) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)) is amended in the matter preceding subparagraph (A) by inserting a comma after "section 308(b)".

(g) Section 305(a)(1)(E) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1)(E)) is amended by striking "legal services" and inserting "legal assistance".

(h) Section 305(a)(2)(C) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(2)(C)) is amended by inserting "in accordance with subsection (d)" before the semicolon at the end.

(i) Section 306(a)(6)(G) of the Act (42 U.S.C. 3026(a)(6)(G)), as amended by section 137(b), is amended by striking "and" at the end.

(j) Section 306(a)(2)(B) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(2)(B)) is amended by striking "other neurological and organic brain disorders of the Alzheimer's type" and inserting "related disorders with neurological and organic brain dysfunction".

(k) Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended—

(1) by striking "Each such plan shall—" and inserting "Each such plan shall comply with all of the following requirements:",

(2) in paragraph (1)—

(A) by inserting "The plan shall" after "(1)", and

(B) by striking the semicolon at the end and inserting a period,

(3) in paragraph (2)—

(A) by inserting "The plan shall" after "(2)", and

(B) by striking the semicolon at the end and inserting a period,

(4) in paragraph (3)—

(A) in subparagraph (A) by inserting "The plan shall" after "(3)(A)", and

(B) in subparagraph (B)—

(i) by inserting "The plan shall" after "(B)", and

(ii) by striking the semicolon at the end and inserting a period,

(5) in paragraph (4)—

(A) by inserting "The plan shall" after "(4)", and

(B) by striking the semicolon at the end and inserting a period,

(6) in paragraph (5)—

(A) by inserting "The plan shall" after "(5)", and

(B) by striking the semicolon at the end and inserting a period,

(7) in paragraph (6)—

(A) by inserting "The plan shall" after "(6)", and

(B) by striking the semicolon at the end and inserting a period,

(8) in paragraph (7)—

(A) by inserting "The plan shall" after "(7)", and

(B) by striking the semicolon at the end and inserting a period,

(9) in paragraph (8)—

(A) by inserting "The plan shall" after "(8)", and

(B) by striking the semicolon at the end and inserting a period,

(10) in paragraph (9)—

(A) by inserting "The plan shall" after "(9)", and

(B) by striking the semicolon at the end and inserting a period,

(11) in paragraph (10)—

(A) by inserting "The plan shall" after "(10)", and

(B) by striking the semicolon at the end and inserting a period,

(12) in paragraph (11)—

(A) by inserting "The plan shall" after "(11)", and

(B) by striking the semicolon at the end and inserting a period,

(13) in paragraph (13)—

(A) by inserting "The plan shall" after "(13)", and

(B) in subparagraph (I) by striking the semicolon at the end and inserting a period,

(14) in paragraph (14)—

(A) by inserting "The plan shall" after "(14)", and

(B) in subparagraph (E) by striking the semicolon at the end and inserting a period,

(15) in paragraph (15)—

(A) by inserting "The plan shall" after "(15)", and

(B) in subparagraph (D) by striking tne semicolon and inserting a period,

(16) in paragraph (16)—

(A) by inserting "The plan shall" after "(16)", and

(B) in subparagraph (C) by striking the semicolon at the end and inserting a period,

(17) in paragraph (17)—

(A) by inserting "The plan shall" after "(17)", and

(B) by striking the semicolon at the end and inserting a period,

(18) in paragraph (18)—

(A) by inserting "The plan shall" after "(18)", and

(B) by striking the semicolon at the end and inserting a period,

(19) in paragraph (19)—

(A) by inserting "The plan shall" after "(19)", and

(B) by striking the semicolon at the end and inserting a period, and

(20) in paragraph (20)—

(A) by inserting "The plan shall" after "(20)", and

(B) in subparagraph (B)(ii) by striking "; and" at the end and inserting a period.

(l) Section 308(b) of the Older Americans Act of 1965 (42 U.S.C. 3028(b)) is amended—

(1) by striking "(b)(1)(A)" and inserting "(b)(1)",

(2) in paragraph (1)—

(A) by striking "(i)" and inserting "(A)", and

(B) by striking "(ii)" the second place it appears and inserting "(B)",

(3) in paragraph (2)—

(A) by striking "(2)(A)" and inserting "(2)",

(B) by striking "(i)" and inserting "(A)", and

(C) by striking "(ii)" the second place it appears and inserting "(B)",

(4) in paragraph (3)(C) by striking "he" and inserting "the Commissioner",

(5) in subparagraphs (A) and (B) of paragraph (5) by striking "appropriated" each place it appears and inserting "allotted", and

(6) in paragraph (5)(B) beginning with the dash strike out all through the period and insert: "not more than 30 percent of the funds allotted for any fiscal year.".

(m) Section 321(a)(10) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)(10)) is amended by inserting "for" after "advocate".

(n) Section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030g) is amended by striking "Association of Area Agencies on Aging" and inserting "National Association of Area Agencies on Aging".

(o) Section 422(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3035a(b)(1)) is amended by striking "Alzheimers' disease and other organic and neurological brain disorders of the Alzheimers' type" and inserting "Alzheimer's disease and related disorders with neurological and organic brain dysfunction".

(p) Section 507(1) of the Older Americans Act of 1965 (42 U.S.C. 3056e(2)), as amended by subsection (b)(4), is amended by striking "the Bureau of Labor Statistics" and inserting "the Office of Management and Budget".

PART G—CONSUMER PRICE INDEX FOR OLDER AMERICANS

SEC. 191. INDEX AUTHORIZED.

29 USC 2 note.

The Secretary of Labor shall, through the Bureau of Labor Statistics, develop, from existing data sources, a reweighted index of consumer prices which reflects the expenditures for consumption by Americans 62 years of age and older. The Secretary shall furnish to the Congress the index within 180 days after the date of enactment of this Act. The Secretary shall include with the index furnished a report which explains the characteristics of the reweighted index, the research necessary to develop and measure accurately the rate of inflation affecting such Americans, and provides estimates of time and cost required for additional activities necessary to carry out the objectives of this section.

TITLE II—1991 WHITE HOUSE CONFERENCE ON AGING

SEC. 201. WHITE HOUSE CONFERENCE AUTHORIZED.

42 USC 3001 note.

(a) FINDINGS.—The Congress finds that—

(1) the number of individuals 55 years of age or older was approximately 51,400,000 in 1986, and will, by the year 2040, be approximately 101,700,000,

(2) more than 1 of every 6 persons 55 years of age or older will be hospitalized during the next year,

(3) persons 55 years of age or older have a higher average out-of-pocket medical cost burden than younger persons; approximately 17 percent of individuals age 55 to 64 experience out-of-pocket costs in excess of 20 percent of their family income and the average per capita out-of-pocket cost of persons 65 years of age or older is expected to equal 18.5 percent of income by 1991,

(4) there is a great need to ensure access and the quality of affordable health care to all older individuals,

(5) the need for a comprehensive and responsive long-term care delivery system is great,

(6) the availability and cost of suitable housing, together with suitable services needed for independent or semi-independent living, still cause concern to older individuals,

(7) the ability to lead an independent or semi-independent life is contingent, in many cases, upon the availability of a comprehensive and effective social service system for older individuals,

(8) the availability and access to opportunities for continued productivity and employment is of great importance to middle-aged and older individuals who want or need to work,

(9) the fulfillment, dignity, and satisfaction of retirees still depend on the continuing development of a consistent national retirement policy,

(10) there is a continuing need to maintain and preserve the national policy with respect to increasing, coordinating, and expediting biomedical and other appropriate research directed at determining the causes and effects of the aging process,

(11) false stereotypes about aging and the process of aging continue to be prevalent throughout the United States and policies should be nurtured to overcome such stereotypes, and

(12) the talents and experience of older individuals represent a valuable community resource which should be developed and more widely shared within the local community.

(b) Policy.—It is the policy of the Congress that—

(1) the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenges and needs of older individuals, consistent with the objectives of this section, and

(2) in developing programs for the aging pursuant to this section emphasis should be directed toward individual, private, and public initiatives and resources intended to enhance the economic security and self-sufficiency of elder Americans.

42 USC 3001 note.

SEC. 202. AUTHORIZATION OF THE CONFERENCE.

(a) Authority to Call Conference.—The President may call a White House Conference on Aging in 1991 in order to develop recommendations for additional research and action in the field of aging which will further the policy set forth in subsection (b).

(b) Planning and Direction.—The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner on Aging and the Director of the National Institute on Aging, and the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(c) **Purpose of the Conference.**—The purpose of the Conference shall be—

(1) to increase the public awareness of the essential contributions of older individuals to society,

(2) to identify the problems of the older individuals,

(3) to develop recommendations for the coordination of Federal policy with State and local needs and the implementation of such recommendations,

(4) to examine the well-being of older individuals,

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and improving the well-being of older individuals, and

(6) to review the status of recommendations adopted at previous White House Conferences on Aging.

(d) **Conference Participants and Delegates.**—

(1) **Participants.**—In order to carry out the purposes of this section, the Conference shall bring together—

(A) representatives of Federal, State, and local governments,

(B) professional and lay people who are working in the field of aging, and

(C) representatives of the general public, particularly older individuals.

(2) **Selection of delegates.**—The delegates shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of aging.

SEC. 203. CONFERENCE ADMINISTRATION.

42 USC 3001 note.

(a) **Administration.**—In administering this section, the Secretary shall—

(1) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate in the carrying out of this section,

(2) furnish all reasonable assistance, including financial assistance, to State agencies on the aging and to area agencies on the aging, and to other appropriate organizations, to enable them to organize and conduct conferences in conjunction with the Conference,

(3) prepare and make available for public comment a proposed agenda for the Conference which will reflect to the greatest extent possible the major issues facing older individuals consistent with the provisions of subsection (a),

(4) prepare and make available background materials for the use of delegates to the Conference which the Secretary deems necessary, and

(5) engage such additional personnel as may be necessary to carry out the provisions of this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) **Duties.**—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, assure that—

(1) the conferences under subsection (a)(2) will—

(A) include a conference on older Indians to identify conditions that adversely affect older Indians, to propose solutions to ameliorate such conditions, and to provide for the exchange of information relating to the delivery of services to older Indians, and

(B) be so conducted as to assure broad participation of older individuals,

Federal Register, publication.

(2) the proposed agenda for the Conference under subsection (a)(3) is published in the Federal Register not less than 180 days before the beginning of the Conference and the proposed agenda is open for public comment for a period of not less than 60 days,

Federal Register, publication.

(3) the final agenda for the Conference under subsection (a)(3), taking into consideration the comments received under paragraph (2), is published in the Federal Register and transmitted to the chief executive officers of the States not later than 30 days after the close of the public comment period provided for under paragraph (2),

(4) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities,

(5) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgment of the Conference, and

Grants.

(6) current and adequate statistical data, including decennial census data, and other information on the well-being of older individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out this subparagraph, the Secretary is authorized to make grants to, and enter into cooperative agreements with, public agencies and nonprofit private organizations.

42 USC 3001 note.

SEC. 204. CONFERENCE COMMITTEES.

(a) Advisory Committee.—The Secretary shall establish an advisory committee to the Conference which shall include representation from the Federal Council on Aging and other public agencies and private nonprofit organizations as appropriate.

(b) Other Committees.—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing of the Conference.

(c) Composition of Committees.—Each such committee shall be composed of professionals and public members, and shall include individuals from low-income families and from minority groups. A majority of the public members of each such committee shall be 55 years of age or older.

(d) Compensation.—Appointed members of any such committee (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily prescribed rate for GS-18 under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons employed intermittently in Federal Government service.

State and local governments.
42 USC 3001 note.

SEC. 205. REPORT OF THE CONFERENCE.

(a) **Proposed Report.**—A proposed report of the Conference, which shall include a statement of comprehensive coherent national policy on aging together with recommendations for the implementation of the policy, shall be published and submitted to the chief executive officers of the States not later than 60 days following the date on which the Conference is adjourned. The findings and recommendations included in the published proposed report shall be immediately available to the public.

(b) **Response to Proposed Report.**—The chief executive officers of the States, after reviewing and soliciting recommendations and comments on the report of the Conference, shall submit to the Secretary, not later than 180 days after receiving the report, their views and findings on the recommendations of the Conference.

(c) **Final Report.**—The Secretary shall, after reviewing the views and recommendations of the chief executive officers of the States, prepare a final report of the Conference, which shall include a compilation of the actions of the chief executive officers of the States and take into consideration the views and findings of such officers.

(d) **Recommendations of Secretary.**—The Secretary shall, within 90 days after submission of the views of the chief executive officers of the States, publish and transmit to the President and to the Congress recommendations for the administrative action and the legislation necessary to implement the recommendations contained within the report.

42 USC 3001 note.

SEC. 206. DEFINITIONS.

For the purposes of this title—

(1) the term "area agency on aging" means the agency designated under section 305(a)(2)(A) of the Act,

(2) the term "State agency on aging" means the State agency designated under section 305(a)(1) of the Act,

(3) the term "Secretary" means the Secretary of Health and Human Services,

(4) the term "Conference" means the White House Conference on Aging authorized in subsection (b), and

(5) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

42 USC 3001 note.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) **Authorization.**—There are authorized to be appropriated such sums as may be necessary, for each of the fiscal years 1989, 1990, and 1991, to carry out this title. Sums appropriated under this paragraph shall remain available until the expiration of the 1-year period beginning on the date the Conference is adjourned. New spending authority or authority to enter into contracts as provided in this section shall be effective only to the extent and in such amounts as are provided in advance in appropriations Acts.

(b) **Return of Unexpended Funds.**—Any funds remaining upon the expiration of such 1-year period shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

TITLE III—ALZHEIMER'S DISEASE RESEARCH

42 USC 285e-2 note.

SEC. 301. REQUIREMENT FOR CLINICAL TRIALS.

(a) In General.—The Director of the National Institute on Aging shall provide for the conduct of clinical trials on the efficacy of the use of such promising therapeutic agents as have been or may be discovered and recommended for further scientific analysis by the National Institute on Aging and the Food and Drug Administration to treat individuals with Alzheimer's disease, to retard the progression of symptoms of Alzheimer's disease, or to improve the functioning of individuals with such disease.

(b) Rule of Construction.—Nothing in this title shall be construed to affect adversely any research being conducted as of the date of the enactment of this Act.

42 USC 285e-2 note.

SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out section 301, there is authorized to be appropriated $2,000,000 for fiscal year 1988.

TITLE IV—NATIONAL SCHOOL LUNCH ACT AMENDMENT

SEC. 401. PARTICIPATION OF OLDER PERSONS AND CHRONICALLY IMPAIRED DISABLED PERSONS IN CHILD CARE FOOD PROGRAM.

Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended by adding at the end the following:

"(p)(1) For purposes of this section, adult day care centers shall be considered eligible institutions for reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction. Reimbursement provided to such institutions for such purposes shall improve the quality of meals or level of services provided or increase participation in the program.

"(2) For purposes of this subsection—

"(A) the term 'adult day care center' means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

"(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes on a less than 24-hour basis; and

"(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

"(B) the term 'proprietary title XIX or title XX center' means any private, for-profit center providing adult day care services for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act and which title XIX or title XX beneficiaries were not less than 25 percent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

"(3)(A) The Secretary of Agriculture, in consultation with the Commissioner on Aging, may establish separate guidelines for reimbursement of institutions described in this subsection.

"(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under part C of title III of the Older Americans Act of 1965, for the same meal served.".

TITLE V—NATIVE AMERICAN PROGRAMS

Native American Programs Act Amendments of 1987.
42 USC 2991 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "Native American Programs Act Amendments of 1987".

SEC. 502. REVIEW OF APPLICATIONS FOR ASSISTANCE.

The Native American Programs Act of 1974 (42 U.S.C. 2991-2992d) is amended—

(1) in the first sentence of section 803(a) by inserting ", on a single year or multiyear basis," after "financial assistance", 42 USC 2991b.

(2) by redesignating sections 813 and 814 as sections 815 and 816, respectively, 42 USC 2992c, 2992d.

(3) by redesignating sections 806 through 812, as sections 807 through 813, respectively, and 42 USC 2991e-2992b.

(4) by inserting after section 805 the following:

"PANEL REVIEW OF APPLICATIONS FOR ASSISTANCE

"SEC. 806. (a)(1) The Secretary shall establish a formal panel review process for purposes of— 42 USC 2991d-1.

"(A) evaluating applications for financial assistance under sections 803 and 805; and

"(B) determining the relative merits of the projects for which such assistance is requested.

"(2) To implement the process established under paragraph (1), the Secretary shall appoint members of review panels from among individuals who are not officers or employees of the Administration for Native Americans. In making appointments to such panels, the Secretary shall give preference to American Indians, Native Hawaiians, and Alaskan Natives.

"(b) Each review panel appointed under subsection (a)(2) that reviews any application for financial assistance shall—

"(1) determine the merit of each project described in such application;

"(2) rank such application with respect to all other applications it reviews for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

"(3) submit to the Secretary a list that identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2).

"(c) Upon the request of the chairman of the Select Committee on Indian Affairs of the Senate or of the chairman of the Committee on Education and Labor of the House of Representatives made with respect to any application for financial assistance under section 803 or 805, the Secretary shall transmit to the chairman written notice—

"(1) identifying such application;

"(2) containing a copy of the list submitted to the Secretary under subsection (b)(3) in which such application is ranked;

"(3) specifying which other applications ranked in such list have been approved by the Secretary under sections 803 and 805; and

"(4) if the Secretary has not approved each application superior in merit, as indicated on such list, to the application with respect to which such notice is transmitted, containing a statement of the reasons relied upon by the Secretary for—

"(A) approving the application with respect to which such notice is transmitted; and

"(B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).".

SEC. 503. PROCEDURAL REQUIREMENTS.

(a) RULEMAKING.—The Native American Programs Act of 1974 (42 U.S.C. 2991-2992d) is amended by inserting after section 813, as so redesignated by section 502, the following:

"ADDITIONAL REQUIREMENTS APPLICABLE TO RULEMAKING

Loans.
Grants.
Contracts.
42 USC 2992b-1.

"SEC. 814. (a) Notwithstanding subsection (a) of section 553 of title 5, United States Code, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits, or contracts authorized by this title.

"(b)(1) Subparagraph (A) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any interpretative rule or general statement of policy—

"(A) proposed under this title; or

"(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title.

"(2) Subparagraph (B) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any rule (other than an interpretative rule or a general statement of policy)—

"(A) proposed under this title; or

"(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title.

"(3) The first 2 sentences of section 553(b) of title 5, United States Code, shall apply with respect to any rule (other than an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice) that is—

"(A) proposed under this title; or

"(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title;

unless the Secretary for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in such rule) that notice and public procedure thereon are contrary to the public interest or would impair the effective administration of any program, project, or activity with respect to which such rule is issued.

"(c) Notwithstanding section 553(d) of title 5, United States Code, no rule (including an interpretative rule) or general statement of policy that—

"(1) is issued to carry out this title; or

"(2) applies exclusively to any program, project, or activity authorized by, or carried out under, this title;

may take effect until 30 days after the publication required under the first 2 sentences of section 553(b) of title 5, United States Code.

"(d) Each rule (including an interpretative rule) and each general statement of policy to which this section applies shall contain after each of its sections, paragraphs, or similar textual units a citation to the particular provision of statutory or other law that is the legal authority for such section, paragraph, or unit.

"(e) Except as provided in subsection (c), if as a result of the enactment of any law affecting the administration of this title it is necessary or appropriate for the Secretary to issue any rule (including any interpretative rule) or a general statement of policy, the Secretary shall issue such rule or such general statement of policy not later than 180 days after the date of the enactment of such law.

"(f) Whenever an agency publishes in the Federal Register a rule (including an interpretative rule) or a general statement of policy to which subsection (c) applies, such agency shall transmit a copy of such rule or such general statement of policy to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

(b) DEFINITION OF RULE.—Section 815 of the Native American Programs Act of 1974 (42 U.S.C. 2992c), as so redesignated by section 502, is amended—

(1) in paragraph (3) by striking "and" at the end thereof,

(2) by redesignating paragraph (4) as paragraph (5), and

(3) by inserting after paragraph (3) the following:

"(4) the term 'rule' has the meaning given it in section 551(4) of title 5, United States Code, as amended from time to time; and".

SEC. 504. INCLUSION OF OTHER NATIVE AMERICAN PACIFIC ISLANDERS.

(a) FINANCIAL ASSISTANCE.—Section 803(a) of the Native American Programs Act of 1974 (42 U.S.C. 2991b(a)) is amended by inserting after the first sentence the following: "The Secretary is authorized, subject to the availability of funds appropriated under the authority of section 816(c), to provide financial assistance to public and nonprofit private agencies serving other Native American Pacific Islanders (including American Samoan Natives) for projects pertaining to the purposes of this Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 802 of the Native American Programs Act of 1974 (42 U.S.C. 2991a) is amended by inserting ", other Native American Pacific Islanders (including American Samoan Natives)," after "Hawaiian Natives".

(2) Section 806(a)(2) of the Native American Programs Act, as added by section 502(4) of this Act, is amended by inserting "other Native American Pacific Islanders (including American Samoan Natives)," after "Hawaiian Natives,". 42 USC 2991d-1.

(3) Section 808 of the Native American Programs Act of 1974 (42 U.S.C. 2991f), as so redesignated by section 502, is amended by inserting "or Territory" after "State" each place it appears.

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d), as so redesignated by section 502 of this Act, is amended—

(1) in subsection (a) by striking "1979 through 1986" and inserting "1988, 1989, 1990, and 1991", and

(2) by adding at the end the following:

"(c)(1) Except as provided in paragraph (2), there are authorized to be appropriated $500,000 for each of the fiscal years 1988, 1989, 1990, and 1991 for the purpose of providing financial assistance to other Native American Pacific Islanders (including American Samoan Natives) under section 803(a).

"(2) No funds may be appropriated under paragraph (1) for a fiscal year unless the amount appropriated under subsection (a) for such fiscal year exceeds 105 percent of the amount appropriated under subsection (a) for the preceding fiscal year.".

SEC. 506. REVOLVING LOAN FUND FOR NATIVE HAWAIIANS.

(a) ESTABLISHMENT OF FUND AND AUTHORITY FOR GRANTS.—The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended by inserting after section 803 the following:

"LOAN FUND; DEMONSTRATION PROJECT

42 USC 2991b-1. "SEC. 803A. (a)(1) In order to provide funding that is not available from private sources, the Secretary shall award grants to one agency of the State of Hawaii, or to one community-based Native Hawaiian organization whose purpose is the economic and social self-sufficiency of Native Hawaiians, which shall use such grants to establish and carry out, in the State of Hawaii, a 5-year demonstration project involving the establishment of a revolving loan fund—

"(A) from which such agency or Native Hawaiian organization shall make loans to Native Hawaiian organizations and to individual Native Hawaiians for the purpose of promoting economic development in the State of Hawaii; and

"(B) into which all payments, interest, charges, and other amounts collected from loans made under subparagraph (A) shall be deposited notwithstanding any other provision of law.

"(2) The agreement under which a grant is awarded under paragraph (1) shall contain provisions which set forth the administrative costs of the grantee that are to be paid out of the funds provided under the grant.

"(b)(1) The agency or organization to which a grant is awarded under subsection (a)(1) may make loans to a borrower under subsection (a)(1)(A) only if the agency or organization determines that—

"(A) the borrower is unable to obtain financing from other sources on reasonable terms and conditions; and

"(B) there is a reasonable prospect that the borrower will repay the loan.

"(2) Loans made under subsection (a)(1)(A) shall be—

"(A) for a term that does not exceed 5 years; and

"(B) at a rate of interest that is 2 percentage points below the average market yield on the most recent public offering of United States Treasury bills occurring before the date on which the loan is made.

"(3) The agency or organization to which a grant is awarded under subsection (a)(1) may require any borrower of a loan made under subsection (a)(1)(A) to provide such collateral as the agency or organization determines to be necessary to secure the loan.

"(4) Prior to making loans under subsection (a)(1)(A), the agency or organization to which a grant is awarded under subsection (a)(1) shall establish written procedures and definitions pertaining to defaults and collections of payments under the loans which shall be subject to the review and approval of the Secretary. Such agency or organization shall provide to each applicant for a loan under subsection (a)(1)(A), at the time application for the loan is made, a written copy of such procedures and definitions.

"(5) The agency or organization to which a grant is awarded under subsection (a)(1) may not lend to itself any of the funds awarded under the grant.

"(6) No loan may be made from the revolving fund that is required to be established under subsection (a) after the close of the 5-year period beginning on the date of enactment of the Native American Programs Act Amendments of 1987.

"(c)(1) The agency or organization to which a grant is awarded under subsection (a)(1) shall provide the Secretary at regular intervals written notice of each loan made under subsection (a)(1)(A) that is in default and the status of such loan.

"(2)(A) After making reasonable efforts to collect all amounts payable under a loan made under subsection (a)(1)(A) that is in default, the agency or organization to which a grant is awarded under subsection (a)(1) shall notify the Secretary that such loan is uncollectable or collectable only at an unreasonable cost. Such notice shall include recommendations for future action to be taken by the agency or organization.

"(B) Upon receiving such notice, the Secretary shall instruct the agency or organization—

"(i) to continue with its collection activities;

"(ii) to cancel, adjust, compromise, or reduce the amount of such loan; or

"(iii) to modify any term or condition of such loan, including any term or condition relating to the rate of interest or the time of payment of any installment of principal or interest, or portion thereof, that is payable under such loan.

"(C) The agency or organization shall carry out all instructions received under subparagraph (B) from the Secretary.

"(d)(1) The agency or organization to which a grant is awarded under subsection (a)(1) shall, out of funds available in the revolving loan fund established under such subsection—

"(A) pay expenses incurred by the agency or organization in administering the revolving loan fund; and

"(B) provide competent management and technical assistance to borrowers of loans made under subsection (a)(1)(A) to assist the borrowers to achieve the purposes of such loans.

"(2) The Secretary shall provide to the agency or organization to which a grant is made under subsection (a)(1) such management and technical assistance as the agency or organization may request in order to carry out the provisions of this section.

Regulations.

"(e) Not later than 120 days after the date of enactment of the Native American Programs Act Amendments of 1987, the Secretary, in consultation with appropriate agencies of the State of Hawaii and community-based Native Hawaiian organizations, shall prescribe regulations which set forth the procedures and criteria to be used—

"(1) in making loans under subsection (a)(1)(A); and

"(2) in canceling, adjusting, compromising, and reducing under subsection (c) the outstanding amounts of such loans.

The Secretary may prescribe such other regulations as may be necessary to carry out the purposes of this section, including regulations involving reporting and auditing.

Appropriation authorizations.

"(f)(1) There is authorized to be appropriated for fiscal years 1988, 1989, and 1990 the aggregate amount $3,000,000 for all such fiscal years for the purpose of carrying out the provisions of this section. Any amount appropriated under this paragraph shall remain available for expenditure without fiscal year limitation.

"(2) The revolving loan fund that is required to be established under subsection (a)(1) shall be maintained as a separate account. Any portion of the revolving loan fund that is not required for expenditure shall be invested in obligations of the United States or in obligations guaranteed or insured by the United States.

"(3)(A) All monies that are in the revolving loan fund at the close of the 5-year period beginning on the date of enactment of the Native American Programs Act Amendments of 1987 and that are not otherwise needed (as determined by the Secretary) to carry out the provisions of this section shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(B) All monies deposited in the revolving loan fund after the close of such period pursuant to subsection (a)(1)(B) shall be deposited into the Treasury of the United States as miscellaneous receipts.

Reports.

"(g)(1) The Secretary, in consultation with the agency or organization to which a grant is awarded under subsection (a)(1), shall submit to the Congress—

"(A) an interim report not later than 2 years after the date of enactment of the Native American Programs Act Amendments of 1987; and

"(B) a final report not later than 4 years after the date of enactment of the Native American Programs Act Amendments of 1987;

regarding the administration of this section.

"(2) Each such report shall include the views and recommendations of the Secretary regarding—

"(A) the effectiveness of the demonstration project;

"(B) whether the demonstration project should be expanded to other groups eligible for assistance under this title; and

"(C) whether the duration of the demonstration project should be extended.

(b) CONFORMING AMENDMENTS.—Subsections (a) and (b) of section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d), as so redesignated by section 502, are each amended by inserting "(other than section 803A)" after "title".

(c) TECHNICAL AMENDMENTS.—The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended—

42 USC 2991a.

(1) in section 802 by striking "Hawaiian Natives" and inserting "Native Hawaiians", and

42 USC 2991b.

(2) in the first sentence of section 803 by striking "Hawaiian Natives" and inserting "Native Hawaiians".

TITLE VI—HEALTH CARE SERVICES IN THE HOME

Health Care Services in the Home Act of 1987.
State and local governments.
42 USC 201 note.

SEC. 601. SHORT TITLE.

This title may be cited as the "Health Care Services in the Home Act of 1987".

SEC. 602. ESTABLISHMENT OF GRANT PROGRAMS FOR DEMONSTRATION PROJECTS.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

"Part K—Health Care Services in the Home

"Subpart I—Grants for Demonstration Projects

"SEC. 395. ESTABLISHMENT OF PROGRAM.

42 USC 280c.

Disadvantaged persons.

"(a) In General.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make not less than 3, and not more than 5, grants to States for the purpose of assisting grantees in carrying out demonstration projects—

"(1) to identify low-income individuals who can avoid institutionalization or prolonged hospitalization if skilled medical services or related health services (or both) are provided in the homes of the individuals;

"(2) to pay the costs of the provision of such services in the homes of such individuals; and

"(3) to coordinate the provision by public and private entities of such services, and other long-term care services, in the homes of such individuals.

"(b) Requirement With Respect to Age of Recipients of Services.—The Secretary may not make a grant under subsection (a) to a State unless the State agrees to ensure that not less than 25 percent of individuals receiving services pursuant to subsection (a) are individuals who are not less than 65 years of age.

"(c) Relationship to Items and Services Under Other Programs.—A State may not make payments from a grant under subsection (a) for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(2) by an entity that provides health services on a prepaid basis.

"SEC. 396. LIMITATION ON DURATION OF GRANT AND REQUIREMENT OF MATCHING FUNDS.

42 USC 280c-1.

"(a) Limitation on Duration of Grant.—The period during which payments are made to a State from a grant under section 395(a) may not exceed 3 years. Such payments shall be subject to annual evaluation by the Secretary.

"(b) Requirement of Matching Funds.—

"(1)(A) For the first year of payments to a State from a grant under section 395(a), the Secretary may not make such payments in an amount exceeding 75 percent of the costs of services to be provided by the State pursuant to such section.

"(B) For the second year of such payments to a State, the Secretary may not make such payments in an amount exceeding 65 percent of the costs of such services.

"(C) For the third year of such payments to a State, the Secretary may not make such payments in an amount exceeding 55 percent of the costs of such services.

"(2) The Secretary may not make a grant under section 395(a) to a State unless the State agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward the costs of services to be provided pursuant to such section in an amount equal to—

"(A) for the first year of payments to the State from the grant, not less than $25 (in cash or in kind under subsection (c)) for each $75 of Federal funds provided in the grant;

"(B) for the second year of such payments to the State, not less than $35 (in cash or in kind under subsection (c)) for each $65 of such Federal funds; and

"(C) for the third year of such payments to the State, not less than $45 (in cash or in kind under subsection (c)) for each $55 of such Federal funds.

"(c) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in subsection (b) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

42 USC 280c-2.

"SEC. 397. GENERAL PROVISIONS.

"(a) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under section 395(a) to a State unless the State agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

"(b) DESCRIPTION OF INTENDED USE OF GRANT.—The Secretary may not make a grant under section 395(a) to a State unless—

"(1) the State submits to the Secretary a description of the purposes for which the State intends to expend the grant; and

"(2) such description provides information relating to the programs and activities to be supported and services to be provided, including—

"(A) the number of individuals who will receive services pursuant to section 395(a) and the average costs of providing such services to each such individual; and

"(B) a description of the manner in which such programs and activities will be coordinated with any similar programs and activities of public and private entities.

"(c) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under section 395(a) to a State unless the State has submitted to the Secretary an application for the grant. The application shall—

"(1) contain the description of intended expenditures required in subsection (b);

"(2) with respect to carrying out the purpose for which the grant is to be made, provide assurances of compliance satisfactory to the Secretary; and

"(3) otherwise be in such form, be made in such manner, and contain such information and agreements as the Secretary determines to be necessary to carry out this subpart.

"(d) EVALUATIONS AND REPORT BY SECRETARY.—The Secretary shall—

"(1) provide for an evaluation of each demonstration project for which a grant is made under section 395(a); and

"(2) not later than 6 months after the completion of such evaluations, submit to the Congress a report describing the findings made as a result of the evaluations.

"(e) AUTHORIZATIONS OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.

"Subpart II—Grants for Demonstrations Projects With Respect to Alzheimer's Disease

"SEC. 398. ESTABLISHMENT OF PROGRAM.

42 USC 280c-3.

"(a) IN GENERAL.—The Secretary shall make not less than 3, and not more than 5, grants to States for the purpose of assisting grantees in carrying out demonstration projects for planning, establishing, and operating programs—

"(1) to coordinate the development and operation by public and private organizations of diagnostic, treatment, care management, respite care, legal counseling, and education services provided within the State to individuals with Alzheimer's disease or related disorders and to the families and care providers of such individuals;

"(2) to provide home health care, personal care, day care, companion services, short-term care in health facilities, and other respite care to individuals with Alzheimer's disease or related disorders; and

Public information.

"(3) to provide to health care providers, to individuals with Alzheimer's disease or related disorders, to the families of such individuals, to organizations established for such individuals and such families, and to the general public, information with respect to—

"(A) diagnostic services, treatment services, and related services available to such individuals and to the families of such individuals;

"(B) sources of assistance in obtaining such services, including assistance under entitlement programs; and

"(C) the legal rights of such individuals and such families.

"(b) REQUIREMENT WITH RESPECT TO CERTAIN EXPENDITURES.—The Secretary may not make a grant under subsection (a) to a State unless the State agrees to expend not less than 50 percent of the grant for the provision of services described in subsection (a)(2).

"(c) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—A State may not make payments from a grant under subsection (a) for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(2) by an entity that provides health services on a prepaid basis.

42 USC 280c-4.

"SEC. 399. LIMITATION ON DURATION OF GRANT AND REQUIREMENT OF MATCHING FUNDS.

"(a) LIMITATION ON DURATION OF GRANT.—The period during which payments are made to a State from a grant under section 398(a) may not exceed 3 years. Such payments shall be subject to annual evaluation by the Secretary.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1)(A) For the first year of payments to a State from a grant under section 398(a), the Secretary may not make such payments in an amount exceeding 75 percent of the costs of services to be provided by the State pursuant to such section.

"(B) For the second year of such payments to a State, the Secretary may not make such payments in an amount exceeding 65 percent of the costs of such services.

"(C) For the third year of such payments to a State, the Secretary may not make such payments in an amount exceeding 55 percent of the costs of such services.

"(2) The Secretary may not make a grant under section 398(a) to a State unless the State agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward the costs of services to be provided pursuant to such section in an amount equal to—

"(A) for the first year of payments to the State from the grant, not less than $25 (in cash or in kind under subsection (c)) for each $75 of Federal funds provided in the grant;

"(B) for the second year of such payments to the State, not less than $35 (in cash or in kind under subsection (c)) for each $65 of such Federal funds; and

"(C) for the third year of such payments to the State, not less than $45 (in cash or in kind under subsection (c)) for each $55 of such Federal funds.

"(c) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in subsection (b) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

42 USC 280c-5.

"SEC. 399A. GENERAL PROVISIONS.

"(a) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under section 398(a) to a State unless the State agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

"(b) DESCRIPTION OF INTENDED USE OF GRANT.—The Secretary may not make a grant under section 398(a) to a State unless—

"(1) the State submits to the Secretary a description of the purposes for which the State intends to expend the grant; and

"(2) such description provides information relating to the programs and activities to be supported and services to be provided, including—

"(A) the number of individuals who will receive services pursuant to section 398(a) and the average costs of providing such services to each such individual; and

"(B) a description of the manner in which such programs and activities will be coordinated with any similar programs and activities of public and private entities.

"(c) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under section 398(a) to a State unless the State has submitted to the Secretary an application for the grant. The application shall—

"(1) contain the description of intended expenditures required in subsection (b);

"(2) with respect to carrying out the purpose for which the grant is to be made, provide assurances of compliance satisfactory to the Secretary; and

"(3) otherwise be in such form, be made in such manner, and contain such information and agreements as the Secretary determines to be necessary to carry out this subpart.

"(d) EVALUATIONS AND REPORT BY SECRETARY.—The Secretary shall—

"(1) provide for an evaluation of each demonstration project for which a grant is made under section 398(a); and

"(2) not later than 6 months after the completion of such evaluations, submit to the Congress a report describing the findings made as a result of the evaluations.

"(e) AUTHORIZATIONS OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.".

TITLE VII—GENERAL PROVISIONS

SEC. 701. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

42 USC 3001 note.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsections (b) and (c), this Act and the amendments made by this Act shall take effect on October 1, 1987.

(b) APPLICATION OF AMENDMENTS.—The amendments made by title I of this Act shall not apply with respect to—

(1) any area plan submitted under section 306(a) of the Older Americans Act of 1965, or

(2) any State plan submitted under section 307(a) of such Act, and approved for any fiscal year beginning before the date of the enactment of this Act.

(c) Effective Date of Section 506.—The amendments made by section 506 of this Act shall take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act.

Approved November 29, 1987.

LEGISLATIVE HISTORY—H.R. 1451 (S. 887):

HOUSE REPORTS: No. 100-97 (Comm. on Education and Labor) and No. 100-427 (Comm. of Conference).

SENATE REPORTS: No. 100-136 (Comm. on Labor and Human Resources) and No. 100-140 (Select Comm. on Indian Affairs), both accompanying S. 887.

CONGRESSIONAL RECORD, Vol. 133 (1987):
May 27, 28, considered and passed House.
Aug. 6, considered and passed Senate, amended, in lieu of S. 887.
Nov. 10, 12, Senate agreed to conference report.
Nov. 17, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
Nov. 30, Presidential statement.

○

Public Law 100-176
100th Congress

Joint Resolution

To designate the week of November 29, 1987, through December 5, 1987, as "National Home Health Care Week".

Nov. 30, 1987
[S.J. Res. 98]

Whereas organized home health care services to the elderly and disabled have existed in this country since the last quarter of the eighteenth century;

Whereas home health care, including skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, health counseling and education, and homemaker-home health aide services, is recognized as an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving such services;

Whereas the Federal Government has supported home health services since the enactment of the medicare program, with the number of home health agencies providing services increasing from less than five hundred to more than five thousand; and

Whereas many private, public, and charitable organizations provide these and similar services to millions of patients each year preventing, postponing, and limiting the need for institutionalization and enabling such patients to remain independent: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 29, 1987 through December 5, 1987, is designated as "National Home Health Care Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved November 30, 1987

LEGISLATIVE HISTORY—S.J. Res. 98:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 30, considered and passed Senate.
Nov. 17, considered and passed House.

○

PUBLIC LAW 100-177—DEC. 1, 1987

PUBLIC HEALTH SERVICE AMENDMENTS OF 1987

19-139 O - 87 (177)

Public Law 100-177
100th Congress

An Act

Dec. 1, 1987
[S. 1158]

To amend the Public Health Service Act to establish a National Health Service Corps Loan Repayment Program and to otherwise revise and extend the program for the National Health Service Corps.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Health Service Amendments of 1987.
42 USC 201 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Public Health Service Amendments of 1987".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Public Health Service Act.

TITLE I—HEALTH RESEARCH, TECHNOLOGY, STATISTICS, AND PREVENTIVE HEALTH PROGRAMS

Sec. 101. Establishment of certain rural programs of National Center for Health Services Research and Health Care Technology Assessment.
Sec. 102. Duties and composition of National Advisory Council on Health Care Technology Assessment.
Sec. 103. Prohibition against altering certain administrative relationships.
Sec. 104. National Center for Health Statistics.
Sec. 105. National Committee on Vital and Health Statistics.
Sec. 106. Health care reports and profiles.
Sec. 107. Requirement of peer review groups for evaluations of grant proposals.
Sec. 108. Authorization of appropriations.
Sec. 109. Requirement with respect to amount of non-Federal contributions in grant program for Council on Health Care Technology.
Sec. 110. Project grants for preventive health projects for immunizations.
Sec. 111. Project grants for preventive health projects for tuberculosis; additional grants.

TITLE II—NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM

Sec. 201. Establishment of loan repayment program.
Sec. 202. Technical and conforming amendments.
Sec. 203. Report and authorization of appropriations for scholarship and loan repayment programs; State programs.
Sec. 204. Special repayment provisions.
Sec. 205. Regulations.

TITLE III—NATIONAL HEALTH SERVICE CORPS

Sec. 301. Requirement of consideration of needs of Indian Health Service, certain indian tribes, and the homeless.
Sec. 302. Designation of health manpower shortage areas.
Sec. 303. Placement of physicians.
Sec. 304. Assignment of family physicians.
Sec. 305. Authorizations of appropriations for general operations of National Health Service Corps.
Sec. 306. Obligated service.
Sec. 307. Private practice.
Sec. 308. Discharge of obligations in bankruptcy.
Sec. 309. Special loans for Corps members to enter private practice

TITLE IV—MISCELLANEOUS

Sec. 401. Geriatric medicine training projects.
Sec. 402. Professional review activities.

SEC. 2. REFERENCES TO THE PUBLIC HEALTH SERVICE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—HEALTH RESEARCH, TECHNOLOGY, STATISTICS, AND PREVENTIVE HEALTH PROGRAMS

SEC. 101. ESTABLISHMENT OF CERTAIN RURAL PROGRAMS OF NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND HEALTH CARE TECHNOLOGY ASSESSMENT.

Section 305 (42 U.S.C. 242c) is amended—

(1) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) In carrying out section 304(a), the Secretary, acting through the Center, shall undertake and support research, evaluation, and demonstration projects (that may include and shall be appropriately coordinated with experiments and demonstration activities authorized by the Social Security Act (42 U.S.C. 301 et seq.) and the Social Security Amendments of 1967 (Public Law 90-248; 81 Stat. 821)) respecting the delivery of health care services in rural areas (including frontier areas), which may include projects with respect to—

Health care facilities.
Aged persons.
Disadvantaged persons.

"(1) the future of the rural hospital;

"(2) long-term health care for the rural elderly;

"(3) hospital care for the rural poor and uninsured; and

"(4) alternative health care delivery systems and managed health care in rural areas.".

SEC. 102. DUTIES AND COMPOSITION OF NATIONAL ADVISORY COUNCIL ON HEALTH CARE TECHNOLOGY ASSESSMENT.

Section 305(h) (as redesignated in section 101(1) of this Act) is amended—

(1) in the last sentence of paragraph (1), by striking out "shall assist the Director in developing" and inserting in lieu thereof "shall make recommendations to the Director with respect to the development of"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3)(A) The Secretary shall appoint to the Council—

"(i) six individuals distinguished in the fields of medicine, engineering, and science (including social science);

"(ii) four individuals distinguished in the fields of law, ethics, economics, and management; and

"(iii) two individuals representing the interests of consumers of health care services.

"(B) The Secretary shall ensure that members of the Council, as a group, are representative of professions and entities concerned with, or affected by, health care technology.".

42 USC 242c note.

SEC. 103. PROHIBITION AGAINST ALTERING CERTAIN ADMINISTRATIVE RELATIONSHIPS.

With respect to carrying out section 305 of the Public Health Service Act (42 U.S.C. 242c), the Secretary may not alter the administrative relationship between the Assistant Secretary for Health and the Director of the National Center for Health Services Research and Health Care Technology Assessment, as in effect during fiscal year 1986.

SEC. 104. NATIONAL CENTER FOR HEALTH STATISTICS.

Section 306(a) (42 U.S.C. 242k(a)) is amended by striking out "and supervised" and all that follows through the period and inserting in lieu thereof a period.

SEC. 105. NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS.

(a) In General.—Section 306(k) (42 U.S.C. 242k(k)) is amended—

(1) in paragraph (1), by striking out "fifteen" and inserting in lieu thereof "16";

(2) in the second sentence of paragraph (2)(A), by striking out "three" and inserting in lieu thereof "4"; and

(3) in paragraph (2), by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B)(i) In the case of membership terms on the Committee under this subsection (as in effect prior to January 1, 1988) that expire in calendar year 1988, the appointments to three such terms in such calendar year shall be for a period of 4 years and the appointments to two such terms in such calendar year shall be for a period of 3 years, as designated by the Secretary.

"(ii) In the case of membership terms on the Committee under this subsection (as in effect prior to January 1, 1988) that expire in calendar year 1989, one such term shall be extended for an additional consecutive 1-year period, as designated by the Secretary.

"(iii) In the case of membership terms on the Committee under this subsection (as in effect prior to January 1, 1988) that expire in calendar year 1990, two of such terms shall each be extended for an additional consecutive 1-year period, as designated by the Secretary.".

42 USC 242k note.

(b) Effective Date.—The amendments made by this section shall become effective on January 1, 1988.

SEC. 106. HEALTH CARE REPORTS AND PROFILES.

(a) Reports.—Section 308 (42 U.S.C. 242m(a)) is amended—

(1) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraphs:

"(1) Not later than March 15 of each year, the Secretary shall submit to the President and Congress the following reports:

"(A) A report on—

"(i) the administration of sections 304 through 307 and section 309 during the preceding fiscal year; and

"(ii) the current state and progress of health services research, health statistics, and health care technology.

"(B) A report on health care costs and financing. Such report shall include a description and analysis of the statistics collected under section 306(b)(1)(G).

"(C) A report on health resources. Such report shall include a description and analysis, by geographical area, of the statistics collected under section 306(b)(1)(E).

"(D) A report on the utilization of health resources. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 306(b)(1)(F).

"(E) A report on the health of the Nation's people. Such report shall include a description and analysis, by age, sex, income, and geographic area, of the statistics collected under section 306(b)(1)(A).

"(2) The reports required by subparagraphs (B) through (E) of paragraph (2) shall be prepared through the National Center for Health Services Research and Health Care Technology Assessment and the National Center for Health Statistics."; and

(2) in paragraph (3), by striking out "or (2)".

(b) NATIONAL DISEASE PREVENTION DATA PROFILES.—The first sentence of section 404(a) of the Health Services and Centers Amendments of 1978 (42 U.S.C. 242p(a)) is amended by striking out "on December 1, 1980, and on December 1 of every third year thereafter" and inserting in lieu thereof "on March 15, 1990, and on March 15 of every third year thereafter".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to reports and profiles required to be submitted after November 1, 1987.

42 USC 242m note.

SEC. 107. REQUIREMENT OF PEER REVIEW GROUPS FOR EVALUATIONS OF GRANT PROPOSALS.

Section 308(b) (42 U.S.C. 242m(b)) is amended—

(1) in paragraph (1), by inserting before the period at the end thereof the following: "and unless a peer review group referred to in paragraph (2) has recommended the application for approval"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2)(A) Each application submitted for a grant or contract under section 304 or 305, in an amount exceeding $50,000 of direct costs and for a health services research, evaluation, or demonstration project, shall be submitted to a peer review group for an evaluation of the technical and scientific merits of the proposals made in each such application. The Secretary, acting through the Director of the National Center for Health Services Research and Health Care Technology Assessment (or, as appropriate, through the Director of the National Center for Health Statistics), shall establish such peer review groups as may be necessary to provide for such an evaluation of each such application.

Reports.

"(B) A peer review group to which an application is submitted pursuant to subparagraph (A) shall report its finding and recommendations respecting the application to the Secretary, acting through the Director involved, in such form and manner as the Secretary shall by regulation prescribe. The Secretary may not approve an application described in such subparagraph unless a peer review group has recommended the application for approval.

"(C) The Secretary, acting through the Directors, shall make appointments to the peer review groups required in subparagraph (A) from among persons who are not officers or employees of the United States and who possess appropriate technical and scientific qualifications.".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

Subsection (i) of section 308 (42 U.S.C. 242m(i)) is amended to read as follows:

"(i)(1)(A) For health service research, evaluation, and demonstration activities undertaken or supported under section 304 or 305, there are authorized to be appropriated $30,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990. At least 20 percent of the amount appropriated under the preceding sentence for any fiscal year or $6,000,000, whichever is less, shall be available only for health services research, evaluation and demonstration activities directly undertaken through the National Center for Health Services Research and Health Care Technology Assessment, and at least 10 percent of such amount or $1,500,000 whichever is less, shall be available only for the user liaison program and the technical assistance program referred to in section 305(d)(2) and for dissemination activities directly undertaken through such Center.

"(B) For health care technology assessment activities undertaken under subsections (b)(5), (g), and (h) of section 305, the Secretary shall obligate from funds appropriated under this paragraph not less than $4,500,000 for each of the fiscal years 1988 through 1990.

"(C) For grants under section 309, the Secretary shall make available from funds appropriated under this paragraph not more than $750,000 for each of the fiscal years 1988 through 1990. Of such amounts made available, the Secretary shall, with respect to non-Federal contributions made available by grantees pursuant to section 309(a)(2)(B), obligate during each such fiscal year such amounts as may be necessary to pay the Federal share appropriate under such section as a result of such contributions.

"(D) Of the amounts appropriated under this paragraph for any fiscal year, not more than $1,500,000 may be used for grants and contracts for all the costs of planning, establishing, and operating centers under section 305(e).

"(2) For health statistical and epidemiological activities undertaken or supported under section 304 or 306, there are authorized to be appropriated $55,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

SEC. 109. REQUIREMENT WITH RESPECT TO AMOUNT OF NON-FEDERAL CONTRIBUTIONS IN GRANT PROGRAM FOR COUNCIL ON HEALTH CARE TECHNOLOGY.

Section 309(a)(2)(B) (42 U.S.C. 242n(a)(2)(B)) is amended by inserting before the period at the end thereof the following: ", except that for fiscal years 1988 and 1989, the Secretary may only require expenditures from non-Federal sources in an amount not less than the amount of the grant applied for".

SEC. 110. PROJECT GRANTS FOR PREVENTIVE HEALTH PROJECTS FOR IMMUNIZATIONS.

(a) In General.—Paragraph (1) of section 317(j) (42 U.S.C. 247b(j)(1)) is amended to read as follows:

"(1)(A) Except for grants for immunization programs the authorization of appropriations for which are established in subparagraph (B), for grants under subsections (a) and (k)(1) for preventive health service programs to immunize without charge individuals against vaccine-preventable diseases, there are authorized to be appropriated $94,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990. Not more than 10 percent of the total amount appropriated under the preceding sentence for any fiscal year shall be available for grants under subsection (k)(1) for such fiscal year.

"(B) For grants under subsection (a) for preventive health service programs for the provision without charge of immunizations with vaccines approved for use, and recommended for routine use, after the date of the enactment of Public Health Service Amendments of 1987, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1988, 1989, and 1990.

"(C) On the implementation of subtitle 2 of title XXI, there are authorized to be appropriated for grants under subsection (a) for which appropriations are authorized in subparagraph (A) such sums as may be necessary for fiscal years 1988 through 1990 to make such grants.".

(b) SUPPLY OF VACCINES.—

42 USC 300aa-2 note.

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out paragraph (1) $5,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.

SEC. 111. PROJECT GRANTS FOR PREVENTIVE HEALTH PROJECTS FOR TUBERCULOSIS; ADDITIONAL GRANTS.

(a) PROJECT GRANTS.—Paragraph (2) of section 317(j) (42 U.S.C. 247b(j)(2)) is amended to read as follows:

"(2) For grants under subsection (a) for preventive health service programs for tuberculosis, and for grants under subsection (k)(2), there are authorized to be appropriated $24,000,000 for fiscal year 1988, $31,000,000 for fiscal year 1989, and $36,000,000 for fiscal year 1990. Not more than 10 percent of the total amount appropriated under the preceding sentence for any fiscal year shall be available for grants under subsection (k)(2) for such fiscal year.".

(b) ADDITIONAL GRANTS.—Section 317 is amended by adding at the end thereof the following new subsection:

State and local governments. Health care professionals. Education.

"(k)(1) The Secretary may make grants to States, political subdivisions of States, and other public and nonprofit private entities for—

"(A) research into the prevention and control of diseases that may be prevented through vaccination;

"(B) demonstration projects for the prevention and control of such diseases;

"(C) public information and education programs for the prevention and control of such diseases; and

"(D) education, training, and clinical skills improvement activities in the prevention and control of such diseases for health professionals (including allied health personnel).

"(2) The Secretary may make grants to States, political subdivisions of States, and other public and nonprofit private entities for—

"(A) research into the prevention and control of tuberculosis, especially research concerning strains of tuberculosis resistant to drugs and research concerning cases of tuberculosis that affect certain populations;

"(B) demonstration projects for the prevention and control of tuberculosis;

"(C) public information and education programs for prevention and control of tuberculosis; and

"(D) education, training, and clinical skills improvement activities in the prevention and control of tuberculosis for health professionals, including allied health personnel.

"(3) The Secretary may make grants to States, political subdivisions of States, and other public and nonprofit private entities for—

"(A) research into the prevention and control of diseases and conditions;

"(B) demonstration projects for the prevention and control of such diseases and conditions;

"(C) public information and education programs for the prevention and control of such diseases and conditions; and

"(D) education, training, and clinical skills improvement activities in the prevention and control of such diseases and conditions for health professionals (including allied health personnel).

"(4) No grant may be made under this subsection unless an application therefor is submitted to the Secretary in such form, at such time, and containing such information as the Secretary may by regulation prescribe.

"(5) Subsections (d), (e), and (f) of section 317 shall apply to grants under this subsection in the same manner as such subsections apply to grants under subsection (a) of section 317.".

Health care professionals.

TITLE II—NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM

SEC. 201. ESTABLISHMENT OF LOAN REPAYMENT PROGRAM.

Subpart II of part D of title III (42 U.S.C. 254d et seq.) is amended—

(1) by redesignating section 338G (42 U.S.C. 254r) as section 338I;

(2) by redesignating sections 338B through 338F (42 U.S.C. 254m through 254q) as sections 338C through 338G, respectively; and

(3) by inserting after section 338A the following new section:

42 USC 254*l*-1.

"SEC. 338B. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a program to be known as the National Health Service Corps Loan Repayment Program (hereinafter in this subpart referred to as the 'Loan Repayment Program') in order to assure—

"(1) an adequate supply of trained physicians, dentists, and nurses for the Corps; and

"(2) if needed by the Corps, an adequate supply of podiatrists, optometrists, pharmacists, clinical psychologists, graduates of schools of veterinary medicine, graduates of schools of public health, graduates of programs in health administration, graduates of programs for the training of physician assistants, expanded function dental auxiliaries, and nurse practitioners (as defined in section 822), and other health professionals.

"(b) Eligibility.—To be eligible to participate in the Loan Repayment Program, an individual must—

"(1)(A) be enrolled—

"(i) as a full-time student—

"(I) in an accredited (as determined by the Secretary) educational institution in a State; and

"(II) in the final year of a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathy, dentistry, or other health profession; or

"(ii) in an approved graduate training program in medicine, osteopathy, dentistry, or other health profession; or

"(B) have—

"(i) a degree in medicine, osteopathy, dentistry, or other health profession;

"(ii) completed an approved graduate training program in medicine, osteopathy, dentistry, or other health profession in a State, except that the Secretary may waive the completion requirement of this clause for good cause; and

"(iii) a license to practice medicine, osteopathy, dentistry, or other health profession in a State;

"(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps;

"(3) submit an application to participate in the Loan Repayment Program; and

"(4) sign and submit to the Secretary, at the time of the submission of such application, a written contract (described in subsection (f)) to accept repayment of educational loans and to serve (in accordance with this subpart) for the applicable period of obligated service in a health manpower shortage area.

"(c) Application, Contract, and Information Requirements.—

"(1) Summary and information.—In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms—

"(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under section 338E in the case of the individual's breach of the contract; and

"(B) information respecting meeting a service obligation through private practice under an agreement under section 338D and such other information as may be necessary for the individual to understand the individual's prospective participation in the Loan Repayment Program and service in the Corps.

"(2) Understandability.—The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

"(3) AVAILABILITY.—The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

"(d) PRIORITY.—In determining which applications under the Loan Repayment Program to approve (and which contracts to accept), the Secretary shall give priority to applications made by—

"(1) individuals whose training is in a health profession or specialty determined by the Secretary to be needed by the Corps; and

"(2) individuals who are committed to service in medically underserved areas.

"(e) APPROVAL REQUIRED FOR PARTICIPATION.—

"(1) IN GENERAL.—An individual becomes a participant in the Loan Repayment Program only on the Secretary's approval of the individual's application submitted under subsection (b)(3) and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4).

"(2) WRITTEN NOTICE.—The Secretary shall provide written notice to an individual promptly on—

"(A) the Secretary's approving, under paragraph (1), of the individual's participation in the Loan Repayment Program; or

"(B) the Secretary's disapproving an individual's participation in such Program.

"(f) CONTENTS OF CONTRACTS.—The written contract (referred to in this subpart) between the Secretary and an individual shall contain—

"(1) an agreement that—

"(A) subject to paragraph (3), the Secretary agrees—

"(i) to pay on behalf of the individual loans in accordance with subsection (g); and

"(ii) to accept (subject to the availability of appropriated funds for carrying out sections 331 through 335 and section 337) the individual into the Corps (or for equivalent service as otherwise provided in this subpart); and

"(B) subject to paragraph (3), the individual agrees—

"(i) to accept loan payments on behalf of the individual;

"(ii) in the case of an individual described in subsection (b)(1)(A), to maintain enrollment in a course of study or training described in such subsection until the individual completes the course of study or training;

"(iii) in the case of an individual described in subsection (b)(1)(A), while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training); and

"(iv) to serve for a time period (hereinafter in this subpart referred to as the 'period of obligated service') equal to 2 years or such longer period as the individual may agree to, in a health manpower shortage area (designated under section 332) to which such individual is assigned by the Secretary as a member of the Corps or released under section 338D;

"(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iv);

"(3) a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual that is conditioned thereon, is contingent on funds being appropriated for loan repayments under this subpart and to carry out the purposes of sections 331 through 335 and sections 337 and 338;

"(4) a statement of the damages to which the United States is entitled, under section 338E for the individual's breach of the contract; and

"(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this subpart.

"(g) PAYMENTS.—

"(1) IN GENERAL.—A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual for—

"(A) tuition expenses;

"(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; or

"(C) reasonable living expenses as determined by the Secretary.

"(2) PAYMENTS FOR YEARS SERVED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (3), for each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to $20,000 on behalf of the individual for loans described in paragraph (1).

"(B) INDIAN SERVICE.—For each year of obligated service that an individual contracts under subsection (f) to serve in the Indian Health Service, or to serve in a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (25 U.S.C. 450f et seq.), the Secretary may pay up to $25,000 on behalf of the individual for loans described in paragraph (1).

"(C) REPAYMENT SCHEDULE.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

"(3) TAX LIABILITY.—In addition to payments made under paragraph (2), in any case in which payments on behalf of an individual under the Loan Repayment Program result in an increase in Federal, State, or local income tax liability for such individual, the Secretary may, on the request of such individual, make payments to such individual in a reasonable amount, as determined by the Secretary, to reimburse such individual for all or part of the increased tax liability of the individual.

"(4) PAYMENT SCHEDULE.—The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

"(h) EMPLOYMENT CEILING.—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic or other training, shall not be counted against any employment ceiling affecting the Department.

"(i) REPORTS.—The Secretary shall, not later than March 1 of each year, submit to the Congress a report specifying—

"(1) the number, and type of health profession training, of individuals receiving loan payments under the Loan Repayment Program;

"(2) the educational institution at which such individuals are receiving their training;

"(3) the number of applications filed under this section in the school year beginning in such year and in prior school years; and

"(4) the amount of loan payments made in the year reported on.".

SEC. 202. TECHNICAL AND CONFORMING AMENDMENTS.

(a) SECTION 303.—Section 303(d)(4) (42 U.S.C. 242a(d)(4)) is amended—

(1) by striking out "752 or 753" each place it appears and inserting in lieu thereof "338C or 338D"; and

(2) in subparagraph (A), by striking out "subpart IV of part C of title VII" and inserting in lieu thereof "subpart II of part D".

(b) SECTION 331.—Section 331 (42 U.S.C. 254d) is amended—

(1) in subsection (b), by striking out "and the Scholarship Program" and inserting in lieu thereof ", the Scholarship Program, and the Loan Repayment Program";

(2) in subsection (c), by striking out "338C" and inserting in lieu thereof "338D";

(3) in subsection (d)(2), by inserting after "Program" the following: "or the Loan Repayment Program";

(4) in subsection (f), by striking out "Scholarship Program" and inserting in lieu thereof "Scholarship Program or the Loan Repayment Program"; and

(5) in subsection (h)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) The term 'Loan Repayment Program' means the National Health Service Corps Loan Repayment Program established under section 338B.".

(c) SECTION 334.—Section 334(a)(3)(B) (42 U.S.C. 254g(a)(3)(B)) is amended—

(1) by inserting "or the Loan Repayment Program" after "Scholarship Program"; and

(2) by striking out "service under the Program;" and inserting in lieu thereof "service under the Scholarship Program or the Loan Repayment Program;".

(d) **Section** 336.—Section 336(a) (42 U.S.C. 254h-1(a)) is amended by striking out "scholarship program" and inserting in lieu thereof "Scholarship Program or Loan Repayment Program".

(e) **Section** 338E.—Section 338E (as redesignated by section 201(2) of this Act) is amended—

42 USC 254o.

(1) in subsection (a)—

(A) by inserting "(1)" after the subsection designation;

(B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(C) by adding at the end thereof the following new paragraph:

Contracts.

"(2) An individual who has entered into a written contract with the Secretary under section 338B and who—

"(A) in the case of an individual who is enrolled in the final year of a course of study, fails to maintain an acceptable level of academic standing in the educational institution in which such individual is enrolled (such level determined by the educational institution under regulations of the Secretary) or voluntarily terminates such enrollment or is dismissed from such educational institution before completion of such course of study; or

"(B) in the case of an individual who is enrolled in a graduate training program, fails to complete such training program and does not receive a waiver from the Secretary under section 338B(b)(1)(B)(ii),

in lieu of any service obligation arising under such contract shall be liable to the United States for the amount that has been paid on behalf of the individual under the contract.";

(2) in subsection (b)(1)—

(A) by inserting "(A)" after the paragraph designation;

(B) by striking out "338E(d)" and inserting in lieu thereof "338F(d)";

(C) by striking out "338C" each place it appears and inserting in lieu thereof "338D";

(D) by striking out "338B" each place it appears and inserting in lieu thereof "338C";

(E) by inserting "under section 338A" after "service obligation";

(F) by striking the last sentence; and

(G) by adding at the end the following new subparagraph:

"(B)(i) Any amount of damages that the United States is entitled to recover under this subsection or under subsection (c) shall, within the 1-year period beginning on the date of the breach of the written contract (or such longer period beginning on such date as specified by the Secretary), be paid to the United States.

"(ii) If damages described in clause (i) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

"(I) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

"(II) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

Reports.

"(iii) Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection.

"(iv) To the extent not otherwise prohibited by law, the Secretary shall disclose to all appropriate credit reporting agencies information relating to damages of more than $100 that are entitled to be recovered by the United States under this subsection and that are delinquent by more than 60 days or such longer period as is determined by the Secretary.";

(3) by redesignating subsection (c) as subsection (d);

(4) by inserting after subsection (b) the following new subsection:

"(c)(1) If (for any reason not specified in subsection (a) or section 338F(d)) an individual breaches the written contract of the individual under section 338B by failing either to begin such individual's service obligation in accordance with section 338C or 338D or to complete such service obligation, the United States shall be entitled to recover from the individual an amount equal to the sum of—

"(A) in the case of a contract for a 2-year period of obligated service—

"(i) the total of the amounts paid by the United States under section 338B(g)(2) on behalf of the individual for any period of obligated service; and

"(ii) an amount equal to the unserved obligation penalty;

"(B) in the case of a contract for a period of obligated service of greater than 2 years, and the breach occurs before the end of the first 2 years of such period—

"(i) the total of the amounts paid by the United States under section 338B(g)(2) on behalf of the individual for any period of obligated service; and

"(ii) an amount equal to the unserved obligation penalty; and

"(C) in the case of a contract for a period of obligated service of greater than 2 years, and the breach occurs after the first 2 years of such period—

"(i) the total of the amounts paid by the United States under section 338B(g)(2) on behalf of the individual for any period of obligated service not served; and

"(ii) if the individual breaching the contract failed to give the Secretary notice, that the individual intends to take action which constitutes a breach of the contract, at least 1 year (or such shorter period of time as the Secretary determines is adequate for finding a replacement) prior to the breach, $10,000.

"(2) For purposes of paragraph (1), the term 'unserved obligation penalty' means the amount equal to the product of the number of months of obligated service that were not completed by an individual, multiplied by $1,000, except that in any case in which the individual fails to serve 1 year, the unserved obligation penalty shall be equal to the full period of obligated service multiplied by $1,000.

"(3) The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

"(4) Damages that the United States is entitled to recover shall be paid in accordance with subsection (b)(1)(B).";

(5) in subsection (d) (as redesignated by clause (3) of this subsection), by inserting "or the Loan Repayment Program (or a contract thereunder)" after "thereunder)" each place it appears; and

(6) in the section heading, by inserting "OR LOAN REPAYMENT CONTRACT" after "CONTRACT".

(f) PART D OF TITLE III.—Part D of title III is amended—

(1) by redesignating subparts III and IV as subparts IV and V, respectively; and

(2) by inserting before section 338A the following:

"Subpart III—Scholarship Program and Loan Repayment Program".

SEC. 203. REPORT AND AUTHORIZATION OF APPROPRIATIONS FOR SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS; STATE PROGRAMS.

Part D of title III (42 U.S.C. 247d et seq.) is amended by striking out section 338G (as redesignated by section 201(2) of this Act) and inserting in lieu thereof the following new sections:

"SEC. 338G. REPORT AND AUTHORIZATION OF APPROPRIATIONS.

42 USC 254q.

"(a) REPORT.—The Secretary shall report on January 20 of each year to the Committee on Labor and Human Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives on—

"(1) the number of providers of health care who will be needed for the Corps during the 3 fiscal years beginning after the date the report is filed; and

"(2) the number—

"(A) of scholarships the Secretary proposes to provide under the Scholarship Program during such 3 fiscal years;

"(B) of individuals for whom the Secretary proposes to make loan repayments under the Loan Repayment Program during such 3 fiscal years; and

"(C) of individuals who have no obligation under section 338C and who the Secretary proposes to have as members of the Corps during such 3 fiscal years,

in order to provide such number of health care providers.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for scholarships and loan repayments under this subpart.

"SEC. 338H. STATE PROGRAMS.

42 USC 254q-1.

"(a) GRANTS.—The Secretary may make grants to States to support the establishment by States of State programs similar to the Loan Repayment Program established under section 338B. Any State program supported with a grant under this section shall—

"(1) provide for the repayment of government and commercial loans for the tuition, educational expenses, and living expenses described in section 338B(g)(1); and

"(2) be conducted in conformance with the description of such program contained in the application required under subsection (b).

"(b) APPLICATIONS.—No grant may be made under this section for a State program unless an application therefor is submitted to the Secretary, in such form, at such time, and containing such information as the Secretary may prescribe. Each such application shall contain such standards for the designation of medically underserved areas under the State program and the determination of obligated service under the State program as may be acceptable to the Secretary.

"(c) FEDERAL SHARE.—The Federal share of the costs of any State program supported under this section shall not exceed 75 percent.

"(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $1,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

Contracts.
42 USC 254o note.

SEC. 204. SPECIAL REPAYMENT PROVISIONS.

(a) ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—An individual who—

(A)(i) breached a written contract entered into under section 338A of the Public Health Service Act (42 U.S.C. 254l) by failing either to begin such individual's service obligation in accordance with section 338C of such Act (as redesignated by section 201(2) of this Act) or to complete such service obligation; or

(ii) otherwise breached such a contract; and

(B) as of November 1, 1987, is liable to the United States under section 338E(b) of such Act (as redesignated by section 201(2) of this Act),

shall be relieved of liability to the United States under such section if the individual provides notice to the Secretary in accordance with paragraph (2) and provides service in accordance with a written contract with the Secretary that obligates the individual to provide service in accordance with subsection (b) or (c). The Secretary may exclude an individual from relief from liability under this section for reasons related to the individual's professional competence or conduct.

(2) NOTICE BY SECRETARY.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall notify in writing individuals who are described in subsection (a) of the opportunity provided by such subsection to be relieved of liability to the United States under section 338E(b) of the Public Health Service Act (as redesignated by section 201(2) of this Act). Notice sent to the last known address of such individual shall constitute sufficient notice for the purposes of this section. The Secretary may require that an individual responding to such notice make an election between service under subsection (b) or subsection (c) and provide that such election shall be binding.

(3) NOTICE BY INDIVIDUAL.—Not later than 180 days after the date of the enactment of this Act, an individual who receives a notice from the Secretary may notify the Secretary that the individual intends to enter into a written contract with the Secretary to provide service in accordance with subsection (b) or (c). The Secretary may extend the 180-day period for an individual for good cause shown.

(4) STATUTE OF LIMITATIONS.—If an individual provides notice under paragraph (3), the statute of limitations established by section 2415 of title 28, United States Code, shall be tolled from the time the Secretary receives such notice until such time as it is determined by the Secretary that such individual will not be relieved of liability to the United States under the Public Health Service Act as provided under this section.

(5) PLACEMENTS.—Any individual who enters into a contract under this subsection shall be afforded an opportunity to locate and negotiate a placement in accordance with this section, except that the Secretary shall not be required to identify a placement for any individual in a medical specialty for which the National Health Service Corps has no need.

Regulations.

(6) PARTIAL SERVICE.—The Secretary shall promulgate regulations that provide for the reduction of the liability under section 338F of the Public Health Service Act (as redesignated by section 201(2) of this Act) of an individual who breaches a contract entered into under this section to reflect any partial service or partial payment of liability of the individual under this section.

(b) SERVICE AT HEALTH MANPOWER SHORTAGE AREA PLACEMENT OPPORTUNITY LIST SITES.—

(1) IN GENERAL.—An individual notified under subsection (a)(2) may enter into a written contract with the Secretary to serve, in accordance with subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.), for the period of such individual's service obligation remaining under section 338C of the Public Health Service Act (as redesignated by section 201(2) of this Act) at a site that—

(A)(i) is on the Health Manpower Shortage Area Placement Opportunity List created by the Secretary of Health and Human Services for obligated service under section 338C of the Public Health Service Act (as so redesignated) to begin in fiscal year 1988 and to which no individual who is not described in subsection (a)(1) has been assigned by a date determined by the Secretary; or

(ii) is on the Health Manpower Shortage Area Placement Opportunity List created by the Secretary of Health and Human Services for obligated service under section 338C of the Public Health Service Act (as so redesignated) to begin in fiscal year 1989; and

(B) has agreed to permit the individual to serve at such site.

(2) NUMBER OF SITES.—The Secretary shall to the extent practicable, include a total number of sites on the list referred to in paragraph (1) sufficient to provide placement to all obligors under the Scholarship Program scheduled to begin service in fiscal year 1988 or 1989 and all individuals responding to the notice provided under subsection (a) and electing service under paragraph (1).

(c) SERVICE AT SUPPLEMENTAL HEALTH MANPOWER SHORTAGE AREA PLACEMENT OPPORTUNITY LIST SITES.—An individual notified under subsection (a)(2) may enter into a written contract with the Secretary—

(1) to—

(A) serve in accordance with subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.) for the period of such individual's service obligation remaining under section 338C of the Public Health Service Act (as redesignated by section 201(2) of this Act) at a site that is on a supplemental Health Manpower Shortage Area Placement Opportunity List created by the Secretary of Health and Human Services for obligated service under section 338C of the Public Health Service Act (as so redesignated) and that has agreed to permit the individual to serve at such site; and

(B) pay, in accordance with guidelines established by the Secretary of Health and Human Services, to the United States the sum of the amounts paid under subpart II of part D of title III of such Act to or on behalf of the individual reduced by any amount paid, before entering into the contract, by such individual to the Secretary with respect to the individual's indebtedness under such part D; or

(2) to serve in accordance with such subpart II at a site described in paragraph (1) for 150 percent of such individual's remaining service obligation under section 338C of such Act (as so redesignated).

(d) CREATION OF SUPPLEMENTAL HEALTH MANPOWER SHORTAGE AREA PLACEMENT OPPORTUNITY LIST SITES.—In creating the supplemental Health Manpower Shortage Area Placement Opportunity List for purposes of subsection (c), the Secretary—

(1) shall include any site to which a National Health Service Corps member was previously assigned but which in fiscal year 1988 or 1989 will not have such member or a member of the National Health Service Corps to replace such member unless the Secretary of Health and Human Services determines that such site may reasonably be expected to recruit a health care professional from other than the Corps;

(2) shall include any migrant health center receiving funds under section 329 of the Public Health Service Act (42 U.S.C. 247d) or community health center receiving funds under section 330 of such Act (42 U.S.C. 254c) unless the Secretary of Health and Human Services determines that such center has been able to recruit health care professionals from other than the Corps to serve at the center and may reasonably be expected to recruit such health care professionals in the future;

(3) may include any other site selected by the Secretary; and

(4) shall designate the type of health care professional or medical specialist who is eligible to serve at the sites included on the list.

A site may be included on the supplemental list only if, at the time the list is created, the Secretary determines that the site meets the criteria prescribed by section 332 of such Act (42 U.S.C. 254e).

(e) ADDITIONAL ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—The Secretary of Health and Human Services may authorize an individual who is not described in subsection (a) and who is to begin to serve the individual's service obligation under section 338C of the Public Health Service Act (as redesignated by section 201(2) of this Act) in fiscal year 1988 or 1989 to serve such obligation in accordance with subsection (c) if the Secretary determines that—

(A) service by the individual in accordance with subsection (c) would be in the best interests of the National Health Service Corps; and

(B) allowing such service would alleviate a substantial hardship for such individual.

(2) SCHOLARSHIP TRAINING PROGRAM.—Individuals who have breached a written contract entered into under section 225 of the Public Health Service Act (42 U.S.C. 234) (as such section existed before the amendment made by section 408(b) of the Health Professions Educational Assistance Act of 1976 (Public

Law 94-484; 90 Stat. 2281)) by failing to complete their service obligations and who are, as of November 1, 1987, liable to the United States under section 225(f)(1) of the Public Health Service Act (as such section so existed) may be relieved of their liability to the United States under the terms and conditions set forth in this section.

42 USC 254*l*-1 note.

SEC. 205. REGULATIONS.

Not later than 180 days after the effective date of the amendments made by this title, the Secretary of Health and Human Services shall issue regulations for the loan repayment programs established by the amendments.

Health care professionals.

TITLE III—NATIONAL HEALTH SERVICE CORPS

SEC. 301. REQUIREMENT OF CONSIDERATION OF NEEDS OF INDIAN HEALTH SERVICE, CERTAIN INDIAN TRIBES, AND THE HOMELESS.

Section 331 (42 U.S.C. 254d) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) In assigning members of the Corps to health manpower shortage areas, to the extent practicable, the Secretary shall—

"(1) give priority to meeting the needs of the Indian Health Service and the needs of health programs or facilities operated by tribes or tribal organizations under the Indian Self-Determination Act (25 U.S.C. 450f et seq.); and

"(2) provide special consideration to the homeless populations who do not have access to primary health care services.".

SEC. 302. DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS.

Section 332 (42 U.S.C. 254e) is amended—

(1) in subsection (a)(1), by adding at the end thereof the following new sentences: "The Secretary shall not remove an area from the areas determined to be health manpower shortage areas under subparagraph (A) of the preceding sentence until the Secretary has afforded interested persons and groups in such area an opportunity to provide data and information in support of the designation as a health manpower shortage area or a population group described in subparagraph (B) of such sentence or a facility described in subparagraph (C) of such sentence, and has made a determination on the basis of the data and information submitted by such persons and groups and other data and information available to the Secretary."; and

(2) in subsection (b)(2)—

(A) by striking out "and" after "services," in subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and"; and

(C) by adding at the end the following new subparagraph:

"(D) ability to pay for health services.".

SEC. 303. PLACEMENT OF PHYSICIANS.

Section 333 (42 U.S.C. 254f) is amended by adding at the end the following new subsection:

"(j) In determining the priority for the placement of members of the Corps under this section in medically underserved areas, the Secretary shall consider—

"(1) whether the areas are served by at least one health professional and the effectiveness of non-Federal programs in recruiting health professionals for the areas;

"(2) the geographic isolation of the areas; and

"(3) the economic need of the populations of the areas and the association of the areas with a high infant mortality rate.".

SEC. 304. ASSIGNMENT OF FAMILY PHYSICIANS.

Section 333 (42 U.S.C. 254f) (as amended by section 304 of this Act) is amended by adding at the end thereof the following new subsection:

Urban areas.

"(k) In the assignment by the National Health Service Corps under this section of physicians specializing in family medicine, the Secretary shall—

"(1) take account of the needs of urban areas; and

"(2) place special attention on urban areas in which there are serious incidences of infant mortality, adolescent pregnancy, drug and alcohol abuse, sexually transmitted diseases, and other acute urban health care needs.".

SEC. 305. AUTHORIZATIONS OF APPROPRIATIONS FOR GENERAL OPERATIONS OF NATIONAL HEALTH SERVICE CORPS.

Subsection (a) of section 338 (42 U.S.C. 254k) is amended to read as follows:

"(a) To carry out this subpart, there are authorized to be appropriated $65,000,000 for fiscal year 1988, $65,000,000 for fiscal year 1989, and $65,000,000 for fiscal year 1990.".

SEC. 306. OBLIGATED SERVICE.

42 USC 254m.

Section 338C (as redesignated by section 201(2) of this Act) is amended—

(1) in subsection (a)—

(A) by striking out "338C" and inserting in lieu thereof "338D"; and

(B) by inserting "or 338B" after "338A";

(2) in subsection (b)(1), by inserting "or 338B(f)(1)(B)(iv)" after "338A(f)(1)(B)(iv)";

(3) in subsection (b), by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

Fellowships and scholarships.
Education.
Contracts.

"(5)(A) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or pharmacy, the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the training required for such degree, except that—

"(i) at the request of such an individual with whom the Secretary has entered into a contract under section 338A prior to October 1, 1985, the Secretary shall defer such date until the end of the period of time (not to exceed the number of years specified in subparagraph (B) or such greater period as the Secretary, consistent with the needs of the Corps, may authorize) required for the individual to complete an internship, residency, or other advanced clinical training; and

"(ii) at the request of such an individual with whom the Secretary has entered into a contract under section 338A on or after October 1, 1985, the Secretary may defer such date in accordance with clause (i).

"(B)(i) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of medicine, osteopathy, or dentistry, the number of years referred to in subparagraph (A)(i) shall be 3 years.

"(ii) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of veterinary medicine, optometry, podiatry, or pharmacy, the number of years referred to in subparagraph (A)(i) shall be 1 year.

"(C) No period of internship, residency, or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subpart.

"(D) In the case of the Scholarship Program, with respect to an individual receiving a degree from an institution other than a school referred to in subparagraph (A), the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the academic training of the individual leading to such degree.

"(E) In the case of the Loan Repayment Program, if an individual is required to provide obligated service under such Program, the date referred to in paragraphs (1) through (4)—

"(i) shall be the date determined under subparagraph (A), (B), or (D) in the case of an individual who is enrolled in the final year of a course of study;

"(ii) shall, in the case of an individual who is enrolled in an approved graduate training program in medicine, osteopathy, dentistry, or other health profession, be the date the individual completes such training program; and

"(iii) shall, in the case of an individual who has a degree in medicine, osteopathy, dentistry, or other health profession and who has completed graduate training, be the date the individual enters into an agreement with the Secretary under section 338B."; and

(4) in subsection (c)(2), by striking out "338C" and inserting in lieu thereof "338D".

SEC. 307. PRIVATE PRACTICE.

42 USC 254n.

Section 338D (as redesignated by section 201(2) of this Act) is amended—

(1) in subsection (a), by striking out "338B(a)" and inserting in lieu thereof "338C(a)";

(2) in subsection (a)(1)—

Fellowships and scholarships.

(A) by inserting after "individual" the following: "who received a scholarship under the Scholarship Program or a loan repayment under the Loan Repayment Program and"; and

(B) by inserting before the semicolon the following: "or in the case of an individual for whom a loan payment was made under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health manpower shortage area on the date of the application of the individual for such a release, in the health manpower shortage area selected by the Secretary";

(3) in subsection (a)(2), by inserting "selected by the Secretary" before the period;

(4) in subsection (b), by inserting at the end thereof the following new sentence: "The Secretary shall take such action as may be appropriate to ensure that the conditions of the written agreement prescribed by this subsection are adhered to.";

(5) in subsection (c), by inserting "or 338B" after "338A"; and

(6) in subsection (e)—

(A) by striking out paragraph (1); and

(B) by striking "(2)" before "Upon".

SEC. 308. DISCHARGE OF OBLIGATIONS IN BANKRUPTCY.

42 USC 254*o*.

(a) IN GENERAL.—Section 338E(d)(3) (as redesignated by sections 201(2) and 202(e)(3) of this Act) is amended by inserting before the period a comma and "and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable".

42 USC 254*o* note.

(b) EXISTING PROCEEDINGS.—The amendment made by subsection (a) applies to any bankruptcy proceeding in which discharge of an obligation under section 338E(d)(3) of the Public Health Service Act (as redesignated by sections 201(2) and 202(e)(3) of this Act) has not been granted before the date that is 31 days after the date of enactment of this Act.

SEC. 309. SPECIAL LOANS FOR CORPS MEMBERS TO ENTER PRIVATE PRACTICE.

42 USC 254p.

Section 338F (as redesignated by section 201(2) of this Act) is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"(a) The Secretary may, out of appropriations authorized under section 338, make one loan to a Corps member who has agreed in writing—

"(1) to engage in the private full-time clinical practice of the profession of the member in a health manpower shortage area (designated under section 332) for a period of not less than 2 years which—

"(A) in the case of a Corps member who is required to complete a period of obligated service under this subpart, begins not later than 1 year after the date on which such individual completes such period of obligated service; and

"(B) in the case of an individual who is not required to complete a period of obligated service under this subpart, begins at such time as the Secretary considers appropriate;

"(2) to conduct such practice in accordance with section 338D(b)(1); and

"(3) to such additional conditions as the Secretary may require to carry out this section.

Such a loan shall be used to assist such individual in meeting the costs of beginning the practice of such individual's profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. Such loan may not be used for the purchase or construction of any building.

"(b)(1) The amount of a loan under subsection (a) to an individual shall not exceed $25,000.

"(2) The interest rate for any such loan shall not exceed an annual rate of 5 percent.";

(2) in the first sentence of subsection (c), by striking "grant or"; and

(3) in subsection (d)(1)—

(A) by striking "this section," and inserting "this section (as in effect prior to October 1, 1984),"; and

(B) by striking "338D(b)" and inserting "338E(b)".

TITLE IV—MISCELLANEOUS

SEC. 401. GERIATRIC MEDICINE TRAINING PROJECTS.

Section 788(e) (42 U.S.C. 295g-8(e)) is amended—

(1) in paragraph (1), by inserting after "support" the following: "(including traineeships and fellowships)";

(2) in paragraph (2)(C), by striking out "medicine;" and inserting in lieu thereof "medicine, or in a department of geriatrics in existence as of the date of enactment of the Public Health Service Amendments of 1987;"; and

(3) in paragraph (3)(A)(i), by inserting "geriatrics," after "gynecology,".

SEC. 402. PROFESSIONAL REVIEW ACTIVITIES.

(a) IN GENERAL.—Section 427 of Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended—

(1) in subsection (b)(1)—

(A) by striking out "with respect to medical malpractice actions" and inserting in lieu thereof "as necessary to carry out subsections (b) and (c) of section 425 (as specified in regulations by the Secretary)"; and

(B) by adding at the end thereof the following new sentences: "Information reported under this part that is in a form that does not permit the identification of any particular health care entity, physician, other health care practitioner, or patient shall not be considered confidential. The Secretary (or the agency designated under section 424(b)), on application by any person, shall prepare such information in such form and shall disclose such information in such form."; and

(2) in subsection (c)—

(A) by inserting "(including the agency designated under section 424(b))" after "person or entity"; and

(B) by inserting "(including information provided under subsection (a)" after "part".

(b) FEES.—Section 427(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) FEES.—The Secretary may establish or approve reasonable fees for the disclosure of information under this section or section 426. The amount of such a fee may not exceed the costs of processing the requests for disclosure and of providing such information. Such fees shall be available to the Secretary (or, in the Secretary's discretion, to the agency designated under section 424(b)) to cover such costs.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall become effective on November 14, 1986. 42 USC 11137 note.

(2) **Fees.**—The amendment made by subsection (b) shall become effective on the date of enactment of this Act.

Approved December 1, 1987.

LEGISLATIVE HISTORY—S. 1158 (H.R. 1327):

HOUSE REPORTS: No. 100-252 accompanying H.R. 1327 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-108 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 23, considered and passed Senate.
Sept. 9, H.R. 1327 considered and passed House; proceedings vacated and S. 1158, amended, passed in lieu.
Oct. 27, Senate concurred in House amendments with amendment.
Nov. 3, House concurred in Senate amendment.

○

Public Law 100-178
100th Congress

An Act

To authorize appropriations for fiscal year 1988 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Dec. 2, 1987
[H.R. 2112]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1988".

Intelligence Authorization Act, Fiscal Year 1988.
Government organization and employees.

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1988 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. (a)(1) This Act authorizes funds for intelligence and intelligence-related activities of the United States Government for fiscal year 1988 based upon two alternative levels of new budget authority provided for national defense functions (budget function 050) through congressional budget procedures. In section 3(b)(1) of the concurrent resolution on the budget for fiscal year 1988 (House Concurrent Resolution 93 of the One Hundredth Congress), Congress determined and declared that the appropriate level of new budget authority for national defense for fiscal year 1988 is $296,000,000,000. This Act authorizes funds based upon that determination and declaration and the assumption that that level of budget authority is available to be appropriated.

(2) Section 5(a)(1) of the concurrent resolution reserved $7,000,000,000 of that amount from availability for appropriation pending enactment of certain deficit reduction legislation, leaving a level of $289,000,000,000 immediately available for appropriation. This Act authorizes alternative levels of funds based upon that budget authority amount.

(b) The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1988, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the column entitled "Conference Agreement" of the classified Schedule of Authorizations prepared by the committee of conference to accompany H.R. 2112 of the One Hundredth Congress except that, if as of the date of the enactment of this Act there has not been enacted legislation that results in the availability for appropriation of a level of new budget authority for national defense functions of the Government (budget function 050) for fiscal year 1988 in an amount greater than $289,000,000,000 then until such legislation is enacted such amounts and ceilings are those specified in the column entitled "Contingent Level" of such classified Schedule of Authorizations: *Provided,* That notwithstanding the requirements of section 502(a)(1) of the National Security Act of 1947, funds for the activities listed in that part of such Schedule entitled "Unauthorized Appropriations" may be obligated and expended only to the extent to which funds are appropriated therefore in fiscal year 1988.

President of U.S.

(c) The Schedule of Authorizations described in subsection (b) shall be made available to the Commmittee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

(d)(1) It is the sense of Congress that, in allocating reductions of nonheadquarters personnel of Defense Agencies pursuant to subsection (b)(2)(A) and subsection (d) of section 601 of Public Law 99-433 (100 Stat. 1065), the Secretary of Defense should avoid allocating personnel reductions to the Defense Intelligence Agency or the Defense Mapping Agency.

(2) For purposes of paragraph (1), the term "nonheadquarters personnel" means members of the Armed Forces and Civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities, other than members and employees assigned or detailed to duty in management headquarters activities or management headquarters support activities.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1988 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

SEC. 104. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated and expended during fiscal year 1988 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to section 101(a)(1) of the Act making continuing appropriations for the fiscal year 1988 (Public Law 100-120), or pursuant to any provision of law specifically providing such funds, materiel, or assistance.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1988 the sum of $23,614,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized 237 full-time personnel as of September 30, 1988. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1988, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1988, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1988, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1988 the sum of $134,700,000.

TITLE IV—RETIREMENT AND DEATH IN SERVICE BENEFITS

RETIREMENT BENEFITS

SEC. 401. (a) Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end the following section:

"RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES

50 USC 403 note. "SEC. 225. (a) Any individual who was a former spouse of a participant or a former participant on November 15, 1982, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

"(1) if married to the participant throughout the creditable service of the participant, equal to 50 per centum of the benefits of the participant; or

"(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 per centum of such benefits.

"(b) A former spouse shall not be entitled to benefits under this section if—

"(1) the former spouse remarries before age fifty-five; or

"(2) the former spouse is less than fifty years of age.

"(c)(1) The entitlement of a former spouse to benefits under this section—

"(A) shall commence on the later of—

"(i) the day the participant upon whose service benefits are based becomes entitled to benefits under this title;

"(ii) the first day of the month in which the divorce or annulment involved becomes final; or

"(iii) such former spouse's fiftieth birthday; and

"(B) shall terminate on the earlier of—

"(i) the last day of the month before the former spouse dies or remarries before fifty-five years of age; or

"(ii) the date the benefits of the participant terminate.

"(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

"(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this title (other than disability annuity) or the date the disability annuity begins, whichever is later; and

"(B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

"(3) Benefits under this section shall be treated the same as an annuity under section 222(a)(6) for purposes of section 221(g)(2) or any comparable provision of law.

"(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require, within thirty months after the effective date of this section. The Director may waive the thirty-month application requirement under this subparagraph in any case in which the Director determines that the circumstances so warrant.

"(B) Upon approval of an application as provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.

"(d) The Director shall—

"(1) as soon as possible, but not later than sixty days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and Regulations.

"(2) to the maximum extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or a former participant on November 15, 1982, of any rights which such individual may have under this section.

"(e) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this title.".

(b) Section 14(a) of the Central Intelligence Agency Act of 1949 is amended by inserting "225," after "223, 224,". 50 USC 403n.

DEATH IN SERVICE BENEFITS

SEC. 402. (a) Section 232(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 40(b) note) is amended— 50 USC 403 note.

(1) by inserting "(1)" before "If a participant";

(2) by striking all that follows "as defined in section 204," and inserting in lieu thereof "or by a former spouse qualifying for a survivor annuity under section 222(b), such widow or widower shall be entitled, to the extent of available appropriations, to an annuity equal to 55 per centum of the annuity computed in accordance with paragraphs (2) and (3) of this subsection and section 221(a), and any such surviving former spouse shall be entitled, to the extent of available appropriations, to an annuity computed in accordance with section 222(b) and paragraph (2) of this subsection as if the participant died after being entitled to an annuity under this Act. The annuity of such widow, widower, or former spouse shall commence on the date following death of the participant and shall terminate upon death or remarriage prior to attaining age sixty of the widow, widower, or former spouse (subject to the payment and restoration provisions of sections 221(g) and 222(b)(3)).''; and

(3) by adding at the end the following new paragraphs:

"(2) The annuity payable under paragraph (1) shall be computed in accordance with section 221(a), except that the computation of the annuity of the participant under such section shall be at least the smaller of (A) 40 per centum of the participant's average basic salary, or (B) the sum obtained under such section after increasing the participant's service of the type last performed by the difference between the participant's age at the time of death and age sixty.

"(3) Notwithstanding paragraph (1), if the participant had a former spouse qualifying for an annuity under section 222(b), the annuity of a widow or widower under this section shall be subject to the limitation of section 221(b)(3)(B), and the annuity of a former spouse under this section shall be subject to the limitation of section 222(b)(4)(B).".

50 USC 403 note.

(b)(1) Section 221(o)(2) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by inserting "232(b)," after "222, 223,".

50 USC 403 note.

(2) Section 304 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(A) in subsection (b) by inserting "and (3)" after "subsection (c)(2)"; and

(B) in subsection (c)—

(i) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(ii) by inserting after paragraph (2) a new paragraph as follows:

"(3) Section 232(b).".

(3) Section 14(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403n(a)) is amended by inserting "232(b)," before "234(c), 234(d),".

Effective date.
50 USC 403 note.

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on November 15, 1982, the effective date of the Central Intelligence Agency Spouses' Retirement Equity Act of 1982.

Effective date.

(2) The amendment made by subsection (b)(2) shall take effect on January 1, 1987, the effective date of the Federal Employees' Retirement System Act of 1986.

50 USC 403 note.

(d) Nothing in this section or any amendment made by this section shall be construed to require the forfeiture by any individual of benefits received before the date of the enactment of this Act.

50 USC 403 note.

(e) Nothing in this section or any amendment made by this section shall be construed to require a reduction in the level of benefits received by any individual who was receiving benefits under section 232 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees before the date of enactment of this Act.

TITLE V—ENHANCED COUNTERINTELLIGENCE AND SECURITY CAPABILITIES

REPORT ON ADMISSION OF CERTAIN ALIENS

International organizations.
22 USC 254c-2.

SEC. 501. The Attorney General shall report annually to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence regarding the circumstances of any admission to the United States over the objections of the Federal Bureau of Investigation, of any Soviet national employed by or assigned to a foreign mission or international organization in the United States.

FBI NEW YORK FIELD DIVISION EMPLOYMENT PLAN

SEC. 502. (a) The Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall conduct a study to ascertain the effect on recruitment, retention and operations of employees of the New York Field Division of the Federal Bureau of Investigation caused by the usual living expenses associated with such employment.

Reports.

(b) No later than sixty days after the enactment of this Act, the Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall submit to the Congress a report setting forth the results of the study described in subsection (a) and a plan for remedying problems identified by the study, including, as appropriate, additional compensation or other means of defraying the costs of employment in the New York Field Division.

TITLE VI—DEFENSE INTELLIGENCE PERSONNEL IMPROVEMENTS

DIA CIVILIAN UNIFORM ALLOWANCE

SEC. 601. (a) COMPARABILITY WITH STATE DEPARTMENT EMPLOYEES.—Chapter 83 of title 10, United States Code, is amended by inserting at the end thereof the following new section:

10 USC 1606.

"§ 1606. Uniform allowance: civilian employees

"(a) The Secretary of Defense may pay an allowance under this section to any civilian employee of the Defense Intelligence Agency who—

"(1) is assigned to a Defense Attaché Office outside the United States; and

"(2) is required by regulation to wear a prescribed uniform in performance of official duties.

"(b) Notwithstanding section 5901(a) of title 5, the amount of any such allowance shall be the greater of the following:

"(1) The amount provided for employees of the Department of State assigned to positions outside the United States and required by regulation to wear a prescribed uniform in performance of official duties.

"(2) $360 per year.

"(c) An allowance paid under this section shall be treated in the same manner as is provided in subsection (c) of section 5901 of title 5 for an allowance paid under that section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1606. Uniform allowance: civilian employees.".

EXTENSION OF SPECIAL TERMINATION AUTHORITY FOR CERTAIN DOD INTELLIGENCE EMPLOYEES

SEC. 602. (a) DEFENSE INTELLIGENCE AGENCY.—Section 1604(e)(1) of title 10, United States Code, is amended by striking out "during fiscal years 1986 and 1987" and inserting in lieu thereof "during fiscal years 1988 and 1989".

(b) **Military Departments.**—Section 1590(e)(1) of such title is amended by striking out "during fiscal year 1987" and inserting in lieu thereof "during fiscal years 1988 and 1989".

REQUIREMENTS TO DISCLOSE ORGANIZATIONAL AND PERSONAL DATA: DIA EXEMPTION

Sec. 603. (a) Chapter 83 of title 10, United States Code, is amended by inserting the following new section:

10 USC 1607.

"§ 1607. Exemption from disclosing organizational and personal data

"Notwithstanding the provisions of any other law, and except as provided herein and as required by section 552 or section 552a of title 5, United States Code, the Defense Intelligence Agency shall not be required to disclose the organization or any function of the Defense Intelligence Agency or the names, official titles, occupational series, grades, salaries or numbers of personnel employed by such Agency. This section shall not apply to information provided the Congress.".

TITLE VII—STUDY OF INTELLIGENCE PERSONNEL SYSTEMS

Classified information.
50 USC 403 note.

Sec. 701. (a) The Director of Central Intelligence shall undertake to contract with the National Academy of Public Administration (hereinafter referred to as the Academy) for an objective study which shall be classified and which shall consist of a comprehensive review and comparative analysis of all personnel management and compensation systems affecting civilian personnel of agencies and entities of the intelligence community.

(b) In conducting the study described in subsection (a), the Academy shall determine the adequacy of existing personnel systems to further the ability of intelligence agencies or entities to perform their missions, and make such recommendations for legislative, regulative or other changes as the Academy determines advisable.

Reports.

(c) The study described in subsection (a) shall be completed in final form no later than January 20, 1989, and such study, and any interim report of such study, shall be transmitted upon receipt by the Director of Central Intelligence to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(d) Of the amount available to the Intelligence Community Staff for fiscal year 1988 under section 201, not more than $500,000 shall be available for the study described in subsection (a).

(e) The Director of Central Intelligence, the Director of the Intelligence Community Staff, and the heads of the elements of the intelligence community shall provide such support and appropriate access to necessary information as the Academy may require to complete the study described in subsection (a).

TITLE VIII—GENERAL PROVISIONS

RESTRICTION OF CONDUCT OF INTELLIGENCE ACTIVITIES

Sec. 801. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 802. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

TITLE IX—MOUNT ALTO EMBASSY SITE

ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY

Communications and telecommunications.
Reports.

SEC. 901. (a) REVIEW AND ASSESSMENT.—The Secretary of Defense shall review and assess the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia. The Secretary shall submit to Congress a report on such review and assessment not later than ninety days after the date of the enactment of this Act.

(b) DETERMINATION OF CONSISTENCY WITH NATIONAL SECURITY.—The report required by subsection (a) shall include a determination by the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Government of the Soviet Union is consistent with the national security of the United States.

(c) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in both classified and unclassified form, and the determination required by subsection (b) shall be submitted in an unclassified form.

(d) LIMITATION ON DELEGATION.—The Secretary of Defense may not delegate the duty to make the determination required by subsection (b).

Approved December 2, 1987.

LEGISLATIVE HISTORY—H.R. 2112 (S. 1243):

HOUSE REPORTS: No. 100-93, Pt. 1 (Permanent Select Comm. on Intelligence) and Pt. 2 (Comm. on Armed Services) and No. 100-432 (Comm. of Conference).
SENATE REPORTS: No. 100-59 (Select Comm. on Intelligence) and No. 100-117 (Comm. on Armed Services), both accompanying S. 1243.
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 9, considered and passed House.
July 23, considered and passed Senate, amended, in lieu of S. 1243.
Nov. 17, House agreed to conference report.
Nov. 18, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
Dec. 2, Presidential statement.

○

Public Law 100-179
100th Congress

Joint Resolution

Dec. 3, 1987
[H.J. Res. 404]

To provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That each provision of law amended by Public Law 100-170 is amended by striking "December 2, 1987" each place it appears and inserting "December 16, 1987".

Ante, p. 914.

Approved December 3, 1987.

LEGISLATIVE HISTORY—H.J. Res. 404:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Nov. 20, considered and passed House.
Dec. 2, considered and passed Senate.

○

Public Law 100-180
100th Congress

An Act

To authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Dec. 4, 1987
[H.R. 1748]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Defense Authorization Act for Fiscal Years 1988 and 1989.

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Years 1988 and 1989".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS

This Act is divided into three divisions as follows:

(1) Division A—Department of Defense Authorizations.
(2) Division B—Military Construction Authorizations.
(3) Division C—Other National Defense Authorizations.

SEC. 3. ALTERNATIVE AUTHORIZATION LEVELS FOR FISCAL YEAR 1988

(a) GENERAL EXPLANATION.—(1) This Act authorizes funds for national defense functions of the Government (budget function 050) for fiscal year 1988 based upon two alternative levels of new budget authority provided for those functions through congressional budget procedures. In section 3(b)(1) of the concurrent resolution on the budget for fiscal year 1988 (House Concurrent Resolution 93 of the One Hundredth Congress), Congress determined and declared that the appropriate level of new budget authority for national defense for fiscal year 1988 is $296,000,000,000. This Act authorizes funds based upon that determination and declaration and the assumption that that level of budget authority is available to be appropriated.

(2) Section 5(a)(1) of the concurrent resolution reserved $7,000,000,000 of that amount for subsequent allocation upon enactment of a reconciliation bill, leaving a level of $289,000,000,000 immediately available for appropriation. This Act authorizes alternative levels of funds based upon that budget authority amount.

(b) PRESENTATION OF ALTERNATIVE LEVELS.—Whenever a dollar amount specified in this Act is to be provided in a different amount based upon which level of new budget authority described in subsection (a) is applicable, two different dollar amounts are shown, the second being set forth in parentheses immediately after the first. The first amount is based upon the budget authority level of $296,000,000,000; the second (in parentheses) is based upon the budget authority level of $289,000,000,000.

(c) RULE FOR DETERMINATION.—The dollar amounts specified in this Act that are to be effective are those based upon the budget authority level of $296,000,000,000. However, if as of the date of the enactment of this Act there has not been enacted a reconciliation bill or other legislation that results in the availability of a level of new budget authority for national defense functions of the Government (budget function 050) for fiscal year 1988 in any amount greater than $289,000,000,000, then until such legislation is enacted the dollar amounts specified in this Act that are to be effective are those based upon the budget authority level of $289,000,000,000.

SEC. 4. COMPLIANCE WITH BUDGET RESOLUTION

Amounts appropriated pursuant to authorizations of appropriations in this Act for fiscal year 1988—

(1) may not exceed an aggregate amount of $295,943,600,000 ($288,943,600,000); and

(2) may not exceed such aggregate amount as results in new outlays during fiscal year 1988 that are attributable to authorizations contained in this Act for national defense functions of the Government (budget function 050) in an aggregate amount of $172,948,400,000 ($167,048,500,000).

SEC. 5. EXPIRATION OF AUTHORIZATIONS FOR FISCAL YEAR 1989

Authorizations of appropriations and of personnel strength levels in this Act for fiscal year 1989 are effective only with respect to appropriations made during the first session of the One Hundredth Congress.

SEC. 6. TABLE OF CONTENTS

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions.
Sec. 3. Alternative authorization levels for fiscal year 1988.
Sec. 4. Compliance with budget resolution.
Sec. 5. Expiration of authorizations for fiscal year 1989.
Sec. 6. Table of contents.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense agencies.
Sec. 105. Reserve components.
Sec. 106. Milestone authorizations for procurement programs.
Sec. 107. Authorization of funds for chemical demilitarization program.
Sec. 108. Authorized multiyear contracts.
Sec. 109. Extension of authority provided Secretary of Defense in connection with the NATO AWACS program.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

Sec. 111. Army programs.
Sec. 112. Navy provisions.
Sec. 113. Air Force provisions.

PART C—MISCELLANEOUS PROVISIONS

Sec. 121. Advanced Technology Bomber program.
Sec. 122. Report on condition of certain C-130 aircraft.
Sec. 123. Bradley Fighting Vehicle.
Sec. 124. Limitation on procurement of certain chemical weapons antidote.
Sec. 125. Revision of chemical demilitarization program.
Sec. 126. Withdrawal of European chemical stockpile.
Sec. 127. Selected Acquisition Reports for certain programs.
Sec. 128. Report on strategic bomber force composition.
Sec. 129. HEMTT truck program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND PROGRAM LIMITATIONS

Sec. 201. Authorization of appropriations.
Sec. 202. Limitation on funds for the Army.
Sec. 203. Limitation on funds for the Navy.
Sec. 204. Limitation on funds for the Air Force.
Sec. 205. Limitation on funds for Defense Agencies.
Sec. 206. Funding for technology base programs for fiscal year 1988.
Sec. 207. Funds for cooperative projects with major non-NATO allies.
Sec. 208. One-year United States moratorium on testing antisatellite weapons.

PART B—PROGRAM POLICIES

Sec. 211. Navy attack submarine program.
Sec. 212. Advanced tactical fighter aircraft.
Sec. 213. Electronic warfare programs.
Sec. 214. Conventional Defense Initiative.
Sec. 215. Balanced Technology Initiative.
Sec. 216. Milestone authorizations.
Sec. 217. Anti-tactical ballistic missile systems and extended air defense.
Sec. 218. High-temperature superconductivity program.
Sec. 219. Training in advanced manufacturing technologies.
Sec. 220. Sense of Congress on strategic missile modernization programs.

PART C—STRATEGIC DEFENSE INITIATIVE

SUBPART 1—SDI FUNDING AND PROGRAM LIMITATIONS AND REQUIREMENTS

Sec. 221. Fiscal year 1988 funding level for the Strategic Defense Initiative.
Sec. 222. Prohibition of certain contracts with foreign entities.
Sec. 223. Limitation on transfer of SDI technology to Soviet Union.
Sec. 224. SDI architecture to require human decision making.
Sec. 225. Development and testing of anti-ballistic missile systems or components.
Sec. 226. Prohibition on deployment of anti-ballistic missile system unless authorized by law.
Sec. 227. Establishment of a federally funded research and development center to support the Strategic Defense Initiative program.

SUBPART 2—REPORT REQUIREMENTS

Sec. 231. Annual report on SDI programs.
Sec. 232. Report on SDI development plans and costs.
Sec. 233. Report on how absence of the ABM Treaty would affect strategic offensive and defensive programs.
Sec. 234. Report on allocation of FY88 funding.

PART D—B-1B BOMBER PROGRAM

Sec. 241. Fiscal year 1988 funding limitation.
Sec. 242. Defensive avionics test and evaluation program.
Sec. 243. Assessment of capabilities of B-1B to penetrate enemy air defenses.
Sec. 244. Limitations on aircraft enhancement and modernization.
Sec. 245. Evaluation of flight test program.

PART E—MISCELLANEOUS

Sec. 251. Cooperative medical research with the Veterans' Administration.
Sec. 252. Lincoln Laboratory improvement project.
Sec. 253. Evaluation of new high-speed patrol boat.
Sec. 254. Pegasus engine.
Sec. 255. Report on military use of NASA manned space station.
Sec. 256. Advanced Launch System.
Sec. 257. Space launch recovery.
Sec. 258. Studies of nuclear warhead for Army Tactical Missile System.
Sec. 259. Selection of heavy truck system configured with palletized loading system.

PART F—SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

Sec. 271. Findings, purposes, and definitions.
Sec. 272. Grants to Sematech.
Sec. 273. Advisory council.
Sec. 274. Responsibilities of the Comptroller General.
Sec. 275. Export of semiconductor manufacturing.
Sec. 276. Protection of information.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Limitation on the use of operation and maintenance funds to purchase investment items.

PART B—PROGRAM CHANGES, REQUIREMENTS, AND LIMITATIONS

Sec. 311. Availability of United States products at defense package stores overseas.
Sec. 312. Nonappropriated-fund beer and wine purchases.
Sec. 313. Pricing at commissary stores.
Sec. 314. Limitation on Army depot maintenance funding.
Sec. 315. Civilian personnel management.
Sec. 316. Report on operating and support costs of major weapons systems.
Sec. 317. Report on efforts to measure readiness.
Sec. 318. Authority to provide free shuttle service for members and families in isolated areas.
Sec. 319. Operation of United States Army School of the Americas.
Sec. 320. Authority to repair and maintain certain memorials and historic sites on the Island of Corregidor.
Sec. 321. Comptroller General study of censorship of Stars and Stripes newspaper.
Sec. 322. Limitation on operation of existing Poseidon-class submarine USS Andrew Jackson.

PART C—HUMANITARIAN AND OTHER ASSISTANCE

Sec. 331. Extension of authorization for humanitarian assistance.
Sec. 332. Extension and codification of authority of Secretary of Defense to transport humanitarian relief supplies to foreign countries.

TITLE IV—PERSONNEL AUTHORIZATIONS FOR FISCAL YEARS 1988 AND 1989

PART A—ACTIVE FORCES

Sec. 401. End strengths for active forces.
Sec. 402. Strength of active-duty officer corps.
Sec. 403. Reduction in authorization based on savings.

PART B—RESERVE FORCES

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the Reserves.
Sec. 413. Increase in number of members in certain grades authorized to be on active duty in support of the Reserves.

PART C—MILITARY TRAINING STUDENT LOADS

Sec. 421. Authorization of training student loads.

PART D—APPROPRIATION LIMITATION

Sec. 431. Limitation on appropriations for military personnel for fiscal year 1988.

TITLE V—MILITARY PERSONNEL

Sec. 501. Extension of authority to make temporary promotions of certain Navy lieutenants.
Sec. 502. Extension of certain reserve officer management programs.
Sec. 503. Extension of single-parent enlistment authority in reserve components.
Sec. 504. Authority to award degree of Master of Laws in military law.
Sec. 505. Withholding of State and local income taxes for National Guard and Reserve drill pay.
Sec. 506. One-year delay in minimum percentage of Air Force enlistees required to be women.
Sec. 507. Study of wartime mobilization requirements of the Coast Guard.
Sec. 508. Wearing of religious apparel by members of the Armed Forces while in uniform.
Sec. 509. Military education program for Army National Guard civilian technicians.
Sec. 510. Removal of statutory military department ceilings on number of ROTC scholarships.
Sec. 511. Limited authority to transfer among services grades above major general and rear admiral.
Sec. 512. Advance in retired grade after 30 years of service for certain members.

Sec. 513. Testing for drug, chemical, and alcohol use and dependency before entry into the Armed Forces.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

Sec. 601. Military pay raise for fiscal year 1988.
Sec. 602. GAO report on fairness of military housing allowances.

PART B—TRAVEL AND TRANSPORTATION

Sec. 611. Allowance for civilian clothing.
Sec. 612. Reimbursement for actual lodging expenses plus per diem for members entitled to travel allowances.
Sec. 613. Authorization to pay dislocation allowance in advance.
Sec. 614. Transportation allowance to encourage voluntary extensions of tours of duty in foreign countries.
Sec. 615. Transportation of family members of seriously ill or injured member.
Sec. 616. Authority to transport vehicles leased by members of the Armed Forces.
Sec. 617. Reimbursement for travel and transportation expenses when accompanying Members of Congress.

PART C—BONUSES AND SPECIAL AND INCENTIVE PAYS

Sec. 621. Restructuring of career sea pay.
Sec. 622. Special pay for aviation career officers.
Sec. 623. Submarine duty incentive pay.
Sec. 624. Diving pay for members of reserve components.
Sec. 625. Selective reenlistment bonuses.
Sec. 626. Extension of enlistment and reenlistment bonus authorities.

PART D—MISCELLANEOUS

Sec. 631. Authority for certain remarried Survivor Benefit Plan participants to withdraw from plan.
Sec. 632. Law applicable to occupancy by Coast Guard personnel of substandard family housing units.
Sec. 633. Collection of amounts owed to service relief societies from final pay of members.
Sec. 634. Limitation on Reserve unit and individual training funding for fiscal year 1988.
Sec. 635. Expansion of military spouse employment preference.
Sec. 636. Reduction in age for nontermination of SBP surviving spouse annuity after remarriage.
Sec. 637. Regulations regarding employment and volunteer work of spouses of military personnel.
Sec. 638. Test program for reimbursement for adoption expenses.

TITLE VII—HEALTH CARE PROVISIONS

Sec. 701. Short title.

PART A—MEDICAL READINESS

Sec. 711. Revision of reserve forces health professions financial assistance program.
Sec. 712. Armed Forces health professions scholarship program.
Sec. 713. Education loan repayment program for health professionals who serve in the Selected Reserve.
Sec. 714. Constructive service credit for officers appointed with health professions experience.
Sec. 715. Standby capability for selective service registration of health care personnel.
Sec. 716. Limited ceiling removal on special pay for medical officers.
Sec. 717. Authority to retain in active status until age 67 reserve officers in medical specialties.
Sec. 718. Age for initial appointment of reserve officers in critical medical specialties.
Sec. 719. Authority to defer mandatory retirement for age of medical officers.

PART B—PEACETIME HEALTH CARE

Sec. 721. Catastrophic loss protection under CHAMPUS.
Sec. 722. Two-year prohibition on fee for outpatient care at military medical treatment facilities.

Sec. 723. Allocation to health professions of specified portion of Navy officer accessions and growth in end strengths.
Sec. 724. Revised deadlines for the use of diagnosis-related groups.
Sec. 725. Federal preemption regarding contracts for medical and dental care.
Sec. 726. CHAMPUS coverage for Sudden Infant Death Syndrome monitoring equipment.

PART C—HEALTH CARE MANAGEMENT

Sec. 731. Demonstration project on management of health care in catchment areas and other demonstration projects.
Sec. 732. Additional requirements for CHAMPUS reform initiative.
Sec. 733. Medical information systems acquisition amendments.
Sec. 734. GAO report on payment of certain medical expenses.

TITLE VIII—ACQUISITION POLICY

PART A—ACQUISITION PROCESS

Sec. 801. Functions of Director of Operational Test and Evaluation.
Sec. 802. Survivability and lethality testing of major systems.
Sec. 803. Oversight of cost or schedule variances in certain major acquisition programs.
Sec. 804. Truth-in-Negotiations Act amendments.
Sec. 805. Allowable costs not to include golden parachute payments.
Sec. 806. Requirement for substantial progress on minority and small business contract awards.
Sec. 807. Amendments to procurement technical assistance cooperative agreement program.
Sec. 808. Rights in technical data.
Sec. 809. Small business set-aside program amendments.
Sec. 810. Contract terms and conditions relating to contractor costs for production special tooling and production special test equipment.

Part B—OTHER ACQUISITION MATTERS

Sec. 821. Conflict of interest in defense procurement.
Sec. 822. Restatement and modification of restrictions on retired military officers regarding certain matters affecting the Government.
Sec. 823. Restriction on purchase of foreign-made administrative motor vehicles.
Sec. 824. Procurement of manual typewriters from Warsaw Pact countries.
Sec. 825. Sense of Congress on preparation of certain economic impact and employment information concerning new acquisition programs.

TITLE IX—MATTERS RELATING TO ARMS CONTROL

Sec. 901. Missile technology control regime.
Sec. 902. Sense of Congress on the Krasnoyarsk radar.
Sec. 903. Report on compliance by the Soviet Union with Threshold Test Ban Treaty.
Sec. 904. Congressional findings and declarations concerning arms control negotiations.
Sec. 905. Report on military consequences of the elimination of ballistic missiles.
Sec. 906. Report on implications of certain arms control positions.
Sec. 907. Support for nuclear risk reduction centers.

TITLE X—MATTERS RELATING TO NATO COUNTRIES AND OTHER ALLIES

PART A—NATO DETERRENCE

Sec. 1001. Report on requirements for maintaining NATO's strategy of deterrence.
Sec. 1002. Sense of Congress on level of United States forces permanently stationed in Europe in support of NATO.
Sec. 1003. Study of future of NATO.

PART B—BURDEN SHARING

Sec. 1011. Study of defense expenditures in Japan.
Sec. 1012. Sense of Congress regarding Japan's contributions to global stability.

PART C—PROCUREMENT MATTERS

Sec. 1021. Overseas workload program.
Sec. 1022. NATO cooperative project agreements.
Sec. 1023. Report on co-production or co-assembly of M1A1 tank.
Sec. 1024. Weapons storage and security systems.

TITLE XI—DEPARTMENT OF DEFENSE MANAGEMENT

PART A—CONSTRUCTION AND MAINTENANCE OF NAVAL VESSELS

Sec. 1101. Clarification of limitation on contracting for short-term naval vessel repair work.
Sec. 1102. Rates for progress payments on certain naval ship repair contracts.
Sec. 1103. Domestic construction of certain vessels.
Sec. 1104. Contracts for the overhaul, repair, and maintenance of naval vessels.

PART B—CONTRACTING OUT

Sec. 1111. Authority of base commanders over contracting for commercial activities.
Sec. 1112. Prohibition on contracts for performance of security-guard functions.

PART C—SECURITY AND COUNTERINTELLIGENCE MATTERS

Sec. 1121. Counterintelligence polygraph program.
Sec. 1122. Assessment of Soviet electronic espionage capability from Mount Alto Embassy site.
Sec. 1123. Dissemination of unclassified information concerning physical protection of special nuclear material.

PART D—SPECIAL ACCESS PROGRAMS

Sec. 1131. Sense of Congress with respect to disclosure of certain budget and schedule information about specified special access programs.
Sec. 1132. Congressional oversight of special access programs.
Sec. 1133. Reports on criteria for designating special access programs.

TITLE XII—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

Sec. 1201. Transfer authority.
Sec. 1202. Limitation on availability of funds.
Sec. 1203. Requirement for consistency in the budget presentations of the Department of Defense.

PART B—FORCE STRUCTURE AND POLICY

Sec. 1211. Implementation of special operations forces reorganization.
Sec. 1212. Conventional Defense Advisory Board.
Sec. 1213. Report on competitive strategies.
Sec. 1214. Publication of annual United States-Soviet net assessment.

PART C—MISCELLANEOUS REPORTS

Sec. 1221. Study of Space Operations Center, Colorado.
Sec. 1222. Report on contingency plans to deal with disruptions in Persian Gulf crude oil supply.
Sec. 1223. Study of early decommissioning of two aircraft carriers.

PART D—TECHNICAL AND CLERICAL AMENDMENTS

Sec. 1231. Amendments to title 10, United States Code.
Sec. 1232. Amendments to title 37, United States Code.
Sec. 1233. Miscellaneous amendments.

PART E—MISCELLANEOUS MATTERS

Sec. 1241. GAO study of the capabilities of the United States to control drug smuggling into the United States.
Sec. 1242. Transfer of funds to the Coast Guard.
Sec. 1243. Annual plan on Department of Defense assistance for civilian drug law enforcement.
Sec. 1244. Provision of command and control data from Tyndall Air Force Base for drug interdiction assistance.
Sec. 1245. Assistant to the Secretary of Defense for Atomic Energy.
Sec. 1246. Oil shipments for use of military facilities overseas.
Sec. 1247. Payment of claim.
Sec. 1248. Procedures for forensic examination of certain physiological evidence.
Sec. 1249. Adjudication of ineligibility for a job with the Federal Government on the basis of failure to register under the Military Selective Service Act.
Sec. 1250. Transportation on Department of Defense aeromedical evacuation aircraft of certain Veterans' Administration beneficiaries.

TITLE XIII—AMENDMENTS RELATED TO GOLDWATER-NICHOLS REORGANIZATION ACT

Part A—Joint Officer Personnel Policy

Sec. 1301. Nomination and selection of officers for the joint specialty.
Sec. 1302. Joint duty assignment positions.
Sec. 1303. Length of joint duty assignments.
Sec. 1304. Notice to Congress of use of waiver authorities and exclusions with respect to officer management.
Sec. 1305. Special transition rules for nuclear propulsion officers.

Part B—Other Matters

Sec. 1311. Temporary increase in number of Assistant Secretaries of Defense.
Sec. 1312. Reduction in personnel assigned to management headquarters activities and certain other activities.
Sec. 1313. Clarification of forces not required to be assigned to combatant commands.
Sec. 1314. Technical amendments.

TITLE XIV—FOREIGN RELATIONS MATTERS

Sec. 1401. Commendation of Armed Forces in Persian Gulf for success of certain operations.
Sec. 1402. Sense of the Senate regarding justification for sinking Iranian vessels.
Sec. 1403. United States policy toward Panama.
Sec. 1404. Congressional statements concerning Vietnamese occupation of Cambodia and Japanese trade with Vietnam.
Sec. 1405. Sense of Congress on introduction of Armed Forces into Nicaragua for combat.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Sec. 2001. Short title.
Sec. 2002. Explanation of alternative levels.

Subdivision 1—Fiscal Year 1988

TITLE I—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.
Sec. 2105. Extension of certain prior year authorizations.

TITLE II—NAVY

Sec. 2121. Authorized Navy construction and land acquisition projects.
Sec. 2122. Family housing.
Sec. 2123. Improvements to military family housing units.
Sec. 2124. Defense access roads.
Sec. 2125. Authorization of appropriations, Navy.
Sec. 2126. Authorization of projects for which funds have been appropriated.
Sec. 2127. Extension of certain prior year authorizations.
Sec. 2128. Naval Weapons Station, Earle, New Jersey.

TITLE III—AIR FORCE

Sec. 2131. Authorized Air Force construction and land acquisition projects.
Sec. 2132. Family housing.
Sec. 2133. Improvements to military family housing units.
Sec. 2134. Defense access roads.
Sec. 2135. Authorization of appropriations, Air Force.
Sec. 2136. Authorization of projects for which funds have been appropriated.
Sec. 2137. Extension of certain previous authorizations.

TITLE IV—DEFENSE AGENCIES

Sec. 2141. Authorized defense agencies construction and land acquisition projects.
Sec. 2142. Family housing.
Sec. 2143. Improvements to military family housing units.
Sec. 2144. Defense access roads.
Sec. 2145. Authorization of appropriations, defense agencies.
Sec. 2146. Authorization of project for which appropriations have been made.
Sec. 2147. Extension of certain prior year authorizations.

Sec. 2148. Brooke Army Medical Center.
Sec. 2149. Conforming storage facilities.
Sec. 2150. Construction of a national test facility for the Strategic Defense Initiative.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Sec. 2151. Authorized NATO construction and land acquisition projects.
Sec. 2152. Authorization of appropriations, NATO.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2161. Authorized Guard and Reserve construction and land acquisition projects.

TITLE VII—EXPIRATION OF AUTHORIZATIONS

Sec. 2171. Expiration of authorizations.

Subdivision 2—Fiscal Year 1989

TITLE I—ARMY

Sec. 2201. Authorized Army construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Army.

TITLE II—NAVY

Sec. 2221. Authorized Navy construction and land acquisition projects.
Sec. 2222. Family housing.
Sec. 2223. Improvements to military family housing units.
Sec. 2224. Authorization of appropriations, Navy.

TITLE III—AIR FORCE

Sec. 2231. Authorized Air Force construction and land acquisition projects.
Sec. 2232. Family housing.
Sec. 2233. Improvements to military family housing units.
Sec. 2234. Authorization of appropriations, Air Force.

TITLE IV—DEFENSE AGENCIES

Sec. 2241. Authorized defense agencies construction and land acquisition projects.
Sec. 2242. Improvements to military housing units.
Sec. 2243. Authorization of appropriations, defense agencies.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Sec. 2251. Authorized NATO construction and land acquisition projects.
Sec. 2252. Authorization of appropriations, NATO.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2261. Authorized Guard and Reserve construction and land acquisition projects.

TITLE VII—EXPIRATION OF AUTHORIZATIONS AND EFFECTIVE DATE

Sec. 2271. Expiration of authorizations of projects and appropriations for fiscal years after fiscal year 1988.
Sec. 2272. Effective date.

Subdivision 3—General Provisions

TITLE I—MILITARY CONSTRUCTION PROGRAM CHANGES

Sec. 2301. Turn-key selection procedures for defense agencies.
Sec. 2302. Long-term facilities contracts.
Sec. 2303. Settlement of contractor claims.
Sec. 2304. Guard and Reserve minor construction.
Sec. 2305. Family housing improvement threshold.
Sec. 2306. Family housing leasing within the United States.
Sec. 2307. Family housing rental guarantee program.
Sec. 2308. No-cost acquisition of family housing.
Sec. 2309. Cost threshold for individual units and maximum number of units leased in foreign countries.
Sec. 2310. Minor construction outside the United States.
Sec. 2311. Cost threshold for multiple units.

Sec. 2312. Cost variations.
Sec. 2313. Family housing improvements.

TITLE II—MISCELLANEOUS PROVISIONS

Sec. 2321. Pilot program for military family housing.
Sec. 2322. Restrictions on use of certain funding.
Sec. 2323. Prohibition of funding for certain military construction contracts on Guam.
Sec. 2324. Community planning assistance.
Sec. 2325. Disposition of real property at Air Force missile sites.
Sec. 2326. Tulalip Tribes, Washington.

TITLE III—REAL PROPERTY TRANSACTIONS

Sec. 2331. Lease of property, San Francisco, California.
Sec. 2332. Sale of land and replacement of certain facilities, Kapalama Military Reservation, Hawaii.
Sec. 2333. Land conveyance, Lawrence Township, Indiana.
Sec. 2334. Land transfers: Rock Island, Illinois, and Fort Sam Houston, Texas.
Sec. 2335. Property transfer, Brooklyn, New York.
Sec. 2336. Land exchange, Orange County, California.
Sec. 2337. Transfer of land, Joliet Army ammunition plant, Illinois.
Sec. 2338. Lease of property at the Naval Supply Center, Oakland, California.
Sec. 2339. Authority to release certain rights.
Sec. 2340. Mineral interests at White Sands Missile Range, New Mexico.
Sec. 2341. Land conveyance, Fort Jackson, South Carolina.
Sec. 2342. Land exchange, Hamilton Air Force Base, California.
Sec. 2343. Land conveyance, Chanute Air Force Base, Illinois.
Sec. 2344. Land exchange, San Diego, California.
Sec. 2345. Property transaction, Barling, Arkansas.

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Sec. 3101. Short title.

Part A—National Security Programs Authorizations

Sec. 3111. Operating expenses.
Sec. 3112. Plant and capital equipment.
Sec. 3113. Funding limitations.
Sec. 3114. Undistributed reduction.

Part B—Recurring General Provisions

Sec. 3121. Reprogramming.
Sec. 3122. Limits on general plant projects.
Sec. 3123. Limits on construction projects.
Sec. 3124. Fund transfer authority.
Sec. 3125. Authority for construction design.
Sec. 3126. Authority for emergency construction design.
Sec. 3127. Funds available for all national security programs of the Department of Energy.
Sec. 3128. Adjustments for pay increases.
Sec. 3129. Availability of funds.

Part C—Miscellaneous Provisions

Sec. 3131. Allowable costs to include certain information provided to Congress and State legislatures.
Sec. 3132. Modernization of nuclear weapons complex.
Sec. 3133. Requirements to ensure safe operation of N reactor.
Sec. 3134. Interim oversight of safety of the nuclear weapons complex.
Sec. 3135. Timely determination of property rights in inventions and discoveries.
Sec. 3136. Production reactor acquisition strategy.

Part D—Department of Energy Semiconductor Technology Research Excellence Initiative

Sec. 3141. Findings.
Sec. 3142. Establishment of the semiconductor manufacturing technology research initiative.
Sec. 3143. Participation of national laboratories of the Department of Energy.
Sec. 3144. Personnel exchanges.

Sec. 3145. Other Department of Energy resources.
Sec. 3146. Budgeting for semiconductor manufacturing technology research.
Sec. 3147. Cost-sharing agreements.
Sec. 3148. Department of Energy oversight of cooperative agreements relating to the initiative.
Sec. 3149. Avoidance of duplication.
Sec. 3150. Authorization of appropriations.
Sec. 3151. Technology transfer.

TITLE II—NATIONAL DEFENSE STOCKPILE

Sec. 3201. Short title.
Sec. 3202. Stockpile requirements.
Sec. 3203. Stockpile manager.
Sec. 3204. Authorized uses of stockpile transaction fund.
Sec. 3205. Deadline for annual materials plan.
Sec. 3206. Technical amendments.

TITLE III—CIVIL DEFENSE

Sec. 3301. Authorization of appropriation.
Sec. 3302. Withholding of funds for failure or refusal to participate in simulated nuclear attack exercise.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for procurement of aircraft for the Army as follows:

(1) $2,864,667,000 ($2,786,582,000) for fiscal year 1988.

(2) $2,422,642,000 for fiscal year 1989.

(b) MISSILES.—Funds are hereby authorized to be appropriated for procurement of missiles for the Army as follows:

(1) $2,425,875,000 ($2,355,875,000) for fiscal year 1988.

(2) $2,231,368,000 for fiscal year 1989.

(c) WEAPONS AND TRACKED COMBAT VEHICLES.—Funds are hereby authorized to be appropriated for procurement of weapons and tracked combat vehicles for the Army as follows:

(1) $3,435,137,000 for fiscal year 1988.

(2) $1,846,250,000 for fiscal year 1989.

(d) AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Army as follows:

(1) $2,397,938,000 ($2,215,638,000) for fiscal year 1988.

(2) $2,104,649 for fiscal year 1989.

(e) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for other procurement for the Army as follows:

(1) $5,494,504,000 ($5,478,204,000) for fiscal year 1988 as follows:

For tactical and support vehicles, $942,560,000.

For communications and electronics equipment, $3,353,166,000 ($3,345,166,000).

For other support equipment, $1,183,478,000.

(2) $2,794,389,000 for fiscal year 1989.

SEC. 102. NAVY AND MARINE CORPS

(a) AIRCRAFT.—(1) Funds are hereby authorized to be appropriated for procurement of aircraft for the Navy as follows:

(A) $9,604,987,000 ($8,610,118,000) for fiscal year 1988.

(B) $5,591,525,000 for fiscal year 1989.

(2) Of the funds appropriated or otherwise made available for procurement of aircraft for the Navy for fiscal year 1988:

(A) $5,387,322,000 ($4,956,739,000) is available only for combat aircraft programs as follows:

For the A-6E program, $376,610,000 ($0).

For the EA-6B program, $521,571,000.

For the F-14A/D program, $873,848,000.

For the FA-18 program, $2,580,222,000.

For the SH-60B program, $197,614,000 ($143,641,000).

For the SH-60F program, $329,961,000.

For the long-range air ASW capable aircraft program, $80,200,000.

For the E-2C program, $427,296,000.

(B) $833,193,000 ($800,493,000) is available only for modification of aircraft programs as follows:

For the A-6 series, $219,651,000.

For the H-2 series, $45,108,000.

For the P-3 series, $172,865,000.

For the S-3 series, $142,522,000.

For the ES-3 series, $115,200,000.

For the E2 series, $71,139,000 ($38,439,000).

For common electronic countermeasures (ECM) equipment, $66,708,000.

(b) WEAPONS.—(1) Funds are hereby authorized to be appropriated for fiscal year 1988 in the total amount of $5,989,023,000 ($5,857,023,000) for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

(A) For missile programs, $5,372,891,000 ($5,240,891,000).

(B)(i) For torpedo programs, $462,864,000, as follows:

For the MK-48 torpedo program, $243,444,000.

For the MK-50 Advanced Lightweight Torpedo program, $108,402,000.

For the MK-30 mobile target program, $31,495,000.

For the antisubmarine rocket (ASROC) program, $9,522,000.

For the modification of torpedoes and related equipment, $16,015,000.

For the torpedo support equipment program, $33,348,000.

For the antisubmarine warfare range support program, $20,638,000.

(ii) The sum of the amounts authorized for torpedo programs under this subparagraph is reduced by $78,000,000 in order to meet the total amount authorized to be appropriated set forth at the beginning of this subparagraph.

(C) For other weapons, $101,540,000, of which $28,023,000 is for the MK-15 close-in weapon system program.

(D) For spares and repair parts, $129,728,000.

(2) Funds are hereby authorized to be appropriated for fiscal year 1989 in the amount of $3,261,068,000 for procurement of weapons (including missiles and torpedoes) for the Navy.

(c) SHIPBUILDING AND CONVERSION.—(1) Funds are hereby authorized to be appropriated for shipbuilding and conversion for the Navy as follows:

(A) $9,530,427,000 for fiscal year 1988.

(B) $8,529,700,000 for fiscal year 1989.

(2) Amounts authorized under paragraph (1) are available for shipbuilding and conversion programs as follows:

For the Trident submarine program, $1,290,800,000 for fiscal year 1988 and $1,398,300,000 for fiscal year 1989.

For the CVN aircraft carrier program, $644,000,000 for fiscal year 1988 and $797,000,000 for fiscal year 1989.

For the SSN-688 nuclear attack submarine program, $1,676,900,000 for fiscal year 1988 and $1,527,800,000 for fiscal year 1989.

For the SSN-21 nuclear attack submarine program, $257,600,000 for fiscal year 1988.

For the aircraft carrier service life extension program (SLEP), $729,755,000 for fiscal year 1988.

For the CG-47 Aegis cruiser program, $3,328,900,000 for fiscal year 1988 and $825,000,000 for fiscal year 1989.

For the DDG-51 guided missile destroyer program, $5,500,000 for fiscal year 1988 and $2,929,100,000 for fiscal year 1989.

For the LHD-1 amphibious assault ship program, $752,900,000 for fiscal year 1988 and $741,100,000 for fiscal year 1989.

For the LSD-41 cargo variant program, $324,200,000 for fiscal year 1988.

For the TAO-187 fleet oiler program, $279,100,000 for fiscal year 1988 and $256,400,000 for fiscal year 1989.

For the strategic sealift program, $43,400,000 for fiscal year 1988.

For the TAGOS-SWATH Ocean Surveillance Ship program, $96,500,000 for fiscal year 1988.

For the AO (Jumbo) conversion program, $44,100,000 for fiscal year 1988.

For the landing craft, air cushion program, $33,700,000 for fiscal year 1988.

For the TACS auxiliary crane ship program, $53,100,000 for fiscal year 1988 and $55,000,000 for fiscal year 1989.

For service craft, $12,500,000 for fiscal year 1988.

For outfitting and post delivery, $328,800,000 for fiscal year 1988.

The sum of the amounts authorized for programs under this subsection for fiscal year 1988 is reduced by $371,328,000 in order to meet the total amount authorized to be appropriated for that fiscal year in paragraph (1).

(3) There are hereby authorized to be transferred to shipbuilding and conversion programs for the Navy for fiscal year 1988 pursuant to the authorizations of appropriations in paragraph (1), to the extent provided in appropriation Acts and without extension of the period of the availability of such amounts for obligation, amounts appropriated for fiscal years before fiscal year 1988 for shipbuilding and conversion for the Navy and remaining available for obligation in the total amount of $371,328,000 as follows:

From the Trident submarine program for fiscal year 1984, $58,879,000.

From the Trident submarine program for fiscal year 1985, $19,383,000.

From the Trident submarine program for fiscal year 1987, $68,060,000.

From the TAK cargo ship program for fiscal year 1984, $784,000.

From the SSN-688 attack submarine program for fiscal year 1987, $30,000,000.

From the aircraft carrier service life extension program for fiscal year 1985, $48,000,000.

From the battleship reactivation program for fiscal year 1984, $5,000,000.

From the CG-47 Aegis carrier program for fiscal year 1984, $6,500,000.

From the CG-47 Aegis carrier program for fiscal year 1987, $52,400,000.

From the LSD-41 amphibious assault ship program for fiscal year 1985, $4,000,000.

From the LSD-41 amphibious assault ship program for fiscal year 1986, $1,300,000.

From the LHD-1 amphibious assault ship program for fiscal year 1986, $3,100,000.

From the TAO fleet oiler program for fiscal year 1984, $5,943,000.

From the AOE fast combat support ship program for fiscal year 1987, $1,900,000.

From the TAKR program for fiscal year 1984, $1,596,000.

From the TACS crane ship conversion program for fiscal year 1985, $2,009,000.

From the TACS crane ship conversion program for fiscal year 1987, $7,703,000.

From the service craft program for fiscal year 1984, $10,397,000.

From the service craft program for fiscal year 1986, $5,100,000.

From the service craft program for fiscal year 1987, $13,900,000.

From the landing craft program for fiscal year 1987, $19,000,000.

From outfitting and post delivery for fiscal year 1984, $6,374,000.

(d) OTHER PROCUREMENT, NAVY.—(1) Funds are hereby authorized to be appropriated for other procurement for the Navy as follows:

(A) $5,321,592,000 ($5,207,103,000) for fiscal year 1988.

(B) $1,082,048,000 for fiscal year 1989.

(2) Amounts appropriated pursuant to paragraph (1) for fiscal year 1988 shall be available as follows:

For the ship support equipment program, $869,716,000.

For the communications and electronics equipment program, $1,809,417,000.

For aviation support equipment, $815,315,000 ($734,815,000).

For the ordnance support equipment program, $894,542,000.

For programs for civil engineering support equipment, supply support equipment, and personnel/command support equipment, a total of $623,776,000 ($589,787,000).

For spares and repair parts, $308,826,000.

(3) There are hereby authorized to be transferred to other procurement programs for the Navy for fiscal year 1988 pursuant to the authorizations of appropriations in paragraph (1), to the extent provided in appropriation Acts and without extension of obligational availability, amounts appropriated for fiscal years before fiscal year 1988 for other procurement for the Navy and remaining available for obligation in the total amount of $36,541,000 as follows:

From the electronically suspended gyro navigation program for fiscal year 1986, $1,410,000.

From the vertical launch system (surface) program for fiscal year 1986, $907,000.

From the quick strike program for fiscal year 1986, $1,851,000.

From the amphibious equipment program for fiscal year 1986, $864,000.

From the production support facility program for fiscal year 1987, $11,095,000.

From the crush/MIX/patch/pave equipment program for fiscal year 1987, $1,225,000.

From the drill/blast equipment program for fiscal year 1987, $109,000.

From the miscellaneous construction/maintenance equipment program for fiscal year 1987, $2,085,000.

From the weight handling equipment program for fiscal year 1987, $2,113,000.

From the computer acquisition program for fiscal year 1987, $14,882,000.

(4) Of the amounts appropriated pursuant to paragraph (1) for fiscal year 1989, $89,064,000 shall be available for the communications and electronics equipment program.

(e) PROCUREMENT, MARINE CORPS.—Funds are hereby authorized to be appropriated for procurement (including missiles, tracked combat vehicles, and other weapons) for the Marine Corps in amounts as follows:

(1) $1,333,575,000 ($1,330,546,000) for fiscal year 1988.

(2) $451,415,000 for fiscal year 1989.

SEC. 103. AIR FORCE

Funds are hereby authorized to be appropriated for procurement for the Air Force as follows:

(1) For aircraft:

(A) $13,224,331,000 ($12,689,331,000) for fiscal year 1988.

(B) $7,577,436,000 for fiscal year 1989.

(2) For missiles:

(A) $7,513,544,000 ($7,229,862,000) for fiscal year 1988.

(B) $2,214,719,000 for fiscal year 1989.

(3) For other procurement for fiscal year 1988, $8,422,866,000 ($8,243,504,000), of which—

(A) $687,647,000 ($656,347,000) is for munitions and associated support equipment;

(B) $239,074,000 is for vehicular equipment;

(C) $2,190,221,000 ($2,071,559,000) is for electronics and telecommunications equipment; and

(D) $5,316,924,000 ($5,287,524,000) is for other base maintenance and support equipment.

(4) For other procurement, $2,742,725,000 for fiscal year 1989, of which—

(A) $627,006,000 is for munitions and associated support equipment;

(B) $219,198,000 is for vehicle equipment;

(C) $1,314,782,000 is for electronics and communications; and

(D) $581,739,000 is for other base maintenance and support equipment.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for fiscal year 1988 for the Defense Agencies in the amount of $1,293,312,000 ($1,288,371,000).

SEC. 105. RESERVE COMPONENTS

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1988 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces as follows:

For the Army National Guard, $125,000,000 ($60,000,000).
For the Air National Guard, $258,000,000.
For the Army Reserve, $90,000,000.
For the Air Force Reserve, $165,000,000.
For the Navy Reserve, $25,000,000.
For the Marine Corps Reserve, $40,000,000.

(b) AUTHORIZATIONS IN ADDITION TO OTHER AMOUNTS.—The authorizations of appropriations contained in subsection (a) are in addition to any other amount authorized to be appropriated by this or any other Act.

SEC. 106. MILESTONE AUTHORIZATIONS FOR PROCUREMENT PROGRAMS

(a) MOBILE SUBSCRIBER EQUIPMENT.—(1) Of the amounts appropriated for other procurement for the Army for fiscal years 1988 and 1989 for communications and electronic equipment, $1,019,800,000 of the amount appropriated for fiscal year 1988 and $995,700,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Mobile Subscriber Equipment program.

(2) Funds are hereby authorized to be appropriated for other procurement for the Army for the Mobile Subscriber Equipment program as follows:

(A) $976,200,000 for fiscal year 1990.

(B) $360,000,000 for fiscal year 1991.

(b) ARMY TACTICAL MISSILE SYSTEM.—(1) Of the amounts appropriated for procurement of missiles for the Army for fiscal years 1988 and 1989, $16,925,000 of the amount appropriated for fiscal year 1988 and $81,300,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Army Tactical Missile System.

(2) Funds are hereby authorized to be appropriated for procurement of missiles for the Army for the Army Tactical Missile System as follows:

(A) $158,200,000 for fiscal year 1990.

(B) $209,000,000 for fiscal year 1991.

(C) $88,200,000 for fiscal year 1992.

(c) TRIDENT II MISSILE.—(1) Of the amounts appropriated for procurement of weapons for the Navy for fiscal years 1988 and 1989, $2,251,331,000 of the amount appropriated for fiscal year 1988 and $2,227,100,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Trident II missile program. In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1988, no reduction may be made in the amount of funds available for the Trident II missile program.

(2) Funds are hereby authorized to be appropriated for procurement of weapons for the Navy for the Trident II missile as follows:

(A) $2,215,000,000 for fiscal year 1990.

(B) $2,090,500,000 for fiscal year 1991.

(C) $1,977,000,000 for fiscal year 1992.

(d) T-45 TRAINING SYSTEM.—(1) Of the amounts appropriated for procurement of aircraft for the Navy for fiscal years 1988 and 1989 $358,210,000 of the amount appropriated for fiscal year 1988 and $403,466,000 of the amount appropriated for fiscal year 1989 may be obligated only for the T-45 Training System.

(2) Funds are hereby authorized to be appropriated for procurement of aircraft for the Navy for the T-45 Training System as follows:

(A) $437,700,000 for fiscal year 1990.

(B) $596,300,000 for fiscal year 1991.

(C) $652,300,000 for fiscal year 1992.

(e) APPLICATION OF SECTION 2437 OF TITLE 10.—Programs referred to in subsections (a) through (d) are defense enterprise programs for the purpose of section 2437 of title 10, United States Code.

SEC. 107. AUTHORIZATION OF FUNDS FOR CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1988 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747), in the amount of $125,100,000, of which—

(1) $94,100,000 shall be for operation and maintenance;

(2) $11,500,000 shall be for research, development, test and evaluation; and

(3) $19,500,000 shall be for procurement.

SEC. 108. AUTHORIZED MULTIYEAR CONTRACTS

(a) ARMY.—Subject to subsection (d)(1), the Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

(1) High-Mobility Multipurpose Wheeled Vehicle program.

(2) AN/ALQ-136 jammer.

(3) TOW 2 Missile (for the Army and Marine Corps).

(b) NAVY.—(1) Subject to subsection (d)(2), the Secretary of the Navy may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the Hawk Missile System.

(2) If by January 1, 1988, legislation described in section 3(c) has not been enacted, the Secretary of the Navy shall enter into a five-year multiyear contract under section 2306(h) of title 10, United States Code, for procurement of 420 FA-18 aircraft.

(c) AIR FORCE.—Subject to subsection (d)(1), the Secretary of the Air Force may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the Defense Meteorological Satellite Program.

(d) CONDITIONS.—(1) A multiyear contract authorized by subsection (a), (b)(2), or (c) may not be entered into unless the anticipated cost over the period of the contract is no more than 88 percent of the anticipated cost of carrying out the same program through annual contracts.

(2) A multiyear contract authorized by subsection (b)(1) may not be entered into unless the anticipated cost over the period of the contract is no more than 88 percent of the average cost incurred for the same system procured with funds appropriated for fiscal year 1986 and fiscal year 1987. For purposes of this paragraph, the average cost for the system in those fiscal years may be increased by the average percentage inflation increase for missile procurement during those fiscal years.

SEC. 109. EXTENSION OF AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AWACS PROGRAM

Effective as of October 1, 1987, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1987" both places it appears and inserting in lieu thereof "fiscal years 1988 and 1989".

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 111. ARMY PROGRAMS

(a) AHIP SCOUT HELICOPTER.—Funds appropriated or otherwise made available for fiscal year 1988 for advance procurement of AHIP aircraft may not be obligated unless the Secretary of Defense, based on operational test results, determines that the AHIP aircraft is the most cost-effective scout helicopter available to the Army and certifies that determination to the Committees on Armed Services of the Senate and House of Representatives.

(b) STINGER MISSILE.—Section 107(e) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3827) is repealed.

Contracts.

(c) RDX FACILITY.—The Secretary of the Army may award one or more contracts, in advance of appropriations therefor, for the design and construction of an RDX manufacturing plant if each such contract limits the amount of payments that the United States is obligated to make under such contract to the amount of appropriations available, at the time such contract is awarded, for obligation under such contract. Such design and construction may be accomplished by using one-step turn-key selection procedures, or other competitive contracting methods.

(d) FORWARD AREA AIR DEFENSE HEAVY SYSTEM.—(1) Funds appropriated or otherwise made available for the Army for procurement may not be obligated or expended for the procurement of any air defense system submitted to the Army for evaluation in response to any Army request for proposal for the Forward Area Air Defense Line-of-Sight Forward-Heavy (LOS-F-H) system unless the Secretary of Defense certifies to Congress that the system has met or exceeded full system requirements.

(2) For purposes of paragraph (1), the term "full system requirements" means the most stringent system requirements specified by any request for proposal for accuracy, range (detection, tracking and engagement), reaction time, and operations in the presence of electronic countermeasures.

(3) The Secretary of the Army may not obligate funds for advance procurement of the system referred to in paragraph (1) until— Reports.

(A) the operational tests of the system are completed and the Secretary of Defense reports to the Committees on Armed Services of the Senate and the House of Representatives on the results of such testing and the evaluation of such testing;

(B) the Secretary of Defense certifies to those committees that the system satisfactorily demonstrates that it meets or exceeds all of the operational performance criteria established for the system;

(C) the Director of Operational Test and Evaluation of the Department of Defense submits to the Secretary of Defense and those committees a report giving the Director's evaluation of the results of such testing and evaluation; and

(D) the Comptroller General submits a report to those committees giving his assessment of the operational tests and the system performance.

(e) A-6 Aircraft Configuration.—None of the funds appropriated for the procurement of aircraft for the Navy for fiscal year 1988 or 1989 may be obligated or expended for procurement of any A-6 aircraft configured in the F model configuration (as described in connection with the A-6E/A-6F aircraft program in the Selected Acquisition Report submitted to Congress for the quarter ending December 31, 1986).

SEC. 112. NAVY PROVISIONS

(a) H-53 Super Stallion Helicopter Aircraft.—(1) Of the amount appropriated for procurement of aircraft for the Navy for fiscal year 1988, $25,000,000 shall be available only for safety-related modifications of the H-53 series aircraft.

(2) Of the amount appropriated for the Navy for fiscal year 1988 for the procurement of H-53 aircraft, not more than 30 percent of such funds may be obligated until the Secretary of the Navy submits to Congress a report containing the preliminary results of dynamic structural tests on the H-53 aircraft and the recommendations of the Secretary regarding the advisability of continuing procurement of such aircraft. Reports.

(3) The Secretary of the Navy may not accept delivery of any Super Stallion C/MH-53E helicopter contracted for using funds appropriated for a fiscal year after fiscal year 1987 unless the helicopter incorporates design changes to improve flight stability that are approved by the Secretary of the Navy based upon recommendations resulting from the flight stability deficiency correction program for such helicopter being carried out as of May 18, 1987.

(b) P-3 Aircraft.—From funds appropriated or otherwise made available for procurement of aircraft for the Navy or for procurement for the reserve components for fiscal year 1988, the Secretary of the Navy may not obligate more than a total of $207,011,000 for—

(1) procurement of P-3C aircraft; and

(2) modifications to existing P-3 aircraft.

(c) Land-Based Tankers.—Funds appropriated or otherwise made available for the Navy may not be obligated or expended for the purpose of acquiring or operating land-based tanker aircraft unless the Secretary of Defense certifies to Congress that the Department of the Air Force cannot support the requirements of the Navy for land-based tanker aircraft. For the purposes of this section, the KC-

130T aircraft operated by the Marine Corps is not considered a land-based tanker aircraft.

(d) OBOGS SYSTEM.—Any aircraft procured under the F-14D aircraft program using funds made available for fiscal year 1988, and any aircraft procured under the FA-18 aircraft program using funds made available for fiscal year 1989, shall be configured to incorporate an On Board Oxygen Generating System (OBOGS).

(e) LEASE OR CHARTER OF NEW TANKERS.—Subject to section 2401 of title 10, United States Code, the Secretary of the Navy may enter into long-term leases and charters for military useful tanker vessels constructed in the United States.

SEC. 113. AIR FORCE PROVISIONS

(a) T-46 FUNDS.—(1) Funds appropriated for procurement of aircraft for the Air Force that were originally provided for the terminated T-46 program (as such funds are described in paragraph (2)) shall, to the extent provided in appropriation Acts, be made available for aircraft programs of the Navy as described in paragraph (3) and may not be used for any other purpose.

(2) Funds to be made available for the purposes described in paragraph (3) are as follows:

(A) $149,000,000 appropriated for fiscal year 1986.

(B) $151,000,000 appropriated for fiscal year 1987.

(3) Funds provided for Navy aircraft programs under this subsection shall be used as follows:

(A) $146,700,000 for procurement of EA6-B Prowler aircraft.

(B) $4,900,000 for advance procurement of EA-6B Prowler aircraft.

(C) $12,600,000 for EA-6B spares.

(D) $42,400,000 for A-6 aircraft modifications.

(E) $48,700,000 ($38,439,000) for E-2 aircraft modifications.

Contracts.

(4) Funds appropriated or otherwise made available for the Air Force for fiscal years 1986 and 1987 may not be obligated or expended for procurement of the T-46 aircraft (other than those aircraft under contract on the date of the enactment of this Act for lot one aircraft) or in connection with a competition for trainer aircraft.

(b) TRANSFER OF OTHER PROCUREMENT AIR FORCE FUNDS.—Of funds appropriated for other procurement for the Air Force for fiscal year 1987 that are available for the BDU-50 practice bomb, $8,000,000 shall, to the extent provided in appropriations Acts, be made available for other procurement for the Navy for fiscal year 1988 and shall be used only for procurement of BDU-45 practice bombs.

(c) PAVE TIGER SYSTEM.—The amount of $95,800,000 authorized for research, development, test, and evaluation for the Air Force for fiscal year 1985 for which funds were appropriated is hereby reauthorized for procurement of the PAVE Tiger System, and such funds may not be used for any other purpose.

(d) GROUND COLLISION AVOIDANCE SYSTEMS FOR TRANSPORT AIRCRAFT.—(1) Except as provided by paragraph (2), any transport aircraft purchased or modified using funds provided to the Department of Defense for fiscal year 1988 for procurement of aircraft shall, as acquired or modified, be equipped with ground collision avoidance systems.

(2) The limitation in paragraph (1) does not apply to the following cases:

(A) The modification of aircraft for Special Operations Forces.

(B) The purchase or modification of aircraft already equipped with ground collision avoidance capabilities comparable or superior to those required under paragraph (1).

(C) The purchase or modification of aircraft undergoing modifications on the date of the enactment of this Act if, in a given case, the interruption of the modification schedule would result in either increased costs or production breaks.

Reports. (3) Not later than February 1, 1988, the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the Secretary's plan for the purchase or modification of transport aircraft equipped with ground collision avoidance systems as required by paragraph (1).

(e) A-7 CLOSE AIR SUPPORT AIRCRAFT.—(1) Funds appropriated or otherwise made available to the Air Force for fiscal year 1988 for procurement of aircraft may not be obligated for the procurement of equipment, facilities, or services for the modification of A-7 aircraft under the A-7 Plus program in excess of $10,000,000 until—

(A) the Secretary of Defense certifies to Congress, in writing, that—

(i) obligation of funds for such procurement will not adversely affect full and open competition in the A-7 close air support program; and

(ii) the A-7 plus aircraft is the most cost-effective alternative for modernizing existing close air support and battlefield air interdiction assets of the Department of Defense and contributing to meeting the requirements relating to close air support and battlefield air interdiction established by the Secretary of Defense;

(B) the results of the vulnerability study required by the Secretary of Defense with respect to that aircraft demonstrate that the upgraded A-7 plus aircraft meets the vulnerability requirements for that aircraft established by the Secretary;

Reports. (C) the Secretary of Defense submits the report required by paragraph (2); and

(D) a period of 10 calendar days expires after the date on which that report is received.

Reports. (2) Not later than October 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a master plan for meeting the requirements established by the Secretary relating to close air support and battlefield air interdiction. The master plan submitted—

(A) must have been approved by the Under Secretary of Defense for Acquisition; and

(B) shall specify the requirements with respect to equipment, costs, schedule, and acquisition strategy and the roles for active and reserve forces in each of the Armed Forces under the jurisdiction of the Secretary for meeting those requirements.

(f) T-37 MODIFICATION.—(1) Funds appropriated or otherwise made available to the Air Force for fiscal year 1988 for procurement of aircraft may not (except as provided under paragraph (3)) be obligated for the T-37 modification program until—

Reports. (A) the Secretary of Defense submits the report required by paragraph (2); and

(B) a period of 10 calendar days expires after the date on which that report is received.

Reports.

(2) Not later than February 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a master plan for meeting the requirements of the Air Force for undergraduate pilot training. The master plan submitted—

(A) must have been approved by the Under Secretary of Defense for Acquisition;

(B) shall specify the requirements with respect to equipment, costs, schedule, and acquisition strategy for meeting those requirements of the Air Force; and

(C) shall address the most cost-effective means for meeting those requirements, including the feasibility of joint service programs.

(3) The limitation in paragraph (1) does not apply with respect to the obligation of funds for a modification solely related to flight safety purposes, but such funds may not be obligated for such a modification until the Secretary of Defense submits a certification in writing to the committees named in paragraph (2) that the modification for which the funds are to be obligated is a modification solely related to flight safety purposes.

PART C—MISCELLANEOUS PROVISIONS

SEC. 121. ADVANCED TECHNOLOGY BOMBER PROGRAM

(a) ESTABLISHMENT OF COST, PERFORMANCE, AND MANAGEMENT INITIATIVE.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish an initiative for maintaining cost discipline, contractor performance discipline, and management discipline within the Advanced Technology Bomber program.

(b) REQUIRED ELEMENTS OF INITIATIVE.—The initiative under subsection (a) shall include the following elements:

(1) The creation of a management plan for the program under which decisions to commit to specified levels of production are linked to progress in meeting specified program milestones, including testing milestones.

(2) The creation of a program for promoting greater interaction on management and performance issues between the prime contractor and major program subcontractors.

(3) The establishment of a senior management review group to report directly to the Under Secretary of Defense for Acquisition on the status of aircraft capability, program management, schedule, and cost.

(4) The use of competition on an ongoing basis.

(c) REPORT ON INITIATIVE.—Not later than April 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the initiative required by subsection (a). The report shall include a description of the measures taken to that time to implement the initiative, including actions taken with respect to each of the elements specified in subsection (b), and a description of the criteria and milestones to be used in evaluating actual program performance against specified program performance.

(d) RESTRICTION ON FUNDS.—(1) The Secretary of the Air Force shall transfer to the Under Secretary of Defense for Acquisition an amount specified by the Under Secretary not to exceed $10,000,000 to be available only for the purposes of subsection (a). Such amount shall be derived from funds provided for procurement of aircraft for the Air Force for fiscal year 1988.

(2) If the initiative required by subsection (a) is not implemented by October 1, 1988, funds may not be obligated after that date for the Advanced Technology Bomber program until the initiative is implemented.

(e) REPORT ON IOC CAPABILITIES.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the expected capabilities of the Advanced Technology Bomber when it achieves initial operational capability. The report shall be prepared in consultation with the Under Secretary of Defense for Acquisition.

(2) The report shall include a description of—

(A) the performance of the aircraft and its subsystems;

(B) expected mission capability;

(C) required maintenance and logistical standards;

(D) expected levels of crew training and performance; and

(E) product improvements that are planned before the initial operational capability of the aircraft to be made after the initial operational capability of the aircraft.

SEC. 122. REPORT ON CONDITION OF CERTAIN C-130 AIRCRAFT

Georgia.

(a) INSPECTION.—The Secretary of the Air Force shall inspect the eight C-130H aircraft stored since 1974 at Air Force Plant No. 6 in Marietta, Georgia, in order to determine the current condition of such aircraft and the work required to return such aircraft to operating status.

(b) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the inspection under subsection (a). The report shall include the Secretary's estimate of the amount it would cost to put such aircraft in useful service for the Air National Guard. The report shall be submitted not later than 60 days after the date of the enactment of this Act.

SEC. 123. BRADLEY FIGHTING VEHICLE

(a) LIMITATION OF FUNDS AND PLAN TO IMPROVE SURVIVABILITY AND OPERATIONAL PERFORMANCE.—Funds appropriated for fiscal year 1988 may not be obligated or expended to procure any Bradley Fighting Vehicles until a period of 15 days of continuous session of Congress has passed after the last of the following occurs:

Reports.

(1) The tests of the Bradley Fighting Vehicle required by section 121(d) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3829) are completed and the Secretary of Defense submits to Congress the report on the results of such tests required by section 121(f)(1) of such Act.

(2) The Secretary of Defense certifies to Congress in writing that the survivability modifications selected by the Secretary for the Bradley Fighting Vehicle maximize casualty reductions while considering fiscal concerns and without jeopardizing operational effectiveness.

Reports.

(3) The Secretary of Defense submits to Congress a report containing—

(A) a plan for the incorporation of the survivability modifications selected into all Bradley Fighting Vehicles intended for use in combat and a further plan for the incorporation of such modifications into the maximum number of Bradley Fighting Vehicles for which such incorporation is operationally warranted and feasible;

(B) a plan for initiation of production or development efforts, as appropriate, for such modifications not later than May 1, 1988; and

(C) a description of each survivability modification considered by the Secretary (including those not selected) and the relative costs (including logistics and storage) and the schedules of each such modification, a schedule for completion of the modifications selected, and the rationale for not selecting those modifications that were considered but not selected.

Reports.
Contracts.

(4) The Secretary of Defense submits to Congress a report—

(A) identifying those instances (including deficient swim capability, transmission failures, electrical problems with the vehicle and turret distribution boxes, and inadequacies in the Integrated Sight Unit and TOW missile launchers) in which—

(i) there are reliability, quality, or operational problems;

(ii) the vehicle does not meet the military requirements specified for the vehicle in a program contract; or

(iii) the performance of a Government contractor under a program contract is deficient; and

(B) setting forth a plan to correct each instance identified under subparagraph (A).

(b) Review by Comptroller General.—The Comptroller General shall—

(1) review all materials of the Department of Defense used to develop the certification submitted under subsection (a)(2) and the reports submitted under subsections (a)(3) and (a)(4); and

Reports.

(2) not later than 30 days after the date on which the last of such certification and reports is submitted, submit to Congress a report giving the assessment of the Comptroller General as to the conclusions and recommendations of the Secretary of Defense in the reports and certifications submitted pursuant to subsection (a).

(c) Continuity of Session.—For purposes of determining the period of 15 days of continuous session of Congress specified in subsection (a)—

(1) the continuity of a session of Congress is broken only by an adjournment of the Congress sine die; and

(2) days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such period.

SEC. 124. LIMITATION ON PROCUREMENT OF CERTAIN CHEMICAL WEAPONS ANTIDOTE

(a) Limitation.—Section 2400 of title 10, United States Code, is amended—

(1) by inserting "(a) Buses.—" before "Funds appropriated"; and

(2) by adding at the end the following:

"(b) Chemical Weapons Antidote Manufactured Overseas.—Funds appropriated to the Department of Defense may not be used for the procurement of chemical weapons antidote contained in automatic injectors (or for the procurement of the components for such injectors) determined to be critical under the Industrial Preparedness Planning Program of the Department of Defense unless—

"(1) such injector or component is manufactured in the United States by a company which is an existing producer under the industrial preparedness program at the time the contract is awarded and which—

"(A) has received all required regulatory approvals; and

Contracts.

"(B) has the plant, equipment, and personnel to perform the contract in existence in the United States at the time the contract is awarded; or

"(2) the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, determines that such procurement from a source in addition to a source described in paragraph (1) is critical to the national security.".

(b) Clerical Amendments.—(1) The heading of such section is amended to read as follows:

"§ 2400. Miscellaneous procurement limitations".

(2) The item relating to that section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2400. Miscellaneous procurement limitations.".

50 USC 1521 note.

SEC. 125. REVISION OF CHEMICAL DEMILITARIZATION PROGRAM

(a) Definition.—For purposes of this section, the term "chemical stockpile demilitarization program" means the program established by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), to provide for the destruction of the United States' stockpile of lethal chemical agents and munitions.

(b) Environmental Impact Statement.—The Secretary of Defense shall issue the final Programmatic Environmental Impact Statement on the chemical stockpile demilitarization program by January 1, 1988. The Environmental Impact Statement shall be prepared in accordance with all applicable laws.

(c) Disposal Technologies.—(1) Funds appropriated pursuant to this Act or otherwise made available for fiscal year 1988 for the chemical stockpile demilitarization program may not be obligated for procurement or for an Army military construction project at a military installation or facility inside the continental United States until the Secretary of Defense certifies to Congress in writing that the concept plan under the program includes the following:

(A) Evaluation of alternate technologies for disposal of the existing stockpile and selection of the technology or technologies to be used for such purpose.

(B) Full-scale operational verification of the technology or technologies selected for such disposal.

Health and medical care. Environment.

(C) Maximum protection for public health and the environment.

Research and development.

(2) The limitation in paragraph (1) shall not apply with respect to the obligation of funds for the technology evaluation or development program.

(d) ALTERNATIVE CONCEPT PLAN.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an alternative concept plan for the chemical stockpile demilitarization program. The alternative concept plan shall—

(1) incorporate the requirements of subsections (b) and (c); and

(2) specify any revised schedule or revised funding requirement necessary to enable the Secretary to meet the requirements of subsections (b) and (c).

The alternative concept plan shall be submitted by March 15, 1988.

(e) SURVEILLANCE AND ASSESSMENT PROGRAM.—The Secretary of Defense shall conduct an ongoing comprehensive program of—

(1) surveillance of the existing United States stockpile of chemical weapons; and

(2) assessment of the condition of the stockpile.

50 USC 1513 note.

SEC. 126. WITHDRAWAL OF EUROPEAN CHEMICAL STOCKPILE

Chemical munitions of the United States stored in Europe on the date of the enactment of this Act should not be removed from Europe unless such munitions are replaced contemporaneously with binary chemical munitions stationed on the soil of at least one European member nation of the North Atlantic Treaty Organization.

10 USC 2432 note.

SEC. 127. SELECTED ACQUISITION REPORTS FOR CERTAIN PROGRAMS

(a) SAR COVERAGE FOR ATB, ACM, AND ATA PROGRAMS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives at the end of each fiscal year quarter a Selected Acquisition Report with respect to each program referred to in subsection (b), notwithstanding that such a report would not otherwise be required under section 2432 of title 10, United States Code.

(b) COVERED PROGRAMS.—Subsection (a) applies to the Advanced Technology Bomber program, the Advanced Cruise Missile program, and the Advanced Tactical Aircraft program.

(c) SELECTED ACQUISITION REPORT DEFINED.—As used in subsection (a), the term "Selected Acquisition Report" means a report containing the information referred to in section 2432 of title 10, United States Code.

SEC. 128. REPORT ON STRATEGIC BOMBER FORCE COMPOSITION

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report updating the 1986 Strategic Bomber Force Study. The report shall include—

(1) the total number of advanced technology bombers required for the strategic bomber force;

(2) the Secretary's assessment of the effect of potential arms control developments on the bomber force;

(3) a description of any current plans for the use of the B-1B aircraft as a dedicated stand-off mission aircraft;

(4) a description of plans for retirement of the current B-52 and FB-111 fleets; and

(5) an assessment as to the potential for changes in the Soviet threat and other factors that may affect the capabilities of the strategic bomber force to penetrate Soviet air defenses.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than April 1, 1988.

SEC. 129. HEMTT TRUCK PROGRAM

Contracts.

(a) PROGRAM AUTHORIZATION.—Beginning in fiscal year 1988, the Secretary of the Army shall procure not less than 4,737 trucks under the Heavy Expanded Mobility Tactical Truck (HEMTT) program. Such procurement shall be carried out using multiyear contracts in accordance with section 2306(h) of title 10, United States Code.

(b) FUNDING.—Of amounts appropriated for each of fiscal years 1988 and 1989 for other procurement for the Army for tactical vehicles, $239,300,000 shall be available only for procurement under subsection (a).

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND PROGRAM LIMITATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Funds are hereby authorized to be appropriated for fiscal year 1988 and for fiscal year 1989 for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army:
  (A) $5,281,008,000 ($5,204,338,000) for fiscal year 1988.
  (B) $2,763,326,000 for fiscal year 1989.
(2) For the Navy (including the Marine Corps):
  (A) $9,947,151,000 ($9,638,995,000) for fiscal year 1988.
  (B) $2,896,358,000 for fiscal year 1989.
(3) For the Air Force:
  (A) $16,861,976,000 ($15,114,635,000) for fiscal year 1988.
  (B) $3,464,376,000 for fiscal year 1989.
(4) For the Defense Agencies:
  (A) $8,145,176,000 ($8,060,558,000) for fiscal year 1988.
  (B) $1,881,428,000 for fiscal year 1989.
(5) For testing activities:
  (A) For the activities of the Deputy Under Secretary of Defense, Test and Evaluation:
    (i) $184,693,000 ($173,479,000) for fiscal year 1988.
    (ii) $175,244,000 for fiscal year 1989.
  (B) For the Director of Operational Test and Evaluation:
    (i) $91,221,000 for fiscal year 1988.
    (ii) $104,221,000 for fiscal year 1989.

SEC. 202. LIMITATION ON FUNDS FOR THE ARMY

(a) AAWS-M AND MILAN II PROGRAMS.—(1) Of the funds appropriated pursuant to section 201 for the Army for fiscal year 1988, not more than $18,000,000 may be obligated for the Advanced Anti-Tank Weapon System-Medium (AAWS-M) program until the Secretary of the Army certifies to the Committees on Armed Services of the Senate and the House of Representatives that the Army has completed the Milan II evaluation.

(2) For purposes of paragraph (1), the term "Milan II evaluation" means evaluation of the Milan II system as an interim alternative medium-range anti-tank weapons system, as directed in the joint explanatory statement of the committee of conference accompanying the conference report on House Joint Resolution 738 (House Report 99-1005, page 555). Such evaluation shall be based on full operational testing of the Milan II system.

(b) ANTI-TACTICAL MISSILE SYSTEMS.—Of the funds appropriated pursuant to section 201 for the Army for fiscal year 1988, $26,501,000 shall be available for the anti-tactical missile system program, of which $10,000,000 shall be available only for the development of a capability to enable the Patriot and Hawk air defense systems for the anti-tactical missile role to exchange data and to otherwise communicate.

(c) CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM.—Of the funds appropriated for the Army for fiscal year 1988 for research, development, test, and evaluation, $6,800,000 shall be available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

Reports.

(d) STINGER ELECTRONIC SECURITY SYSTEM.—Of the funds appropriated for the Army for fiscal year 1988 for research, development, test, and evaluation, $3,000,000 shall be available only for purposes of demonstrating and testing alternative electronic safety devices that can be installed or retrofitted on Stinger air defense missiles in both the basic Stinger configuration and the reprogrammable microprocessor configuration. The Secretary of the Army shall summarize the results of the demonstration and testing on the basic Stinger configuration and submit a report to Congress on such summary not later than July 1, 1988, and shall summarize the results of the demonstration and testing on the reprogrammable microprocessor configuration and submit a report to Congress on such summary not later than January 1, 1989.

(e) RIFLE-LAUNCHED MUNITIONS.—Of the funds appropriated to the Army pursuant to section 201 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), $11,827,000 may be obligated only for a lighweight rifle-launched anti-armor munitions program approved by the Assistant Secretary of Defense for Special Forces and Low Intensity Conflict.

SEC. 203. LIMITATION ON FUNDS FOR THE NAVY

Research and development.
Reports.

(a) A-6 AIRCRAFT CONFIGURATION.—None of the funds appropriated pursuant to section 201 for research, development, test, and evaluation for the Navy may be obligated or expended for the purpose of configuring the A-6 aircraft in the F model configuration (as described in connection with the A-6E/A-6F aircraft program in the Selected Acquisition Report submitted to Congress for the quarter ending December 31, 1986).

(b) PROHIBITION ON TESTING ELECTROMAGNETIC PULSE IN CHESAPEAKE BAY.—During fiscal year 1988, the Secretary of the Navy may not carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator Program for ships (EMPRESS).

SEC. 204. LIMITATION ON FUNDS FOR THE AIR FORCE

(a) Miscellaneous Limitations.—Of the funds appropriated pursuant to section 201 for the Air Force for fiscal year 1988—

(1) $15,000,000 shall be available only for Non-Acoustic Anti-Submarine Warfare related activity;

(2) $50,000,000 shall be available only for the Pave Tiger program; and

(3) $94,967,000 shall be available only for the Manufacturing Technology (MANTECH) program, of which $10,000,000 shall be available only for programs associated with the revitalization of the United States machine tool industry.

(b) F-4D Air Defense Aircraft.—The Secretary of the Air Force may spend not more than $30,000,000 to complete development of a derivative of the F-4D aircraft for the air defense mission. Funds to be used for such purpose are funds appropriated to the Air Force for fiscal year 1985 for research, development, test, and evaluation but not authorized.

SEC. 205. LIMITATION ON FUNDS FOR DEFENSE AGENCIES

(a) Specified Activities.—Of the funds appropriated pursuant to section 201 for the Defense Agencies for fiscal year 1988—

(1) $288,000,000 shall be available only to the Defense Advanced Research Projects Agency for Strategic Technology, of which—

(A) $5,500,000 shall be available only for optical processor research,

(B) $50,000,000 shall be available only for the Light Sat program, and

(C) $4,000,000 shall be available only for the Amos Large Optical System program;

(2) $15,000,000 shall be available only for X-Ray lithography research; and

(3) $5,000,000 shall be available only for the Rankine Cycle Energy Recovery (RACER) system.

(b) LANDSAT Program.—Of the funds appropriated or otherwise made available to the Defense Agencies for research, development, test, and evaluation for fiscal years 1988 and 1989, funds shall be provided to the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence to be used for LANDSAT data acquisition and for development of LANDSAT satellites numbers 6 and 7 (including launch costs) as follows:

(1) For fiscal year 1988, $15,000,000.

(2) For fiscal year 1989, $45,000,000.

(c) University Research Initiatives.—Of the funds appropriated pursuant to section 201 for the Defense Agencies—

(1) $190,000,000 ($185,000,000) shall be available only for the University Research Initiatives (URI) program in fiscal year 1988, of which $25,000,000 is for the Defense Agencies for the Defense University Instrumentation Program; and

(2) $210,000,000 shall be available only for that program in fiscal year 1989.

(d) Bioenvironmental Hazards Research.—Of the funds appropriated pursuant to section 201, not more than $33,000,000 ($25,000,000) may be obligated through the Office of the Under Secretary of Defense for Acquisition for bioenvironmental hazards research activities at universities (including amounts for associated facilities and other related purposes).

SEC. 206. FUNDING FOR TECHNOLOGY BASE PROGRAMS FOR FISCAL YEAR 1988

Of the funds appropriated pursuant to section 201, the following amounts are available only for technology base programs:

(1) For the Army:

(A) $764,862,000 of funds authorized for fiscal year 1988.

(B) $839,852,000 of funds authorized for fiscal year 1989.

(2) For the Navy:

(A) $748,781,000 of funds authorized for fiscal year 1988.

(B) $832,587,000 of funds authorized for fiscal year 1989.

(3) For the Air Force:

(A) $773,220,000 ($761,992,000) of funds authorized for fiscal year 1988.

(B) $839,444,000 of funds authorized for fiscal year 1989.

(4) For the Defense Agencies:

(A) $1,186,430,000 ($1,181,430,000) of funds authorized for fiscal year 1988.

(B) $838,918,000 of funds authorized for fiscal year 1989.

SEC. 207. FUNDS FOR COOPERATIVE PROJECTS WITH MAJOR NON-NATO ALLIES

Of the funds appropriated pursuant to the authorizations of appropriations for fiscal year 1988 in section 201, up to $40,000,000 shall be available for cooperative research and development projects with major non-NATO allies under section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-961).

10 USC 2431 note.

SEC. 208. ONE-YEAR UNITED STATES MORATORIUM ON TESTING ANTI-SATELLITE WEAPONS

President of U.S. Union of Soviet Socialist Republics.

(a) TESTING MORATORIUM.—The Secretary of Defense may not carry out a test of the Space Defense System (antisatellite weapon) involving the F-15 launched miniature homing vehicle against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated antisatellite weapon.

(b) EXPIRATION.—The prohibition in subsection (a) expires on October 1, 1988.

PART B—PROGRAM POLICIES

SEC. 211. NAVY ATTACK SUBMARINE PROGRAM

Research and development.

(a) ADVANCED SUBMARINE TECHNOLOGY.—(1) There is hereby established an Advanced Submarine Technology Program to be carried out by the Secretary of Defense through the Director, Defense Advanced Research Projects Agency. In carrying out the program, the Director shall conduct research, development, test, and evaluation of advanced submarine technology that may be applied to submarines of the SSN-688 class, SSN-21 class, or other classes of submarines. Technology to be examined through the program includes technology relating to polymers, compliant coating, propulsion, techniques for hull drag reduction, materials, weapon control systems, acoustic and nonacoustic signature reduction, and sensors.

(2) The objective of the program shall be to obtain prototype hardware of promising submarine technologies in the shortest possible time.

(3) Of the funds appropriated or otherwise made available to the Navy for fiscal year 1988 for research, development, test, and evaluation, $100,000,000 shall be made available to the Director, Defense Advanced Research Projects Agency for the advanced submarine technology program. The Secretary of Defense shall make such amount available to the Director within 30 days after enactment of a law making appropriations for fiscal year 1988 for research, development, test, and evaluation for the Navy.

(b) Report Requirement.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth a detailed plan for the conduct of the program. The report shall include—

(A) information on the technologies to be studied and developed,

(B) milestones for significant achievements,

(C) plans for prototype hardware development, and

(D) a description of anticipated costs.

(2) Not later than six months after the submission of the report required by paragraph (1), the Secretary of Defense shall submit a report updating the information in the initial report, including any additional information the Secretary considers appropriate to the conduct of the program.

Reports.

(c) Limitation on Funds.—None of the funds appropriated pursuant to this or any other Act for the research and development of the SSN-21 Seawolf Attack Submarine program may be obligated or expended during any period of time in which a report required by subsection (b) is overdue.

(d) Concept Studies for SSN-688 Improvement.—Of the funds appropriated pursuant to section 201 for the Navy for fiscal year 1988, $13,000,000 shall be available only for concept and design studies, together with cost estimates, for accomplishing the following on SSN-688 Los Angeles class submarines:

(1) Providing greater operational/tactical and maximum speed than the present SSN-688 class submarine.

(2) Using HY-100 steel to permit greater operational depths.

(3) Providing greater acoustic and nonacoustic quieting.

(4) Providing greater weapons carrying capacity than either the SSN-688 submarine or the proposed SSN-21 submarine.

Reports.

(e) Independent Studies.—The Secretary of Defense shall obtain an independent concept study in accordance with subsection (d) from two qualified independent shipbuilders and shall provide the results of the Navy concept study and of the shipbuilders' studies, together with development and deployment schedules and cost estimates under each, to the Committees on Armed Services of the Senate and House of Representatives not later than March 1, 1988.

SEC. 212. ADVANCED TACTICAL FIGHTER AIRCRAFT

None of the funds appropriated for fiscal year 1988 or otherwise made available may be obligated for development of the Advanced Tactical Fighter aircraft program until—

(1) the Secretary of the Navy certifies to the Secretary of Defense that the prototype aircraft designs are capable of accepting all physical and structural modifications necessary to satisfy fully the requirements of the Navy concerning carrier catapults and arresting gear, and

(2) the Secretary of Defense submits to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a copy of the certification under paragraph (1) and certifies that a major source selection criteria for full scale development and production will be the extent to which the contractor's proposals for the Navy-variant of the advanced tactical fighter meets fully the requirements of the Navy.

SEC. 213. ELECTRONIC WARFARE PROGRAMS

(a) FUNDING.—Of the funds appropriated or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1988, not more than $539,235,000 ($482,472,000) may be used for electronic warfare programs as provided in subsection (b).

(b) ALLOCATION OF FUNDS.—The Secretary of Defense shall allocate among the military departments funds appropriated for fiscal year 1988 for electronic warfare programs as follows:

(1) For the Department of the Army, $103,804,000 ($92,877,000).

(2) For the Department of the Navy, $235,946,000 ($211,109,000).

(3) For the Department of the Air Force, $199,485,000 ($178,486,000).

Reports.

(c) SUBMISSION OF MASTER PLAN.—Not later than March 1, 1988, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth a detailed master plan for electronic warfare programs. Such plan shall—

(1) describe joint service electronic warfare programs that will satisfy electronic warfare requirements against the current and future threat; and

(2) identify those electronic warfare systems that will be terminated.

SEC. 214. CONVENTIONAL DEFENSE INITIATIVE

(a) IN GENERAL.—In this Act, Congress continues the program of Conventional Defense Initiatives begun in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661) for the purposes stated in section 221 of that Act (100 Stat. 3845).

(b) ARMY.—Of the funds appropriated pursuant to section 201 for the Army for fiscal year 1988, $48,100,000 shall be available only for the Conventional Defense Initiative.

(c) NAVY.—Of the funds appropriated pursuant to section 201 for the Navy for fiscal year 1988, $51,100,000 ($46,100,000) shall be available only for the Conventional Defense Initiative.

(d) AIR FORCE.—Of the funds appropriated pursuant to section 201 for the Air Force for fiscal year 1988, $9,600,000 shall be available only for the Conventional Defense Initiative.

Research and development.

SEC. 215. BALANCED TECHNOLOGY INITIATIVE

(a) PURPOSE.—It is the purpose of this section to authorize funds for the Balanced Technology Initiative program.

Union of Soviet Socialist Republics.

(b) PROGRAM FOCUS.—The focus of the Balanced Technology Initiative program shall be on the development of innovative concepts and methods of enhancing conventional defense capabilities, including the development of concepts and methods to take full advantage of the technological superiority of the United States and its allies as a means of increasing the rate of obsolescence of equipment, doctrine, and tactics of the Soviet Union and other Warsaw Pact countries. Such development shall give particular emphasis to the following:

(1) Armor/anti-armor initiatives.

(2) Defenses against armed helicopters.

(3) Hypervelocity missiles for ground combat use.

(4) Defense against anti-ship missiles, including those with "stealth" characteristics.

(5) "Smart" mines for both land and ocean warfare.

(6) Lightweight, air transportable vehicles with anti-armor capabilities for rapid transport to remote areas.

(7) Improved conventional anti-submarine warfare munitions.

(8) "Smart" standoff munitions and submunitions for delivery outside of lethal air defense ranges.

(c) Amounts Authorized.—(1) Of the amounts appropriated pursuant to section 201 for fiscal year 1988—

(A) not less than $300,000,000 ($275,000,000) shall be obligated only for research and development in connection with those programs, projects, and activities initiated pursuant to section 222 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3845); and

(B) not less than $200,000,000 shall be obligated only for research and development under the Balanced Technology Initiative and shall be used only for new and innovative programs, projects, and activities that have not been designated for funding under that section.

(2) Of the amounts appropriated pursuant to section 201 for fiscal year 1989, not less than $300,000,000 shall be obligated for research and development in connection with the Balanced Technology Initiative.

(d) Relationship to Conventional Defense Initiative.—The Conventional Defense Initiative provided for in section 221 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3845) and for which funds are authorized by section 214 is not an element of the Balanced Technology Initiative. Funds made available for the purpose of this section may not be obligated for any program, project, or activity of the Conventional Defense Initiative.

SEC. 216. MILESTONE AUTHORIZATIONS

(a) Army Tactical Missile System.—(1) Of the amounts appropriated for the Army for research, development, test, and evaluation for fiscal years 1988 and 1989, $112,208,000 ($102,208,000) of the amount appropriated for fiscal year 1988 and $86,618,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Army Tactical Missile System program.

(2) The sum of $49,000,000 is hereby authorized to be appropriated for the Army for fiscal year 1990 for research, development, test, and evaluation in connection with the Army Tactical Missile System program.

(b) Trident II Missile.—(1) Of the amounts appropriated for the Navy for research, development, test, and evaluation for fiscal years 1988 and 1989, $1,073,463,000 ($1,048,463,000) of the amount appropriated for fiscal year 1988 and $581,740,000 of the amount appropriated for fiscal year 1989 may be obligated only for the Trident II missile program. In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1988, no reduction may be made in the amount of funds available for the program described in the preceding sentence.

(2) Funds are hereby authorized to be appropriated for the Navy for research, development, test, and evaluation of the Trident II missile program as follows:

(A) For fiscal year 1990, $338,300,000.
(B) For fiscal year 1991, $164,700,000.
(C) For fiscal year 1992, $103,000,000.

(c) T-45 TRAINING SYSTEM.—(1) Of the amounts appropriated for the Navy for research, development, test, and evaluation for fiscal years 1988 and 1989, $96,015,000 of the amount appropriated for fiscal year 1988 and $87,822,000 of the amount appropriated for fiscal year 1989 may be obligated only for the T-45 Training System program.

(2) Funds are hereby authorized to be appropriated for the Navy for research, development, test, and evaluation of the T-45 Training System program as follows:

(A) For fiscal year 1990, $23,700,000.
(B) For fiscal year 1991, $24,000,000.

(d) APPLICATION OF SECTION 2437 OF TITLE 10.—Programs referred to in subsections (a) through (c) are defense enterprise programs for the purpose of section 2437 of title 10, United States Code.

SEC. 217. ANTI-TACTICAL BALLISTIC MISSILE SYSTEMS AND EXTENDED AIR DEFENSE

(a) DEMONSTRATION PROJECTS UNDER SDI PROGRAM.—(1) Of the funds appropriated or otherwise made available to the Department of Defense for the Strategic Defense Initiative program for fiscal year 1988, $50,000,000 shall be available only for experiments, demonstration projects, and development relating to anti-tactical ballistic missile (ATBM) systems.

(2) Such projects shall be conducted on a matching fund cooperative program basis with United States allies that have signed Memoranda of Understanding (MOU's) for participation in the Strategic Defense Initiative program.

Union of Soviet Socialist Republics.

(3) Any system developed under this subsection shall be designed to be no less capable than the SA-X-12 system of the Soviet Union.

(b) EXTENDED AIR DEFENSE.—(1) Of the funds appropriated to the Army pursuant to section 201, $25,000,000 may be obligated only upon approval by the Director of Defense Research and Engineering for the purpose of research and development in connection with anti-tactical missile systems or extended air defense systems.

(2) If any such funds are made available to a firm in an allied country, such funds shall be available for obligation only after the Secretary of Defense enters into a cooperative program with that country for that purpose.

SEC. 218. HIGH-TEMPERATURE SUPERCONDUCTIVITY PROGRAM

(a) AUTHORIZATION.—(1) Of the funds appropriated or otherwise made available to the Department of Defense pursuant to section 201 for research, development, test, and evaluation, $60,520,000 of the amount appropriated for fiscal year 1988 and $60,520,000 of the amount appropriated for fiscal year 1989 may be obligated only for research and development relating to superconductivity at high critical temperatures.

(2) Of the amount that may be obligated under paragraph (1), $10,520,000 in the case of fiscal year 1988, and $10,520,000 in the case of fiscal year 1989, may be obligated only for support of research and development activities that—

(A) are conducted under the superconductor program of the Defense Advanced Research Projects Agency of the Department of Defense or under the superconductor program of any other entity involved in superconductor research and development; and

(B) accelerate advanced development of superconductor technology to support the Electric Drive program of the Department of Defense.

Research and development.

(b) ADMINISTRATIVE PROVISIONS.—(1) The Secretary of Defense shall determine, with respect to the amounts appropriated or otherwise made available to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 for research, development, test, and evaluation for each of fiscal years 1988 and 1989, the amount to be derived from the Army, Navy, Air Force, and each of the Defense Agencies in each such fiscal year to carry out the high-temperature superconductivity research and development activities of the Department of Defense under this section.

10 USC 2364 note.

(2) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall—

(A) coordinate the research and development activities of the Department of Defense relating to high-temperature superconductivity; and

(B) ensure that such research and development—

(i) is carried out in coordination with the high-temperature superconductivity research and development activities of the Department of Energy (including the national laboratories of the Department of Energy), the National Science Foundation, the National Bureau of Standards, and the National Aeronautics and Space Administration; and

(ii) complements rather than duplicates such activities.

10 USC 2363 note.
Research and development.

(c) TECHNOLOGY TRANSFER TO PRIVATE SECTOR.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall take appropriate action to ensure that high-temperature superconductivity technology resulting from the research activities of the Department of Defense is transferred to the private sector. Such transfer shall be made in accordance with section 10(e) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)), other applicable provisions of law, and Executive Order Number 12591, dated April 10, 1987.

(2) The Secretary of Energy, in consultation with the Under Secretary of Defense for Acquisition, shall ensure that the national laboratories of the Department of Energy participate, to the maximum appropriate extent, in the transfer to the private sector of technology developed under the Department of Defense superconductivity program in the national laboratories.

SEC. 219. TRAINING IN ADVANCED MANUFACTURING TECHNOLOGIES

(a) FUNDS FOR PURCHASE AND INSTALLATION OF EQUIPMENT.—Of the funds appropriated pursuant to section 201, not more than $31,000,000 ($25,000,000) of the amount appropriated for fiscal year 1988, and not more than $31,000,000 of the amount appropriated for fiscal year 1989, may be obligated for the purchase of high technology manufacturing equipment and the installation of such equipment in a private, nonprofit center for advanced technologies for the purpose of training, in a production facility, machine tool operators in skills critical to the defense technology base to build, operate, and maintain such equipment.

(b) REQUIREMENTS.—Funds may not be obligated for the purpose described in subsection (a) until—

(1) the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, and the Secretary of Education enter into a memorandum of understanding concerning the participation of their respective departments in a project to demonstrate the training of machine technicians in a production facility;

(2) the Secretary of Defense approves the obligation of such funds for such purpose; and

Reports.

(3) a period of 60 days elapses after the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House of Representatives a report that sets forth a detailed explanation of proposed Federal expenditures, a description of the cost-sharing arrangements between the Government agencies concerned and the private sector, and a description of how the proposed program furthers the industrial and technological goals of the Department of Defense.

SEC. 220. SENSE OF CONGRESS ON STRATEGIC MISSILE MODERNIZATION PROGRAMS

(a) FINDINGS.—The Congress makes the following findings:

(1) It is essential that the nation's defense priorities be carefully analyzed so as to properly fund the Armed Forces.

Union of Soviet Socialist Republics.

(2) The capabilities of the conventional forces of the United States and its allies will become more important if an agreement with respect to intermediate-range nuclear forces (INF) is concluded between the United States and the Soviet Union.

(3) It is both desirable and possible to reduce the reliance of the North Atlantic Treaty Organization on nuclear weapons for the defense of all members of the alliance if the member nations of the alliance assert the political will to reduce such reliance and establish sound defense priorities.

(4) The United States is currently procuring and deploying one land-based intercontinental ballistic missile system (the MX system) at significant cost while developing another such system (the so-called Midgetman system) at significant additional cost.

(5) Efforts to reduce the Federal budget deficit, which are imperative for the economic well being of the United States, will continue for the foreseeable future to require limits on all discretionary Federal spending, including defense spending.

Research and development.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the authorization of funds in this Act for research and development for both the new small mobile intercontinental ballistic missile (commonly known as the "Midgetman" missile) and the proposed rail-mobile basing mode for the MX missile does not constitute a commitment or express an intent by Congress to provide funds to procure and deploy the Midgetman missile or to deploy any MX missiles in a rail-mobile basing mode or both.

PART C—STRATEGIC DEFENSE INITIATIVE

Subpart 1—SDI Funding and Program Limitations and Requirements

SEC. 221. FISCAL YEAR 1988 FUNDING LEVEL FOR THE STRATEGIC DEFENSE INITIATIVE

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1988, not more than $3,621,000,000 may be obligated for the Strategic Defense Initiative.

(b) SPECIFIED ACTIVITIES.—Of the funds available for the Strategic Defense Initiative program under subsection (a)—

(1) $27,000,000 shall be available only for a classified laser program;

(2) $15,000,000 shall be available only for medical applications of the free electron laser program for medical research and material; and

(3) $17,000,000 is available for defense-wide mission support for the Strategic Defense Initiative.

(c) DEFENSE-WIDE MISSION SUPPORT.—Of the amount appropriated for Defense Agencies for fiscal year 1987, $16,000,000 may be used for defense-wide mission support for the Strategic Defense Initiative.

SEC. 222. PROHIBITION OF CERTAIN CONTRACTS WITH FOREIGN ENTITIES

10 USC 2431 note.

(a) SDI CONTRACTS WITH FOREIGN ENTITIES.—Funds appropriated to or for the use of the Department of Defense may not be used for the purpose of entering into or carrying out any contract with a foreign government or a foreign firm if the contract provides for the conduct of research, development, test, or evaluation in connection with the Strategic Defense Initiative program.

(b) TEMPORARY SUSPENSION OF PROHIBITION UPON CERTIFICATION OF THE SECRETARY OF DEFENSE.—The prohibition in subsection (a) shall not apply to a contract in any fiscal year if the Secretary of Defense certifies to Congress in writing at any time during such fiscal year that the research, development, testing, or evaluation to be performed under such contract cannot be competently performed by a United States firm at a price equal to or less than the price at which the research, development, testing, or evaluation would be performed by a foreign firm.

(c) EXCEPTIONS FOR CERTAIN CONTRACTS.—The prohibition in subsection (a) shall not apply to a contract awarded to a foreign government or foreign firm if—

(1) the contract is to be performed within the United States;

(2) the contract is exclusively for research, development, test, or evaluation in connection with antitactical ballistic missile systems; or

(3) that foreign government or foreign firm agrees to share a substantial portion of the total contract cost.

(d) DEFINITIONS.—In this section:

(1) The term "foreign firm" means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than 50 percent of the stock is owned or controlled by one or more foreign nationals.

(2) The term "United States firm" means a business entity other than a foreign firm.

(e) TRANSITION.—The prohibition in subsection (a) shall not apply to a contract entered into before the date of the enactment of this Act.

10 USC 2431 note.

SEC. 223. LIMITATION ON TRANSFER OF SDI TECHNOLOGY TO SOVIET UNION

Military technology developed with funds appropriated or otherwise made available for the Strategic Defense Initiative may not be transferred, or made available for transfer, to the Soviet Union by the United States (or with the consent of the United States) unless—

President of U.S.

(1) the President determines, and certifies to Congress, that the transfer is in the national interest of the United States and is to be made for the purpose of maintaining peace; and

(2) Congress approves that determination by a joint resolution.

10 USC 2431 note.

SEC. 224. SDI ARCHITECTURE TO REQUIRE HUMAN DECISION MAKING

No agency of the Federal Government may plan for, fund, or otherwise support the development of command and control systems for strategic defense in the boost or post-boost phase against ballistic missile threats that would permit such strategic defenses to initiate the directing of damaging or lethal fire except by affirmative human decision at an appropriate level of authority.

SEC. 225. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated to the Department of Defense for fiscal year 1988, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1988 or for any fiscal year before fiscal year 1988, shall be subject to the limitations prescribed in paragraph (2).

(2) The funds described in paragraph (1) may not be obligated or expended—

(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the development and testing described in the April 1987 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the April 1987 SDIO Report.

(3) The limitation under paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1988 if the transfer is made in accordance with section 1201 of this Act and any comparable provision in legislation appropriating funds for military functions of the Department of Defense for fiscal year 1988.

(b) DEFINITION.—As used in this section, the term "April 1987 SDIO Report" means the report entitled "Report to Congress on the Strategic Defense Initiative", dated April 1987, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives pursuant to section 1102 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 10 U.S.C. 2431 note).

SEC. 226. PROHIBITION ON DEPLOYMENT OF ANTI-BALLISTIC MISSILE SYSTEM UNLESS AUTHORIZED BY LAW

10 USC 2431 note.

The Secretary of Defense may not deploy any anti-ballistic missile system unless such deployment is specifically authorized by law after the date of the enactment of this Act.

SEC. 227. ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER TO SUPPORT THE STRATEGIC DEFENSE INITIATIVE PROGRAM

10 USC 2431 note.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Department of Defense requires technical support for issues of system integration related to the Strategic Defense Initiative program.

(2) The Strategic Defense Initiative Organization, after assessing alternative types of organizations for the provision of such technical support to the Strategic Defense Initiative program (including Government organizations, profit and nonprofit entities (including existing federally funded research and development centers), a new division within an existing federally funded research and development center, a new federally funded research and development center, colleges and universities, and private nonprofit laboratories), determined that a new federally funded research and development center (hereinafter in this section referred to as an "FFRDC") would be the type of organization most appropriate for the provision of such technical support to the Strategic Defense Initiative program.

(3) In providing such technical support to the SDI program, the new FFRDC should provide critical evaluation and rigorous and objective analysis of technologies, systems, and architectures that are candidates for use in the SDI program.

(4) Competitive selection of a contractor to establish and operate such an FFRDC to support the Strategic Defense Initiative program is one way to enhance the prospects for independent and objective evaluation of system integration issues within the Strategic Defense Initiative program.

(b) AUTHORITY TO CONTRACT FOR FFRDC.—The Secretary of Defense, using funds appropriated to the Department of Defense for the Strategic Defense Initiative program, may enter into a contract to provide for the establishment and operation of a federally funded research and development center to provide independent and objective technical support to the Strategic Defense Initiative program. Such a contract may not be awarded before October 1, 1989.

(c) CONTRACT AWARD REQUIREMENTS.—(1) A contract under subsection (b) shall be awarded using competitive procedures which emphasize cost considerations.

(2) The Secretary of Defense shall solicit proposals for such contract from existing federally funded research and development centers, from universities, from commercial entities, and from appropriate new organizations and shall make maximum efforts to obtain more than one proposal for such contract.

(3) The Secretary shall submit the three best contract proposals (as determined by the Secretary), together with a copy of the proposed sponsoring agreement for the new FFRDC, for review by three persons designated by the Defense Science Board from a list of six or more persons submitted by the National Academy of Sciences. The persons performing the review—

(A) shall evaluate the extent to which each proposal and the proposed sponsoring agreement would foster competent and objective technical advice for the Strategic Defense Initiative Program; and

Reports.

(B) shall report their evaluation of each such proposal and of the proposed sponsoring agreement to the Secretary.

(4) Before awarding a contract under subsection (b), and not sooner than March 30, 1989, the Secretary shall submit to Congress—

(A) a copy of the proposed final contract; and

(B) a copy of the proposed final sponsoring agreement relating to the operation of the new FFRDC.

(5)(A) The Secretary shall then withhold the award of such contract and the approval of such sponsoring agreement for a period of at least 30 days of continuous session of Congress beginning on the day after the date on which Congress receives the copies referred to in paragraph (4).

(B) For purposes of subparagraph (A), the continuity of a session of Congress is broken only by an adjournment sine die at the end of the second regular session of that Congress. In computing the 30-day period for such purposes, days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded.

Contracts.

(d) Requirements Applicable to FFRDC.—The Secretary of Defense shall—

(1) require that the contract referred to in subsection (b) include a provision stating that no officer or employee of the Department of Defense shall have the authority to veto the employment of any person selected to serve as an officer or employee of the new FFRDC;

(2) require that at least 5 percent of the total amount of funds available for the new FFRDC shall be set aside for independent research to be performed by the staff of the new FFRDC under the direction of the chief executive officer of the new FFRDC;

(3) impose a limitation on the compensation payable to each senior executive of the new FFRDC for services performed for the new FFRDC so that such compensation shall be comparable to the amount of compensation payable to senior executives of comparable federally funded research and development centers for similar services;

(4) require that the new FFRDC publicly disclose the salary of its chief executive officer;

(5) prohibit current or former members of the Strategic Defense Initiative Advisory Committee from serving as members of the Board of Trustees of the FFRDC if such members constitute 10 or more percent of the Board of Trustees or from serving as officers of the new FFRDC;

(6) require that the contract referred to in subsection (b) include a provision prohibiting members of such Board of Trustees from serving as officers of the new FFRDC, except that a Board member may serve as the President of the new FFRDC if the Board is comprised of 10 or more members;

(7) require that the contract referred to in subsection (b) include a provision prohibiting the new FFRDC from employing any person who, as a Federal employee or member of the Armed Forces, served in the Strategic Defense Initiative Organization

within two years before the date on which such person is to be employed by the new FFRDC; and

(8) require that any contract referred to in subsection (b) require that the Board of Trustees of the new FFRDC be comprised of individuals who represent a reasonable cross-section of views on the engineering and scientific issues associated with the Strategic Defense Initiative Program.

(e) FUNDING.—The Secretary of Defense shall provide that all funds for the new FFRDC within the Department of Defense budget for any fiscal year shall be separately identified and set forth in the budget presentation materials submitted to Congress for that fiscal year.

(f) SUNSET PROVISION.—No Federal funds may be provided to the new FFRDC after the end of the five-year period beginning on the date of the award of the first contract awarded to the FFRDC under this section.

Subpart 2—Report Requirements

SEC. 231. ANNUAL REPORT ON SDI PROGRAMS

10 USC 2431 note.

(a) IN GENERAL.—Not later than March 15, 1988, and March 15, 1989, the Secretary of Defense shall transmit to Congress a report (in both an unclassified and a classified form) on the programs that constitute the Strategic Defense Initiative and on any other program relating to defense against ballistic missiles. Each such report shall include the following:

(1) A detailed description of each program or project included in the Strategic Defense Initiative (SDI) or which otherwise relates to defense against strategic ballistic missiles, including a technical evaluation of each such program or project and an assessment as to when each can be brought to the stage of full-scale engineering development (assuming funding as requested or programmed).

(2) A clear definition of the objectives of each phase of the Strategic Defense Initiative Organization plan approved by the Defense Acquisition Board.

(3) An explanation of the relationship between each such objective and each program and project associated with the Strategic Defense Initiative or defense against strategic ballistic missiles.

North Atlantic Treaty Organization.
Japan.
Research and development.
Union of Soviet Socialist Republics.

(4) The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(5) A statement of the compliance of the planned SDI development and testing programs with existing arms control agreements, including the Antiballistic Missile Treaty.

(6) A review of possible countermeasures of the Soviet Union to specific SDI programs, an estimate of the time and cost required for the Soviet Union to develop each such countermeasure, and an evaluation of the adequacy of the SDI programs described in the report to respond to such countermeasures.

(7) Details regarding funding of programs and projects for the Strategic Defense Initiative, including—

(A) the level of funding provided for the current fiscal year and for previous fiscal years for each program and project in the Strategic Defense Initiative budgetary presentation materials provided to Congress;

(B) the amount requested to be appropriated for each such program and project for the next fiscal year;

(C) the amount programmed to be requested for each such program and project for the following fiscal year; and

(D) the amount required to reach the next significant milestone for each demonstration program and each major technology program.

(8) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(A) defending elements of the Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(B) defending against an accidental launch of strategic ballistic missiles against the United States;

(C) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority or other valuable military assets;

(D) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites, including those in high orbits;

(E) providing early warning and attack assessment information and the necessary survivable command, control, and communications to facilitate the use of United States military forces in defense against possible Soviet conventional or strategic attacks;

(F) providing protection of United States population from a Soviet nuclear attack; and

(G) any other significant near-term military mission that the application of SDI technologies might help to accomplish.

(9) For each of the near-term military missions listed in paragraph (8), the report shall include—

(A) a list of specific program elements of the Strategic Defense Initiative that are pertinent to these applications;

(B) the Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish such missions;

(C) the Secretary's estimate of the level of funding necessary for each program to reach those operating capability dates; and

(D) the Secretary's estimate of the survivability and cost effectiveness at the margin of such architectures or systems against current and projected Soviet threats.

(b) **Repeals.**—Section 1102 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2431 note), and section 215 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3843) are repealed.

SEC. 232. REPORT ON SDI DEVELOPMENT PLANS AND COSTS

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the total cost to develop, produce, deploy, operate, and maintain the ballistic missile defense system that would incorporate the technologies approved by the Secretary of Defense in authorizing proceeding into the demonstration/validation phase of the acquisition process. Should this system not be sufficiently defined, the system described in the 1987 report entitled "Report of the Technical Panel on Missile Defense in the 1990s", prepared by the George C. Marshall Institute, should be used as a basis for determining cost.

(b) DEADLINE FOR REPORT; CLASSIFICATION.—The report under subsection (a) shall be submitted no later than six months after the date of the enactment of this Act and shall be submitted in unclassified form.

SEC. 233. REPORT ON HOW ABSENCE OF THE ABM TREATY WOULD AFFECT STRATEGIC OFFENSIVE AND DEFENSIVE PROGRAMS

(a) REPORT ON NO ABM TREATY LIMITATIONS.—The Secretary of Defense shall submit to Congress a report concerning what the effect would be on strategic offensive and defensive programs of the United States if there were no limitations on strategic defensive systems in force under the 1972 ABM Treaty.

Research and development.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) An analysis of the ramifications of there being no limitation in force under the 1972 ABM Treaty on development under the Strategic Defense Initiative (SDI) program of strategic defenses, including comprehensive strategic defense systems and more limited defenses designed to protect vital military and command and control assets of the United States.

(2) A comparison (based on the analysis made under paragraph (1)) of the research and development programs that could be pursued under the SDI program under the limitations applicable under the restrictive interpretation of the 1972 ABM Treaty, under the less restrictive interpretation of such treaty, and under a case in which there were no such limitations, including a comparative analysis of—

(A) the overall cost of such research and development programs;

(B) the schedule of such research and development programs; and

(C) the level of confidence attained in such research and development programs with respect to supporting a decision to commence full-scale engineering development under such programs in the early-to-mid 1990s.

(3) A list of options for the SDI program, assuming that there are no limitations in force under the 1972 ABM Treaty, that meet one or more of the following objectives:

(A) Reduction of overall development cost.

(B) Advancement of the schedule for making a decision to commence full-scale engineering development.

(C) Increase in the level of confidence in the results of the research by the original scheduled date for the commencement of full-scale development.

Union of Soviet Socialist Republics.

(4) An analysis of how rapidly, in the absence of limitations under the 1972 ABM Treaty, the Soviet Union could deploy a nationwide anti-ballistic missile defense of military and nonmilitary targets and the consequences of such a deployment. The analysis should include an assessment of the following:

(A) The effect of such deployment on the confidence of the United States that, should deterrence that depends increasingly on defensive forces fail, the planned strategic nuclear forces of the United States would be sufficient to hold assets that the leaders of the Soviet Union value at risk following a first strike by the Soviet Union against the United States.

(B) The changes that must be made to the strategic offensive forces of the United States to hold assets that the leaders of the Soviet Union value at risk in the presence of strategic defenses. The analysis should include both the cost of those changes and the time period scale over which they could be accomplished.

(C) The consistency of the required changes to United States strategic offensive forces of the United States described under subparagraph (B) with the current United States negotiating position in the Strategic Arms Reduction (START) negotiations.

(D) The degree to which crisis stability would be affected during the transition period between the appearance of nationwide anti-ballistic missile defenses by both the United States and the Soviet Union and the completion of the changes that the United States would make to its strategic offensive forces in response to such defenses by the Soviet Union.

(5) An analysis of the effect on deterrence of nuclear conflict if both the United States and Soviet Union deploy strategic defenses of comparable capability, considering both less capable and highly capable strategic defenses, as well as appropriate transition issues (including the effect on deterrence of the potential vulnerability of strategic defenses).

(c) Deadline for Report.—The report under subsection (a) shall be submitted not later than March 1, 1988.

(d) Report Classification.—The report under subsection (a) shall be submitted in both classified and unclassified versions.

(e) 1972 ABM Treaty Defined.—In this section, the term "1972 ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

SEC. 234. REPORT ON ALLOCATION OF FY88 FUNDING

(a) In General.—The Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1988. The report shall set out the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative within each appropriation account.

(b) Deadline for Report.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation appropriating funds for the Strategic Defense Initiative for fiscal year 1988.

PART D—B-1B BOMBER PROGRAM

SEC. 241. FISCAL YEAR 1988 FUNDING LIMITATION

Of the funds appropriated pursuant to section 201 for fiscal year 1988, not more than $375,672,000 shall be available for research, development, test, and evaluation for the B-1B bomber program.

SEC. 242. DEFENSIVE AVIONICS TEST AND EVALUATION PROGRAM

Reports.

(a) REQUIREMENT FOR PROGRAM.—(1) During fiscal years 1988 and 1989, the Secretary of Defense shall develop and conduct a comprehensive program for the systematic testing of the defensive avionics system of the B-1B aircraft.

(2) Not later than 30 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a detailed plan for such testing during fiscal years 1988 and 1989. Such plan shall include—

(A) the planned test schedule for each of the various components of the defensive avionics system, tested singly and in combination with other components of the defensive and offensive avionics systems;

(B) the objectives of each of the planned tests and the criteria that will be used to determine whether each such test is successful, partially-successful, or unsuccessful; and

(C) how those scheduled tests can be used to estimate the capability of the B-1B to penetrate Soviet air defenses, including both single and multiple threats.

(b) LIMITATION ON OBLIGATION OF FUNDS.—If the report required under subsection (a)(2) is not submitted to the congressional defense committees by the deadline stated in that subsection for the submission of such report, then none of the funds referred to in section 241 may be expended for the B-1B bomber program until the report is received by those committees.

(c) BIMONTHLY STATUS REPORTS.—Beginning on February 1, 1988, and every two months thereafter until October 1, 1989, the Secretary of Defense shall submit to the congressional defense committees a report on whether the tests scheduled during the period since the preceding report were carried out when and as planned, and whether each of those tests was successful, partially successful, or unsuccessful. Each such report shall address the capability of the B-1B aircraft to meet—

(1) performance objectives;

(2) technical and fiscal objectives; and

(3) significant milestones.

(d) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—For purposes of this section, the term "congressional defense committees" means the Committees on Armed Services and Appropriations of the Senate and House of Representatives.

SEC. 243. ASSESSMENT OF CAPABILITIES OF B-1B TO PENETRATE ENEMY AIR DEFENSES

(a) INDEPENDENT ASSESSMENT.—The Secretary of Defense shall provide for an independent assessment of the capabilities of the B-1B aircraft to penetrate air defenses of potential enemies. The Secretary shall appoint a panel of experts from the private sector to conduct the assessment and shall provide the panel such resources as are necessary, including technical assistance by private contractors, to assist the panel in conducting the assessment. Individuals appointed to the panel shall be independent of the Air Force and shall have no arrangements with the Air Force that would constitute a conflict of interest.

(b) CONFIGURATIONS TO BE CONSIDERED.—The panel shall estimate the air defense penetration capabilities of the B-1B aircraft in all of its mission profiles as the aircraft is estimated to be configured at each of the following times:

(1) Initial operational capability.

(2) The time the assessment is conducted.

(3) The completion of the developmental test and evaluation/initial operational test and evaluation period during fiscal year 1989.

(4) The completion of the baseline modifications program during fiscal year 1991.

(c) THREATS TO BE CONSIDERED.—The panel shall estimate the air defense penetration capabilities of the B-1B aircraft against the threats described—

(1) in the 1981 joint Office of the Secretary of Defense/Air Force Bomber Alternatives Study;

(2) in the 1986 Strategic Bomber Force Study; and

(3) in the most current threat baseline established by the intelligence community.

(d) COOPERATION WITH PANEL.—The Secretary of Defense shall ensure that individuals serving on the panel receive the full cooperation of all components of the Department of Defense in carrying out the functions of the panel under this section.

(e) REPORTS.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(1) an initial report on the assumptions that are to be used by the panel in making the assessment described in subsection (a);

(2) periodic reports on the development and progress of the assessment; and

(3) the final report of the panel (together with such comments as the Secretary considers appropriate) not later than March 1, 1988.

(f) FUNDING.—Of the amount appropriated for research, development, test, and evaluation for the Air Force for fiscal year 1988, up to $1,000,000 of the amount available for the B-1B aircraft program shall be available only for the conduct of the assessment under this section.

SEC. 244. LIMITATIONS ON AIRCRAFT ENHANCEMENT AND MODERNIZATION

(a) MODERNIZATION RESTRICTED.—Funds described in section 241 may not be used for modernization of the B-1B bomber aircraft.

(b) CONDITIONS FOR ENHANCEMENTS.—The Secretary of Defense may not carry out an enhancement of the B-1B aircraft unless the enhancement is specifically authorized by law and funds are specifically appropriated for that purpose. If the Secretary submits a request for any such authorization and funds, the Secretary shall include with the request—

(1) a description of the requested aircraft enhancement;

(2) full justification for the enhancement;

(3) the total program costs of the enhancement; and

(4) the planned schedule for incorporating the enhancement into the aircraft.

SEC. 245. EVALUATION OF FLIGHT TEST PROGRAM

In order to ensure the adequacy of the proposed flight test program for the B-1B aircraft, the Director of Operational Test and Evaluation of the Department of Defense shall assume the responsibilities and exercise the authorities of the Director under section 138 of title 10, United States Code, with respect to the use of funds provided for fiscal year 1988 for such flight test program insofar as the use of such funds involves operational test and evaluation functions (as defined in such section).

PART E—MISCELLANEOUS

SEC. 251. COOPERATIVE MEDICAL RESEARCH WITH THE VETERANS' ADMINISTRATION

Of the amount appropriated pursuant to section 201 for the Defense Agencies for fiscal year 1988, $20,000,000 shall be available only for a cooperative medical research program to be carried out by the Secretary of Defense and the Administrator of Veterans' Affairs.

SEC. 252. LINCOLN LABORATORY IMPROVEMENT PROJECT

Massachusetts.
Contracts.

(a) MODERNIZATION AND EXPANSION PROJECT.—The Secretary of the Air Force is authorized to enter into a contract with the Massachusetts Institute of Technology for a modernization and expansion project at the Lincoln Laboratory complex at Hanscom Air Force Base, Massachusetts. The project includes construction of, and additions and modifications to, research offices, laboratory spaces, and supporting facilities necessary to carry out the activities of the Lincoln Laboratory.

(b) PROJECT COST AND DURATION.—The amount obligated under the contract for the modernization and expansion project may not exceed $135,000,000. The project shall be completed in not more than 12 years. Costs incurred under the contract may include costs of financing charges (including financing charges on amounts provided by the Massachusetts Institute of Technology for the project), but may not include a fee or profit for the Massachusetts Institute of Technology or for Lincoln Laboratory.

(c) FUNDING.—Payments under a contract under subsection (a) for any fiscal year shall be made from appropriations for research and development made to the Air Force or to any other Federal agency.

(d) TITLE.—Title to the facilities, and to associated equipment, funded by such contract shall be conveyed to the United States upon completion of the project and acceptance of the facilities by the Secretary.

(e) USE OF FACILITIES.—The right of the Massachusetts Institute of Technology to use such facilities and equipment shall be as provided by contracts with the United States.

(f) BUDGET ACT.—The authority of the Secretary of the Air Force to enter into a contract under subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 253. EVALUATION OF NEW HIGH-SPEED PATROL BOAT

The Secretary of the Navy is encouraged to (1) evaluate a new 80-foot reconnaissance assault and missile boat that has been designed to project power in coastal, harbor, river, and island waterways and on closed seas, and (2) consider procuring a prototype of such boat for extensive testing and evaluation. The Secretary shall submit to

Reports.

the Committees on Armed Services of the Senate and House of Representatives any report on the evaluation of any such boat.

SEC. 254. PEGASUS ENGINE

Section 203(b) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3838) is repealed.

SEC. 255. REPORT ON MILITARY USE OF NASA MANNED SPACE STATION

(a) Report Requirement.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the activities planned by the Department of Defense to be conducted on or in conjunction with the permanently manned space station to be developed and operated by the National Aeronautics and Space Administration. The report shall include a description of—

(1) those planned activities, including research projects the Department intends to conduct from the space station;

(2) the eventual applications for which the Department intends such research to be used; and

(3) the relationship of those planned activities to activities of the Department of Defense for which funds are authorized by this Act (including offensive and defensive weapons systems) and how such activities will be coordinated.

(b) Deadline for Report.—The report required by subsection (a) shall be submitted not later than March 1, 1988.

SEC. 256. ADVANCED LAUNCH SYSTEM

(a) Required Program Plans.—The Secretary of Defense may not obligate or expend more than $50,000,000 for research, development, test, and evaluation for any activity associated directly or indirectly with the Advanced Launch System/Heavy Lift Launch Vehicle (hereinafter in this section referred to as the "ALS") program until—

(1) the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration enter into an interagency agreement (A) on the most cost-effective design approach for the ALS, and (B) on a joint management plan to implement the ALS program so as to make maximum use of the expertise and the unique testing facilities of the National Aeronautics and Space Administration, especially with respect to rocket propulsion systems;

(2) the Secretary of Defense develops a management plan for the ALS program, including identification of the specific roles and responsibilities—

(A) to be filled by the Defense Agencies, the Department of the Air Force, and other appropriate elements of the Department of Defense; and

(B) as provided in the interagency agreement described in paragraph (1), to be filled by the National Aeronautics and Space Administration;

(3) all participants in the ALS program enter into a formal cost-sharing agreement with respect to that program which—

(A) identifies the total costs of the program (stated in both current and constant dollars); and

(B) includes the budgetary resources intended to be dedicated by each participant in the program for each of the fiscal years 1988 through 1992; and

(4) the Secretary of Defense, with the concurrence of the Administrator of the National Aeronautics and Space Administration, submits to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report on the ALS program that includes—

(A) a copy of the agreement described in paragraph (1);

(B) a detailed description of the management plan described in paragraph (2); and

(C) a copy of the cost-sharing agreement described in paragraph (3).

(b) PAYLOAD COST GOAL.—Any request for proposals issued by the Department of Defense for the ALS program—

(1) shall include as a goal a cost per pound of payload placed in low earth orbit of $300 or less (in constant fiscal year 1987 dollars); and

(2) may not include a request for bids or proposals for an interim capability that would have a higher cost per pound of payload than specified under paragraph (1).

SEC. 257. SPACE LAUNCH RECOVERY

(a) TRANSFER OF FUNDS.—Of the funds appropriated pursuant to section 201 for research, development, test, and evaluation, a total of up to $50,000,000 may be transferred from the Army and the Navy to the Air Force for activities related to space launch recovery.

(b) NOTICE TO CONGRESS.—No transfer of funds may be made under subsection (a) until the Secretary of Defense has notified Congress of the proposed transfer and a period of 30 days has elapsed after the date on which notice of the proposed transfer is received by Congress.

SEC. 258. STUDIES OF NUCLEAR WARHEAD FOR ARMY TACTICAL MISSILE SYSTEM

(a) Funds available to the Department of Defense or to the Department of Energy may be obligated or expended for studies and analyses of the military utility and cost of a nuclear warhead option for the Army Tactical System (ATACMS).

Research and development. Federal Republic of Germany.

(b) No funds may be obligated or expended for the purpose of developing, testing, producing, or integrating nuclear warheads for the Army Tactical Missile System (ATACMS) unless—

(1) the Secretary of Defense certifies to the Committees on Armed Services of the Senate and the House of Representatives that the Army Tactical Missile System has achieved an initial operational capability with United States Army units permanently stationed in the Federal Republic of Germany;

(2) such development, testing, production, or integration has been specifically authorized by legislation enacted after the date of the enactment of this Act; and

Union of Soviet Socialist Republics.

(3) the Secretary of Defense has submitted to the Committees on Armed Services and Appropriations of the Senate and House of Representatives the comprehensive analysis required by section 1001 of the options available to the United States to preserve an adequate theater nuclear capability in Europe if a treaty with respect to intermediate-range nuclear forces (INF) is concluded between the United States and the Soviet Union.

SEC. 259. SELECTION OF HEAVY TRUCK SYSTEM CONFIGURED WITH PALLETIZED LOADING SYSTEM

(a) COMPETITIVE EVALUATION.—The Secretary of Defense shall carry out a competitive evaluation for a heavy truck system configured with a palletized loading system. The evaluation shall be based on performance specifications for nondevelopmental systems.

(b) SOURCE SELECTION.—After the evaluation under subsection (a) is completed, and not later than 24 months after the enactment of this Act, the Secretary shall select a heavy truck system configured with a palletized loading system. The Under Secretary of Defense for Acquisition shall be the source selection authority with respect to the selection, and the selection shall be based on a hardware competition. The evaluation criteria for such source selection shall provide for equitable consideration of total life-cycle costs, including costs of facilitization.

(c) SITE OF MANUFACTURE AND ASSEMBLY LIMITED.—The heavy truck system configured with the palletized loading system selected under this section (if procured) shall be manufactured and assembled in the United States.

Science and technology. Computers. 15 USC 4601.

PART F—SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

SEC. 271. FINDINGS, PURPOSES, AND DEFINITIONS

(a) FINDINGS.—The Congress finds that it is in the national economic and security interests of the United States for the Department of Defense to provide financial assistance to the industry consortium known as Sematech for research and development activities in the field of semiconductor manufacturing technology.

(b) PURPOSES.—The purposes of this part are—

(1) to encourage the semiconductor industry in the United States—

(A) to conduct research on advanced semiconductor manufacturing techniques; and

(B) to develop techniques to use manufacturing expertise for the manufacture of a variety of semiconductor products; and

Grants.

(2) in order to achieve the purpose set out in paragraph (1), to provide a grant program for the financial support of semiconductor research activities conducted by Sematech.

(c) DEFINITIONS.—In this part:

(1) The terms "Advisory Council on Federal Participation in Sematech" and "Council" mean the advisory council established by section 273.

(2) The term "Sematech" means a consortium of firms in the United States semiconductor industry established for the purposes of (A) conducting research concerning advanced semiconductor manufacturing techniques, and (B) developing techniques to adapt manufacturing expertise to a variety of semiconductor products.

15 USC 4602. Research and development.

SEC. 272. GRANTS TO SEMATECH

(a) AUTHORITY TO MAKE GRANTS.—The Secretary of Defense shall make grants, in accordance with section 6304 of title 31, United States Code, to Sematech in order to defray expenses incurred by Sematech in conducting research on and development of semiconductor manufacturing technology. The grants shall be made in accordance with a memorandum of understanding entered into under subsection (b).

(b) MEMORANDUM OF UNDERSTANDING.—The Secretary of Defense shall enter into a memorandum of understanding with Sematech for the purposes of this part. The memorandum of understanding shall require the following:

(1) That Sematech have—

(A) a charter agreed to by all representatives of the semiconductor industry that are participating members of Sematech; and

(B) an annual operating plan that is developed in consultation with the Secretary of Defense and the Advisory Council on Federal Participation in Sematech.

State and local governments.

(2) That the total amount of funds made available to Sematech by Federal, State, and local government agencies for any fiscal year for the support of research and development activities of Sematech under this section may not exceed 50 percent of the total cost of such activities.

(3) That Sematech, in conducting research and development activities pursuant to the memorandum of understanding, cooperate with and draw on the expertise of the national laboratories of the Department of Energy and of colleges and universities in the United States in the field of semiconductor manufacturing technology.

Reports.

(4) That an independent, commercial auditor be retained (A) to determine the extent to which the funds made available to Sematech by the United States for the research and development activities of Sematech have been expended in a manner that is consistent with the purposes of this part, the charter of Sematech, and the annual operating plan of Sematech, and (B) to submit to the Secretary of Defense, Sematech, and the Comptroller General of the United States an annual report containing the findings and determinations of such auditor.

Intellectual property.
Contracts.

(5) That (A) the Secretary of Defense be permitted to use intellectual property, trade secrets, and technical data owned and developed by Sematech in the same manner as a participant in Sematech and to transfer such intellectual property, trade secrets, and technical data to Department of Defense contractors for use in connection with Department of Defense requirements, and (B) the Secretary not be permitted to transfer such property to any person for commercial use.

(6) That Sematech take all steps necessary to maximize the expeditious and timely transfer of technology developed and owned by Sematech to the participants in Sematech in accordance with the agreement between Sematech and those participants and for the purpose of improving manufacturing productivity of United States semiconductor firms.

Contracts.

(c) CONSTRUCTION OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding entered into under subsection (b) shall not be considered to be a contract for the purpose of any law or regulation relating to the formation, content, and administration of contracts awarded by the Federal Government and subcontracts under such contracts, including section 2306a of title 10, United States Code, section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168), and the Federal Acquisition Regulations, and such provisions of law and regulation shall not apply with respect to the memorandum of understanding.

(d) FUNDING FOR FY88.—Of the amounts appropriated to the Defense Agencies for fiscal year 1988 for research, development, test, and evaluation, $100,000,000 may be obligated only to make grants under this section.

15 USC 4603.

SEC. 273. ADVISORY COUNCIL

(a) ESTABLISHMENT.—There is established the Advisory Council on Federal Participation in Sematech.

(b) FUNCTIONS.—(1) The Council shall advise Sematech and the Secretary of Defense on appropriate technology goals for the research and development activities of Sematech and a plan to achieve those goals. The plan shall provide for the development of high-quality, high-yield semiconductor manufacturing technologies that meet the national security and commercial needs of the United States.

(2) The Council shall—

(A) conduct an annual review of the activities of Sematech for the purpose of determining the extent of the progress made by Sematech in carrying out the plan referred to in paragraph (1); and

(B) on the basis of its determinations under subparagraph (A), submit to Sematech any recommendations for modification of the plan or the technological goals in the plan considered appropriate by the Council.

Reports.

(3) The Council shall review the research activities of Sematech and shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives an annual report containing a description of the extent to which Sematech is achieving its research and development goals.

(c) MEMBERSHIP.—The Council shall be composed of 12 members as follows:

(1) The Under Secretary of Defense for Acquisition, who shall be Chairman of the Council.

(2) The Director of Energy Research of the Department of Energy.

(3) The Director of the National Science Foundation.

(4) The Under Secretary of Commerce for Economic Affairs.

(5) The Chairman of the Federal Laboratory Consortium for Technology Transfer.

President of U.S.

(6) Seven members appointed by the President as follows:

(A) Four members who are eminent individuals in the semiconductor industry and related industries.

(B) Two members who are eminent individuals in the fields of technology and defense.

(C) One member who represents small businesses.

President of U.S.

(d) TERMS OF MEMBERSHIP.—Each member of the Council appointed under subsection (c)(6) shall be appointed for a term of three years, except that of the members first appointed, two shall be appointed for a term of one year, two shall be appointed for a term of two years, and three shall be appointed for a term of three years, as designated by the President at the time of appointment. A member of the Council may serve after the expiration of the member's term until a successor has taken office.

(e) VACANCIES.—A vacancy in the Council shall not affect its powers but, in the case of a member appointed under subsection (c)(6), shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term.

(f) QUORUM.—Seven members of the Council shall constitute a quorum.

(g) MEETINGS.—The Council shall meet at the call of the Chairman or a majority of its members.

(h) COMPENSATION.—(1) Each member of the Council shall serve without compensation.

(2) While away from their homes or regular places of business in the performance of duties for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(i) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Council.

SEC. 274. RESPONSIBILITIES OF THE COMPTROLLER GENERAL

15 USC 4604.

Reports.

The Comptroller General of the United States shall—

(1) review the annual reports of the auditor submitted to the Comptroller General in accordance with section 272(b)(4); and

(2) transmit to the Committees on Armed Services of the Senate and the House of Representatives his comments of the accuracy and completeness of the reports and any additional comments on the report that the Comptroller General considers appropriate.

SEC. 275. EXPORT OF SEMICONDUCTOR MANUFACTURING

15 USC 4605.

Any export of materials, equipment, and technology developed by Sematech in whole or in part with financial assistance provided under section 272(a) shall be subject to the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and shall not be subject to the Arms Export Control Act.

SEC. 276. PROTECTION OF INFORMATION

15 USC 4606.

(a) FREEDOM OF INFORMATION ACT.—Section 552 of title 5, United States Code, shall not apply to information obtained by the Federal Government on a confidential basis under section 272(b)(5).

(b) INTELLECTUAL PROPERTY.—Notwithstanding any other provision of law, intellectual property, trade secrets, and technical data owned and developed by Sematech or any of the participants in Sematech may not be disclosed by any officer or employee of the Department of Defense except as provided in the provision included in the memorandum of understanding pursuant to section 272(b)(5).

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) IN GENERAL.—(1) Funds are hereby authorized to be appropriated for fiscal year 1988 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

For the Army, $21,540,728,000 ($21,367,928,000).

For the Navy, $24,864,027,000 ($24,620,427,000).

For the Marine Corps, $1,887,466,000 ($1,875,066,000).
For the Air Force, $20,730,084,000 ($20,452,384,000).
For the Defense Agencies, $7,424,906,000 ($7,387,475,000).
For the Army Reserve, $862,161,000 ($862,161,000).
For the Naval Reserve, $947,559,000 ($940,754,000).
For the Marine Corps Reserve, $70,254,000 ($68,984,000).
For the Air Force Reserve, $1,014,058,000 ($1,013,858,000).
For the Army National Guard, $1,883,609,000 ($1,868,570,000).
For the Air National Guard, $1,980,151,000 ($1,977,414,000).
For the National Board for the Promotion of Rifle Practice, $4,099,000.
For Defense Claims, $193,574,000.
For the Court of Military Appeals, $3,461,000.
For Environmental Restoration, Defense, $392,800,000.

(2) Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

For the Army, $21,540,728,000.
For the Navy, $24,864,027,000.
For the Marine Corps, $1,887,466,000.
For the Air Force, $20,730,084,000.
For the Defense Agencies, $7,424,906,000.
For the Army Reserve, $862,161,000.
For the Naval Reserve, $947,559,000.
For the Marine Corps Reserve, $70,254,000.
For the Air Force Reserve, $1,014,058,000.
For the Army National Guard, $1,883,609,000.
For the Air National Guard, $1,980,151,000.
For the National Board for the Promotion of Rifle Practice, $4,099,000.
For Defense Claims, $193,574,000.
For the Court of Military Appeals, $3,461,000.
For Environmental Restoration, Defense, $392,800,000.

(b) General Authorization for Contingencies.—There are authorized to be appropriated for each of fiscal years 1988 and 1989, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

(a) Fiscal Year 1988.—Funds are hereby authorized to be appropriated for fiscal year 1988 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

For the Army Stock Fund, $215,057,000 ($193,207,000).
For the Navy Stock Fund, $346,700,000 ($329,400,000).
For the Air Force Stock Fund, $259,707,000 ($226,007,000).
For the Defense Stock Fund, $159,750,000 ($132,600,000).

(b) Fiscal Year 1989.—Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

For the Army Stock Fund, $215,057,000.
For the Navy Stock Fund, $346,700,000.

For the Air Force Stock Fund, $259,707,000.
For the Defense Stock Fund, $159,750,000.

SEC. 303. LIMITATION ON THE USE OF OPERATION AND MAINTENANCE FUNDS TO PURCHASE INVESTMENT ITEMS

(a) In General.—Purchases of an item during fiscal year 1988, 1989, or 1990 with a unit cost equal to or in excess of the investment item unit cost (as defined in subsection (b)) for such fiscal year may not be charged to appropriations made to the Department of Defense for operation and maintenance if purchases of such item during the previous fiscal year were chargeable to appropriations made to the Department of Defense for procurement.

(b) Investment Item Unit Cost.—For purposes of subsection (a), the term "investment item unit cost" means—

(1) with respect to fiscal year 1988 or 1989, $15,000; and

(2) with respect to fiscal year 1990, $5,000.

Part B—Program Changes, Requirements, and Limitations

SEC. 311. AVAILABILITY OF UNITED STATES PRODUCTS AT DEFENSE PACKAGE STORES OVERSEAS

(a) Treatment of Wines.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2489. Overseas package stores: treatment of United States wines 10 USC 2489.

"The Secretary of Defense shall ensure that each nonappropriated-fund activity engaged principally in selling alcoholic beverage products in a packaged form (commonly referred to as a 'package store') that is located at a military installation outside the United States shall give appropriate treatment with respect to wines produced in the United States to ensure that such wines are given, in general, an equitable distribution, selection, and price when compared with wines produced by the host nation.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2489. Overseas package stores: treatment of United States wines.".

(b) Regulations Deadline.—The Secretary of Defense shall prescribe regulations to implement section 2489 of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act. 10 USC 2489 note.

SEC. 312. NONAPPROPRIATED-FUND BEER AND WINE PURCHASES

(a) Purchases From Sources Within State.—Section 2488(a)(2) of title 10, United States Code, is amended by striking out "purchased for resale on a military installation located in the contiguous States".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to purchases of malt beverages and wine after the end of the 60-day period beginning on the date of the enactment of this Act. 10 USC 2488 note.

SEC. 313. PRICING AT COMMISSARY STORES

(a) In General.—(1) Section 2486 of title 10, United States Code, is amended by adding at the end the following new subsection:

Regulations.

"(d) The Secretary of Defense shall prescribe regulations establishing uniform pricing policies for merchandise authorized for sale by this section. The policies in the regulations shall—

"(1) require the establishment of a sales price of each item of merchandise at a level which will recoup the actual product cost of the item (consistent with this section and sections 2484 and 2685 of this title); and

"(2) promote the lowest practical price of merchandise sold at commissary stores.".

(2) The heading for section 2486 of such title is amended to read as follows:

"§ 2486. Commissary stores: merchandise that may be sold; uniform surcharges and pricing".

(3) The item relating to section 2486 in the table of sections at the beginning of chapter 147 of such title is amended to read as follows:

"2486. Commissary stores: merchandise that may be sold; uniform surcharges and pricing.".

10 USC 2486 note.

(b) REGULATIONS DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 2486(d) of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

(c) CONFORMING AMENDMENTS.—(1) Sections 4621 and 9621 of such title are each amended—

(A) by striking out subsection (b); and

(B) by redesignating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (b), (c), (d), (e), (f), (g), and (h), respectively.

SEC. 314. LIMITATION ON ARMY DEPOT MAINTENANCE FUNDING

(a) FUNDING REQUIRED FOR ARMY DEPOT MAINTENANCE.—Of the funds appropriated or otherwise made available to the Department of the Army for fiscal year 1988 for depot maintenance functions, not less than 60 percent shall be available for performance of depot maintenance functions performed by military and civilian personnel of the Department of Defense.

(b) DEVIATION AND REPORT.—(1) If the Secretary of the Army determines that the requirement of subsection (a) cannot be met, the Secretary may authorize a deviation from such requirement. If such a deviation is authorized, the Secretary shall promptly submit to the Committees on Armed Services of the Senate and the House of Representatives a report that—

(A) fully describes and justifies the deviation from such requirement;

(B) states the level of spending that will be achieved in lieu of the 60 percent required under subsection (a); and

(C) includes a plan for meeting the same requirement with respect to funds appropriated or otherwise made available to the Department of the Army for fiscal year 1989.

(2) The report shall be submitted as soon as possible after the Secretary authorizes a deviation under paragraph (1).

SEC. 315. CIVILIAN PERSONNEL MANAGEMENT

(a) PROHIBITION ON MANAGEMENT BY END-STRENGTH.—During fiscal year 1988, the civilian personnel of the Department of Defense may not be managed on the basis of any constraint or limitation (known as an "end-strength") and the management of such personnel during that fiscal year shall not be subject to any end-strength on the number of such personnel who may be employed on the last day of such fiscal year.

(b) Waiver of Civilian Personnel Ceilings.—Section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1988 or with respect to the appropriation of funds for that year.

(c) Reports.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives quarterly reports on the obligation of funds appropriated for civilian personnel of the Department of Defense for fiscal year 1988. Each report shall include—

(1) for each appropriation account, the amounts authorized and appropriated for such personnel for fiscal year 1988; and

(2) for each appropriation account and for the entire Department—

(A) the actual number of such personnel employed, and the amount of funds obligated for such personnel, as of the end of each fiscal year quarter described in the report; and

(B) the projected number of such personnel to be employed, and the amount of funds that will be obligated for such personnel, as of the end of fiscal year 1988.

SEC. 316. REPORT ON OPERATING AND SUPPORT COSTS OF MAJOR WEAPONS SYSTEMS

(a) Report Requirement.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the operating and support costs of major weapons systems of the Department of Defense.

(b) Matters To Be Included in Report.—The Secretary shall include in the report required by subsection (a) the following:

(1) An explanation of the reasons why there is a positive correlation between the increase in dollar value of major weapons systems of the Department of Defense and the increase in operating and support costs of the Department, including—

(A) how or whether the programming and budget process has contributed to the relationship; and

(B) how the relationship applies at more detailed levels.

(2) An examination of the link between operating and support costs and readiness of the Department of Defense.

(3) An examination of the feasibility of providing Congress an annual report on the operating and support costs of each major weapon system.

(4) Identification of the specific budget accounts and appropriations which cover the operation and support costs for the major weapons systems.

(5) An examination of the feasibility of treating the operation and support costs of each major weapon system as overhead of the weapon system, to be automatically included in the budget and appropriation for such weapon system.

(c) Deadline.—The report required by subsection (a) shall be submitted no later than February 1, 1988.

SEC. 317. REPORT ON EFFORTS TO MEASURE READINESS

(a) Report Requirement.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the status of Department of Defense efforts to—

(1) identify and measure readiness of the Department of Defense; and

(2) relate such identification and measurement to the budget process.

(b) DEADLINE.—The report required by subsection (a) shall be submitted no later than February 1, 1988.

Transportation.

SEC. 318. AUTHORITY TO PROVIDE FREE SHUTTLE SERVICE FOR MEMBERS AND FAMILIES IN ISOLATED AREAS

(a) AUTHORITY FOR TRANSPORTATION.—Subsection (a) of section 2632 of title 10, United States Code, is amended to read as follows:

"(a)(1) Whenever the Secretary of the military department concerned determines that it is necessary for the effective conduct of the affairs of his department, the Secretary may provide the transportation described in paragraph (2).

"(2) Transportation that may be provided under this subsection is assured and adequate transportation by motor vehicle or water carrier as follows:

"(A) Transportation among places on a military installation (including any subinstallation of a military installation).

"(B) Transportation to and from their places of duty or employment on a military installation for persons covered by this subsection.

"(C) Transportation to and from a military installation for persons covered by this subsection and their dependents, in the case of a military installation located in an area determined by the Secretary concerned not to be adequately served by regularly scheduled, and timely, commercial or municipal mass transit services.

"(D) Transportation to and from their places of employment for persons attached to, or employed in, a private plant that is manufacturing material for that department, but only during a war or a national emergency declared by Congress or the President.

Regulations.

"(3) Except as provided under subsection (b)(3), transportation under this subsection shall be provided at reasonable rates of fare under regulations prescribed by the Secretary of Defense.

"(4) Persons covered by this subsection, in the case of any military installation, are members of the armed forces, employees of the military department concerned, and other persons attached to that department who are assigned to or employed at that installation.".

(b) WAIVER OF FARE REQUIREMENT.—Subsection (b) of such section is amended—

(1) by striking out "(2)(A)" and inserting in lieu thereof "(2)";

(2) by striking out subparagraph (B) of paragraph (2) and inserting in lieu thereof the following:

"(3) In providing transportation described in subsection (a)(2)(A) at any military installation, the Secretary concerned may not require a fare for the transportation of members of the armed forces if the transportation is incident to the performance of duty. In providing transportation described in subsection (a)(2)(C) to and from any military installation, the Secretary concerned (under regulations prescribed under subsection (a)(3)) may waive any requirement for a fare."; and

(3) by redesignating subparagraph (C) at the end of such subsection as paragraph (4).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Subsection (b) of such section is further amended—

(1) in paragraph (1), by striking out "Transportation may not be provided under subsection (a)(2)" and inserting in lieu thereof "Transportation described in subparagraphs (B), (C), and (D) of subsection (a)(2) may not be provided";

(2) in paragraph (2) (as designated by subsection (b)(1)), by striking out "transportation at any military installation under subsection (a)(1)" and inserting in lieu thereof "transportation described in subsection (a)(2)(A) at any military installation"; and

(3) in paragraph (4) (as designated by subsection (b)(3)), by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)".

(d) DEADLINE FOR REGULATIONS.—Regulations to implement the amendments to section 2632 of title 10, United States Code, made by this section shall be prescribed not later than 90 days after the date of the enactment of this Act.

10 USC 2632 note.

SEC. 319. OPERATION OF UNITED STATES ARMY SCHOOL OF THE AMERICAS

(a) IN GENERAL.—(1) Chapter 407 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4415. United States Army School of the Americas

10 USC 4415.

"(a) The Secretary of the Army may operate the military education and training facility known as the United States Army School of the Americas.

"(b) The School for the Americas shall be operated for the purpose of providing military education and training to military personnel of Central and South American countries and Caribbean countries.

"(c) The fixed costs of operating and maintaining the School for the Americas may be paid from funds available for operation and maintenance of the Army.

"(d) Tuition fees charged for personnel receiving military education and training from the school may not include the fixed costs of operating and maintaining the school.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4415. United States Army School of the Americas.".

(b) EFFECTIVE DATE.—Section 4415 of title 10, United States Code, as added by subsection (a), shall take effect as of October 1, 1987.

10 USC 4415 note.

SEC. 320. AUTHORITY TO REPAIR AND MAINTAIN CERTAIN MEMORIALS AND HISTORIC SITES ON THE ISLAND OF CORREGIDOR

Philippines.

(a) AUTHORITY.—The Secretary of Defense may repair and maintain memorial monuments and historic sites on the Island of Corregidor in the Republic of the Philippines which relate to involvement of the Armed Forces of the United States in the Philippines.

(b) FY88 AUTHORIZATION.—For the purpose described in subsection (a), the Secretary may use not more than $100,000 of the funds appropriated under section 301 for operation and maintenance of the Navy.

SEC. 321. COMPTROLLER GENERAL STUDY OF CENSORSHIP OF STARS AND STRIPES NEWSPAPER

(a) Study.—The Comptroller General of the United States shall conduct a study of allegations of censorship by military commanders of the Department of Defense newspaper, Stars and Stripes.

(b) Report.—The Comptroller General shall transmit to Congress a report on the results of such study not later than 90 days after the date of the enactment of this Act. Such report shall include the findings of the Comptroller General regarding the validity of the allegations and any recommendation concerning those allegations which the Comptroller General considers to be appropriate.

SEC. 322. LIMITATION ON OPERATION OF EXISTING POSEIDON-CLASS SUBMARINE USS ANDREW JACKSON

Effective as of March 1, 1988, no funds appropriated to the Department of Defense for fiscal year 1988 or a prior year may be obligated or expended to overhaul, operate, maintain, or deploy the USS Andrew Jackson (SSBN 619).

Part C—Humanitarian and Other Assistance

SEC. 331. EXTENSION OF AUTHORIZATION FOR HUMANITARIAN ASSISTANCE

(a) Authorization of Funds.—There is authorized to be appropriated to the Department of Defense for fiscal year 1988 the sum of $13,000,000 for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of this sum, not more than $3,000,000 is authorized to be used for distribution of humanitarian relief supplies to the non-Communist resistance organizations at or near the border between Thailand and Cambodia.

(b) Authority to Transfer Funds.—The Secretary of Defense is authorized to transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in this section to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) Transportation Under Direction of the Secretary of State.—Transportation provided with funds appropriated pursuant to the authorization in this section shall be under the direction of the Secretary of State.

(d) Means of Transportation To Be Used.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in this section shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) Availability of Funds.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriations Acts.

(f) Reports.—The Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the

House of Representatives two reports, one of which shall be submitted not later than 60 days after the date of the enactment of this Act and the other not later than June 1, 1988. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under this section and section 331 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3856).

(2) The number of scheduled and completed flights for purposes of providing humanitarian relief under this section and section 331 of such Act.

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

SEC. 332. EXTENSION AND CODIFICATION OF AUTHORITY OF SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO FOREIGN COUNTRIES

(a) IN GENERAL.—Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 402. Transportation of humanitarian relief supplies to foreign countries

10 USC 402.

"(a) Notwithstanding any other provision of law, and subject to subsection (b), the Secretary of Defense may transport to any country, without charge, supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance. Such supplies may be transported only on a space available basis.

"(b)(1) The Secretary may not transport supplies under subsection (a) unless the Secretary determines that—

"(A) the transportation of such supplies is consistent with the foreign policy of the United States;

"(B) the supplies to be transported are suitable for humanitarian purposes and are in usable condition;

"(C) there is a legitimate humanitarian need for such supplies by the people for whom they are intended;

"(D) the supplies will in fact be used for humanitarian purposes; and

"(E) adequate arrangements have been made for the distribution of such supplies in the destination country.

President of U.S.

"(2) The President shall establish procedures for making the determinations required under paragraph (1). Such procedures shall include inspection of supplies before acceptance for transport.

"(3) It shall be the responsibility of the donor to ensure that supplies to be transported under this section are suitable for transport.

"(c)(1) Supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, an international organization, or a private nonprofit relief organization.

"(2) Supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in a military or paramilitary activity.

Reports.

"(d) At the end of each six-month period, the Secretary of State shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report identifying the origin, contents, destination, and disposition of all supplies transported under this section during such six-month period.".

(b) CONFORMING AMENDMENTS.—(1) Section 401 of such title is amended—

(A) by striking out the section heading and inserting in lieu thereof the following:

"§ 401. Humanitarian and civic assistance provided in conjunction with military operations";

(B) in subsection (a)—

(i) by inserting "(1)" after "(a)"; and

(ii) by redesignating clauses (1) and (2) as clauses (A) and (B); and

(C) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively.

(2) Section 402 of such title (as in effect on the day before the date of the enactment of this section) is amended—

(A) by striking out the section heading; and

(B) by designating the text following such heading as subsection (b).

(3) Section 403 of such title is amended—

(A) by striking out the section heading;

(B) by redesignating subsection (a) as subsection (c)(1); and

(C) by redesignating subsection (b) as paragraph (2).

(4) Sections 404, 405, and 406 of such title are amended—

(A) by striking out the section headings; and

(B) by designating the text following such headings as subsections (d), (e), and (f), respectively.

(5) Section 401 of such title (as amended by this subsection) is further amended by striking out "chapter" each place it appears and inserting in lieu thereof "section".

(6) The chapter heading and table of sections at the beginning of such chapter are amended to read as follows:

"CHAPTER 20—HUMANITARIAN AND OTHER ASSISTANCE

"Sec.
"401. Humanitarian and civic assistance provided in conjunction with military operations.
"402. Transportation of humanitarian relief supplies to foreign countries.".

(c) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part I of such subtitle are each amended by striking out the item relating to chapter 20 and inserting in lieu thereof the following:

"20. Humanitarian and Other Assistance .... 401".

10 USC 402 note.

(d) FIRST REPORT DEADLINE.—The first report under section 402(d) of title 10, United States Code, as added by subsection (a), shall be submitted not more than six months after the date on which the most recent report was submitted under section 1540(e) of the

Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2638).

TITLE IV—PERSONNEL AUTHORIZATIONS FOR FISCAL YEARS 1988 AND 1989

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

(a) FISCAL YEAR 1988.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1988, as follows:

(1) The Army, 780,900.
(2) The Navy, 593,200.
(3) The Marine Corps, 199,600.
(4) The Air Force, 598,700.

(b) FISCAL YEAR 1989.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1989, in the same numbers as specified in subsection (a).

SEC. 402. STRENGTH OF ACTIVE-DUTY OFFICER CORPS

10 USC 521 note.

(a) AUTHORITY TO INCREASE FOR FISCAL YEAR 1988.—Subject to subsection (b), the Secretary of Defense may increase by not more than 1 percentage point (to not more than 98 percent) the percentage limitation prescribed in section 403(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3859) applicable to the total number of commissioned officers of the Army, Navy, Air Force, and Marine Corps that may be serving on active duty as of September 30, 1988.

(b) CERTIFICATION AND REPORT.—The Secretary may exercise the authority under subsection (a) only if—

(1) the Secretary makes a determination that such increase is necessary in order to avoid severe personnel management problems in the Army, Navy, Air Force, and Marine Corps during fiscal year 1988 and certifies such determination to the Committees on Armed Services of the Senate and the House of Representatives; and

(2) the Secretary submits to those Committees with such certification a report providing legislative recommendations for temporary changes in chapter 36 of title 10, United States Code, and other provisions of law enacted by the Defense Officer Personnel Management Act (Public Law 96-513) that the Secretary considers necessary in order to implement the required officer reductions under such section 403 with the least possible adverse effect on the Armed Forces.

(c) REALLOCATION OF REDUCTIONS.—(1) If the Secretary exercises the authority under subsection (a)—

(A) in lieu of the total number of commissioned officers serving on active duty as prescribed in the table in section 403(a) of the National Defense Authorization Act for Fiscal Year 1987, the total number of commissioned officers serving on active duty in the Army, Navy, Air Force, and Marine Corps as of September 30, 1989, may not exceed the number equal to 96 percent of the total number of such officers serving on active duty as of September 30, 1986; and

(B) the total number of commissioned officers serving on active duty in the Army, Navy, Air Force, and Marine Corps as of September 30, 1990, may not exceed the number equal to 94 percent of the total number of such officers serving on active duty as of September 30, 1986.

(2) In computing the authorized strength of commissioned officers under paragraph (1), officers in the categories described in section 403(b) of the National Defense Authorization Act for Fiscal Year 1987 shall be excluded.

SEC. 403. REDUCTION IN AUTHORIZATION BASED ON SAVINGS

Amounts authorized to be appropriated for fiscal year 1988 for military personnel of the Department of Defense are reduced, by reason of savings attributable to reductions during fiscal year 1987 in the number of commissioned officers on active duty required by section 403(a) of National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), as follows:

(1) For "Military Personnel, Army", $49,438,000.
(2) For "Military Personnel, Navy", $46,461,000.
(3) For "Military Personnel, Air Force", $50,057,000.
(4) For "Military Personnel, Marine Corps", $9,080,000.

PART B—RESERVE FORCES

10 USC 261 note.

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

(a) FISCAL YEAR 1988.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1988, as follows:

(1) The Army National Guard of the United States, 457,270.
(2) The Army Reserve, 324,300.
(3) The Naval Reserve, 152,600.
(4) The Marine Corps Reserve, 43,600.
(5) The Air National Guard of the United States, 115,900.
(6) The Air Force Reserve, 82,400.
(7) The Coast Guard Reserve, 14,000.

(b) FISCAL YEAR 1989.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1989, in the same numbers as specified in subsection (a).

(c) WAIVER AUTHORITY.—The Secretary of Defense may vary an end strength prescribed by subsection (a) or subsection (b) by not more than 4 percent.

(d) ADJUSTMENTS.—The end strengths prescribed by subsections (a) and (b) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

Within the strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1988, and as of September 30, 1989, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 25,725.
(2) The Army Reserve, 13,329.
(3) The Naval Reserve, 21,991.
(4) The Marine Corps Reserve, 1,945.
(5) The Air National Guard of the United States, 7,836.
(6) The Air Force Reserve, 669.

SEC. 413. INCREASE IN NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) SENIOR ENLISTED MEMBERS.—(1) The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	517	175	125	13
E-8	2,295	390	425	74".

(2) Effective on October 1, 1988, that table is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	529	180	150	13
E-8	2,350	400	425	74".

(b) OFFICERS.—(1) The table in section 524(a) of such title is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	2,550	850	575	105
Lieutenant Colonel or Commander	1,152	520	322	70
Colonel or Navy Captain	348	185	184	25".

(2) Effective on October 1, 1988, that table is amended to read as follows: 10 USC 524 note.

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	2,600	875	575	110
Lieutenant Colonel or Commander	1,250	520	322	75
Colonel or Navy Captain	348	185	190	25".

PART C—MILITARY TRAINING STUDENT LOADS

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) IN GENERAL.—The components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army:
  (A) 82,503, for fiscal year 1988.
  (B) 81,320, for fiscal year 1989.
(2) The Navy:
  (A) 68,993, for fiscal year 1988.
  (B) 70,044, for fiscal year 1989.
(3) The Marine Corps:
  (A) 20,341, for fiscal year 1988.
  (B) 19,873, for fiscal year 1989.
(4) The Air Force:
  (A) 38,574, for fiscal year 1988.
  (B) 39,972, for fiscal year 1989.
(5) The Army National Guard of the United States:
  (A) 18,501, for fiscal year 1988.
  (B) 19,707, for fiscal year 1989.
(6) The Army Reserve:
  (A) 15,075, for fiscal year 1988.
  (B) 15,950, for fiscal year 1989.
(7) The Naval Reserve:
  (A) 2,841, for fiscal year 1988.
  (B) 2,841, for fiscal year 1989.
(8) The Marine Corps Reserve:
  (A) 3,970, for fiscal year 1988.
  (B) 3,977, for fiscal year 1989.
(9) The Air National Guard of the United States:
  (A) 2,508, for fiscal year 1988.
  (B) 2,366, for fiscal year 1989.
(10) The Air Force Reserve:
  (A) 1,968, for fiscal year 1988.
  (B) 1,965, for fiscal year 1989.

(b) ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustment shall be apportioned.

PART D—APPROPRIATION LIMITATION

SEC. 431. LIMITATION ON APPROPRIATIONS FOR MILITARY PERSONNEL FOR FISCAL YEAR 1988

The total amount appropriated for military personnel of the Department of Defense for fiscal year 1988 may not exceed $77,491,000,000 ($77,109,000,000).

TITLE V—MILITARY PERSONNEL

SEC. 501. EXTENSION OF AUTHORITY TO MAKE TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS

(a) Two-Year Extension.—Section 5721(f) of title 10, United States Code, is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

10 USC 5721 note.

(b) Savings Provision.—(1) The Secretary of the Navy shall provide, in the case of an officer appointed to the grade of lieutenant commander on or after the date of the enactment of this Act under an appointment described in paragraph (2), that the date of rank of such officer under that appointment shall be the date of rank that would have applied to the appointment had the authority referred to in that paragraph not lapsed.

(2) An appointment referred to in paragraph (1) is an appointment under section 5721 of title 10, United States Code, that (as determined by the Secretary of the Navy) would have been made during the period beginning on October 1, 1987, and ending on the date of the enactment of this Act had the authority to make appointments under that section not lapsed during such period.

SEC. 502. EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT PROGRAMS

(a) Grade Determination Authority for Reserve Medical Officers.—Sections 3359(b) and 8359(b) of title 10, United States Code, are amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

(b) Promotion Authority for Certain Reserve Officers Serving on Active Duty.—(1) Sections 3380(d) and 8380(d) of such title are amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

10 USC 3380 note.

(2) The Secretary of the Army or the Secretary of the Air Force, as appropriate, shall provide, in the case of a Reserve officer appointed to a higher reserve grade on or after the date of the enactment of this Act under an appointment described in paragraph (3), that the date of rank of such officer under that appointment shall be the date of rank that would have applied to the appointment had the authority referred to in that paragraph not lapsed.

10 USC 3380 note.

(3) An appointment referred to in paragraph (2) is an appointment under section 3380 or 8380 of title 10, United States Code, that (as determined by the Secretary concerned) would have been made during the period beginning on October 1, 1987, and ending on the date of the enactment of this Act had the authority to make appointments under that section not lapsed during such period.

(c) Years of Service for Mandatory Transfer to the Retired Reserve.—Effective as of October 1, 1987, section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note), is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

SEC. 503. EXTENSION OF SINGLE-PARENT ENLISTMENT AUTHORITY IN RESERVE COMPONENTS

10 USC 510 note.

Section 523(d) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3871) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1989".

SEC. 504. AUTHORITY TO AWARD DEGREE OF MASTER OF LAWS IN MILITARY LAW

(a) Army Judge Advocate General's School.—Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 4315.

"§ 4315. The Judge Advocate General's School: master of laws in military law

"Under regulations prescribed by the Secretary of the Army, the Commandant of the Judge Advocate General's School of the Army may, upon recommendation by the faculty of such school, confer the degree of master of laws (LL.M.) in military law upon graduates of the school who have fulfilled the requirements for that degree.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4315. The Judge Advocate General's School: master of laws in military law.".

SEC. 505. WITHHOLDING OF STATE AND LOCAL INCOME TAXES FOR NATIONAL GUARD AND RESERVE DRILL PAY

Subchapter II of chapter 55 of title 5, United States Code, is amended—

(1) by striking out "do not" in section 5517(d); and

(2) by inserting "(other than service described in section 5517(d) of this title)" in the third sentence of section 5520(a) after "Armed Forces".

SEC. 506. ONE-YEAR DELAY IN MINIMUM PERCENTAGE OF AIR FORCE ENLISTEES REQUIRED TO BE WOMEN

Section 551(a) of the Department of Defense Authorization Act, 1985 (10 U.S.C. 8251 note), is amended by striking out "fiscal year 1988" and inserting in lieu thereof "fiscal year 1989".

SEC. 507. STUDY OF WARTIME MOBILIZATION REQUIREMENTS OF THE COAST GUARD

(a) 10-Year Plan.—The Secretary of Transportation shall submit to Congress a plan to enable the Coast Guard to meet 95 percent of its wartime mobilization requirements by September 30, 1998. Such plan shall include recommendations with respect to—

(1) annual increases in authorized end strengths for Coast Guard Selected Reserve personnel;

(2) recruiting and training resources; and

(3) equipment and other logistic support necessary to enable the Coast Guard to meet that requirement.

(b) Deadline.—The plan required by subsection (a) shall be submitted not later than 60 days after the date of the enactment of this Act.

SEC. 508. WEARING OF RELIGIOUS APPAREL BY MEMBERS OF THE ARMED FORCES WHILE IN UNIFORM

(a) In General.—Chapter 45 of title 10, United States Code, is amended—

(1) by redesignating section 774 as section 775; and

(2) by inserting after section 773 the following new section 774:

"§ 774. Religious apparel: wearing while in uniform

10 USC 774.

"(a) General Rule.—Except as provided under subsection (b), a member of the armed forces may wear an item of religious apparel while wearing the uniform of the member's armed force.

"(b) Exceptions.—The Secretary concerned may prohibit the wearing of an item of religious apparel—

"(1) in circumstances with respect to which the Secretary determines that the wearing of the item would interfere with the performance of the member's military duties; or

"(2) if the Secretary determines, under regulations under subsection (c), that the item of apparel is not neat and conservative.

"(c) Regulations.—The Secretary concerned shall prescribe regulations concerning the wearing of religious apparel by members of the armed forces under the Secretary's jurisdiction while the members are wearing the uniform. Such regulations shall be consistent with subsections (a) and (b).

"(d) Religious Apparel Defined.—In this section, the term 'religious apparel' means apparel the wearing of which is part of the observance of the religious faith practiced by the member.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 774 and inserting in lieu thereof the following:

"774. Religious apparel: wearing while in uniform.
"775. Applicability of chapter.".

10 USC 774 note.

(c) Regulations.—The Secretary concerned shall prescribe the regulations required by section 774(c) of title 10, United States Code, as added by subsection (a), not later than the end of the 120-day period beginning on the date of the enactment of this Act.

SEC. 509. MILITARY EDUCATION PROGRAM FOR ARMY NATIONAL GUARD CIVILIAN TECHNICIANS

(a) Relationship to Military Promotions.—A civilian technician of the Army National Guard who is unable to complete required training under the Military Education Program for civilian technicians of the Army National Guard established on August 1, 1985, may not be denied a military promotion solely by reason of the failure to complete such training if the reason for such failure was solely lack of availability of training spaces.

(b) Report.—Not later than February 15, 1988, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the Military Education Program referred to in subsection (a). The report shall describe—

(1) the cost effectiveness of the program;

(2) the effect of the program on readiness; and

(3) the effect of the program on the sick leave, annual leave, and other benefits of civilian technicians of the Army National Guard and any resulting effect on their morale.

SEC. 510. REMOVAL OF STATUTORY MILITARY DEPARTMENT CEILINGS ON NUMBER OF ROTC SCHOLARSHIPS

Subsection (h) of section 2107 of title 10, United States Code, is amended to read as follows:

"(h) Not more than 29,500 cadets and midshipmen appointed under this section may be in the financial assistance programs at any one time. The Secretary of Defense shall determine the number of cadets and midshipmen appointed under this section who may be in the financial assistance programs at any one time in each military department.".

SEC. 511. LIMITED AUTHORITY TO TRANSFER AMONG SERVICES GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL

(a) IN GENERAL.—Section 525 of title 10, United States Code, is amended by adding at the end the following new subsection:

President of U.S.

"(c)(1) Subject to paragraph (3), the President—

"(A) may make appointments in the Army, Air Force, and Marine Corps in the grade of lieutenant general and in the Army and Air Force in the grade of general in excess of the applicable numbers determined under subsection (b)(1), and may make appointments in the Marine Corps in the grade of general in addition to the Commandant and Assistant Commandant, if each such appointment is made in conjunction with an offsetting reduction under paragraph (2); and

"(B) may make appointments in the Navy in the grades of vice admiral and admiral in excess of the applicable numbers determined under subsection (b)(2) if each such appointment is made in conjunction with an offsetting reduction under paragraph (2).

"(2) For each appointment made under the authority of paragraph (1) in the Army, Air Force, or Marine Corps in the grade of lieutenant general or general or in the Navy in the grade of vice admiral or admiral, the number of appointments that may be made in the equivalent grade in one of the other armed forces (other than the Coast Guard) shall be reduced by one. When such an appointment is made, the President shall specify the armed force in which the reduction required by this paragraph is to be made.

President of U.S.

"(3)(A) The number of officers that may be serving on active duty in the grades of lieutenant general and vice admiral by reason of appointments made under the authority of paragraph (1) may not exceed the number equal to 10 percent of the total number of officers that may be serving on active duty in those grades in the Army, Navy, Air Force, and Marine Corps under subsection (b).

"(B) The number of officers that may be serving on active duty in the grades of general and admiral by reason of appointments made under the authority of paragraph (1) may not exceed the number equal to 15 percent of the total number of general officers and flag officers that may be serving on active duty in those grades in the Army, Navy, Air Force, and Marine Corps.

"(4) Upon the termination of the appointment of an officer in the grade of lieutenant general or vice admiral or general or admiral that was made in connection with an increase under paragraph (1) in the number of officers that may be serving on active duty in that armed force in that grade, the reduction made under paragraph (2) in the number of appointments permitted in such grade in another armed force by reason of that increase shall no longer be in effect.".

10 USC 525 note.

(b) SAVINGS PROVISION.—An officer of the Armed Forces on active duty holding an appointment in the grade of lieutenant general or vice admiral or general or admiral on September 30, 1987, shall not have that appointment terminated by reason of the numerical limitations determined under section 525(b) of title 10, United States Code. In the case of an officer of the Marine Corps serving in the grade of general by reason of an appointment authorized by section

511(3) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3869), that appointment shall not be terminated except as provided in section 601 of title 10, United States Code.

SEC. 512. ADVANCE IN RETIRED GRADE AFTER 30 YEARS OF SERVICE FOR CERTAIN MEMBERS

(a) ARMY.—Section 3964 of title 10, United States Code, is amended to read as follows:

"§ 3964. Higher grade after 30 years of service: warrant officers and enlisted members

"(a) Each retired member of the Army covered by subsection (b) who is retired with less than 30 years of active service is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily (or, in the case of a member of the National Guard, in which he served on full-time duty satisfactorily), as determined by the Secretary of the Army.

"(b) This section applies to—

"(1) warrant officers of the Army;

"(2) enlisted members of the Regular Army; and

"(3) reserve enlisted members of the Army who, at the time of retirement, are serving on active duty (or, in the case of members of the National Guard, on full-time National Guard duty).".

(b) NAVY AND MARINE CORPS.—Chapter 571 of such title is amended by adding at the end the following new sections:

"§ 6334. Higher grade after 30 years of service: warrant officers and enlisted members

10 USC 6334.

"(a) Each member of the naval service covered by subsection (b) who, after the date of the enactment of this section, is retired with less than 30 years of active service or is transferred to the Fleet Reserve or Fleet Marine Corps Reserve is entitled, when his active service plus his service on the retired list or his service in the Fleet Reserve or the Fleet Marine Corps Reserve totals 30 years, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the Navy.

"(b) This section applies to—

"(1) warrant officers of the naval service;

"(2) enlisted members of the Regular Navy and Regular Marine Corps; and

"(3) reserve enlisted members of the Navy and Marine Corps who, at the time of retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, are serving on active duty.

"(c) An enlisted member of the naval service who is advanced on the retired list under this section is entitled to recompute his retired or retainer pay under formula A of the following table, and a warrant officer of the naval service so advanced is entitled to recompute his retired pay under formula B of that table. The amount recomputed, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"Formula	Column 1 Take	Column 2 Multiply by
A	Retired pay base as computed under section 1406(d) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years creditable for his retainer or retired pay at the time of retirement.[1]
B	Retired pay base as computed under section 1406(d) of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title.

"[1] In determining the retired pay multiplier, credit each full month of service that is in addition to the number of full years of service creditable to the member as 1/12 of a year and disregard any remaining fractional part of a month.

10 USC 6335.

"§ 6335. Restoration to former grade: warrant officers and enlisted members

"Each retired warrant officer or enlisted member of the naval service who has been advanced on the retired list to a higher commissioned grade under section 6334 of this title, and who applies to the Secretary of the Navy within three months after his advancement, shall, if the Secretary approves, be restored on the retired list to his former warrant officer or enlisted status, as the case may be.".

(c) AIR FORCE.—Section 8964 of title 10, United States Code, is amended to read as follows:

"§ 8964. Higher grade after 30 years of service: warrant officers and enlisted members

"(a) Each retired member of the Air Force covered by subsection (b) who is retired with less than 30 years of active service is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily (or, in the case of a member of the National Guard, in which he served on full-time duty satisfactorily), as determined by the Secretary of the Air Force.

"(b) This section applies to—

"(1) warrant officers of the Air Force;

"(2) enlisted members of the Regular Air Force; and

"(3) reserve enlisted members of the Air Force who, at the time of retirement, are serving on active duty (or, in the case of members of the National Guard, on full-time duty).".

(d) CONFORMING AMENDMENTS.—(1) Sections 3965 and 3966(b)(2) of such title are amended by striking out "Regular".

(2) Section 1406(d) of such title is amended—

(A) by inserting "or 6334" after "6151"; and

(B) by adding at the end of the table in such section the following:

"6334	Basic pay of the grade to which the member is advanced under section 6334.".

(3) Sections 8965 and 8966(b)(2) of such title are amended by striking out "Regular".

(e) CLERICAL AMENDMENTS.—(1) The item relating to section 3964 in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

"3964. Higher grade after 30 years of service: warrant officers and enlisted members.".

(2) The table of sections at the beginning of chapter 571 of such title is amended by adding at the end the following new items:

"6334. Higher grade after 30 years of service: warrant officers and enlisted members.
"6335. Restoration to former grade: warrant officers and enlisted members.".

(3) The item relating to section 8964 in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

"8964. Higher grade after 30 years of service: warrant officers and enlisted members.".

(f) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall apply to any reserve enlisted member who completes 30 years of service in the Armed Forces before, on, or after the date of the enactment of this Act. No person may be paid retired pay at a higher rate by reason of the enactment of this Act for any period before the date of the enactment of this Act. 10 USC 3964 note.

SEC. 513. TESTING FOR DRUG, CHEMICAL, AND ALCOHOL USE AND DEPENDENCY BEFORE ENTRY INTO THE ARMED FORCES

(a) MANDATORY TESTING.—(1) Section 978 of title 10, United States Code, is amended to read as follows:

"§ 978. Mandatory testing for drug, chemical, and alcohol abuse

"(a) Before a person becomes a member of the armed forces, such person shall be required to undergo testing for drug, chemical, and alcohol use and dependency.

"(b) A person who refuses to consent to testing required by subsection (a) may not be accepted for an original enlistment in the armed forces or given an original appointment as an officer in the armed forces unless that person consents to such testing.

"(c) A person determined, as the result of testing conducted under subsection (a), to be dependent on drugs, chemicals, or alcohol shall be—

"(1) denied entrance into the armed forces; and

"(2) referred to a civilian treatment facility.

"(d) The testing required by subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense in consultation with the Secretary of Transportation. Those regulations shall apply uniformly throughout the armed forces.". Regulations.

(2) The item relating to that section in the table of sections at the beginning of chapter 49 of such title is amended to read as follows:

"978. Mandatory testing for drug, chemical, and alcohol abuse.".

(b) IMPLEMENTATION.—(1) The Secretary of Defense shall prescribe regulations for the implementation of section 978 of title 10, United States Code, as amended by subsection (a), not later than 45 days after the date of the enactment of this Act. Regulations. 10 USC 978 note.

(2) The effective date for initiation of the testing program prescribed by that section shall be no later than 180 days after the date of the enactment of this Act.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1988

37 USC 1009 note.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1988 shall not be made.

37 USC 1009 note.

(b) THREE PERCENT INCREASE IN BASIC PAY AND BAS.—The rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 3 percent effective on January 1, 1988.

37 USC 403 note.

(c) INCREASE IN BAQ.—(1) The rates of basic allowance for quarters for members of the uniformed services are increased by 6 percent effective on January 1, 1988.

(2) If as of January 1, 1988, there has not been enacted legislation as described in section 3(c), then the percentage increase in the rates of basic allowance for quarters for members of the uniformed services to take effect on that date under paragraph (1) shall be 3 percent (rather than the percentage specified in that paragraph).

(d) THREE PERCENT INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1988, section 203(c)(1) of title 37, United States Code, is amended by striking out "$494.40" and inserting in lieu thereof "$509.10".

SEC. 602. GAO REPORT ON FAIRNESS OF MILITARY HOUSING ALLOWANCES

(a) GAO REVIEW.—The Comptroller General shall review the following:

(1) The military housing allowance system as it pertains to dual-service couples and divorced members of the uniformed services. For purposes of the review, a dual-service couple is a married couple of which both spouses are members of a uniformed service serving on active duty.

(2) All studies previously conducted by the Department of Defense on the military housing allowance system, including the legislative history of the existing provisions of law providing for the basic allowance for quarters and the variable housing allowance (37 U.S.C. 403 and 403a).

(b) REPORT.—The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review conducted under subsection (a). The report shall include recommendations for appropriate changes in legislation and regulations to promote fairness in—

(1) the compensation for military housing of a dual-service couple in comparison to the compensation for military housing of a married couple of which one spouse is a member of a uniformed service serving on active duty and the other spouse is a civilian; and

(2) the compensation for military housing of divorced members of the uniformed services in comparison to the compensation for military housing of other unmarried members of the uniformed services.

(c) DEADLINE.—The report required by subsection (b) shall be submitted by March 1, 1988.

Part B—Travel and Transportation

SEC. 611. ALLOWANCE FOR CIVILIAN CLOTHING

(a) In General.—(1) Chapter 7 of title 37, United States Code, is amended—

(A) by redesignating sections 419 and 420 as sections 420 and 421, respectively; and

(B) by inserting after section 418 the following new section:

"§ 419. Civilian clothing allowance

Regulations.
37 USC 419.

"Under regulations prescribed by the Secretary of Defense, a member of an armed force who is assigned to a permanent duty station at a location outside the United States is entitled to a civilian clothing allowance in such amount as the Secretary shall determine under regulations if such member is required to wear civilian clothing all or a substantial portion of the time in the performance of the member's official duties. A clothing allowance under this section is in addition to any uniform allowance to which a member is otherwise entitled under this title.".

(2) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 419 and 420 and inserting in lieu thereof the following:

"419. Civilian clothing allowance.
"420. Allowances while participating in international sports.
"421. Allowances: no increase while dependent is entitled to basic pay.".

(b) Effective Date.—Section 419 of title 37, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act. No member may be paid a clothing allowance under such section for any period before such date.

37 USC 419 note.

SEC. 612. REIMBURSEMENT FOR ACTUAL LODGING EXPENSES PLUS PER DIEM FOR MEMBERS ENTITLED TO TRAVEL ALLOWANCES

(a) Repeal.—Section 614(b) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3879) is repealed.

37 USC 404 note.

(b) New Effective Date.—(1) The amendments made by section 614(a) of the National Defense Authorization Act for Fiscal Year 1987 shall be implemented by the Secretaries concerned (as defined in section 101(5) of title 37, United States Code) not later than 90 days after the date of the enactment of this Act and shall apply with respect to travel performed on or after the date of implementation.

37 USC 404 note.

(2) Section 8(a) of the Defense Technical Corrections Act of 1987 (Public Law 100-26; 101 Stat. 284) is amended by striking out ", and such amendments shall be effective as provided in section 614(b) of the Defense Authorization Act".

37 USC 404 and note.

SEC. 613. AUTHORIZATION TO PAY DISLOCATION ALLOWANCE IN ADVANCE

Section 407 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(f) An allowance payable under this section may be paid in advance.".

SEC. 614. TRANSPORTATION ALLOWANCE TO ENCOURAGE VOLUNTARY EXTENSIONS OF TOURS OF DUTY IN FOREIGN COUNTRIES

(a) In General.—(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 411f the following new section:

37 USC 411g.

"§ 411g. Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty

Regulations.

"(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service who—

"(1) is stationed outside the United States; and

"(2) voluntarily agrees to extend his overseas tour of duty for a period equal to at least one-half of the overseas tour prescribed for his permanent duty station;

is entitled to the transportation allowance described in subsection (b) for himself and each dependent who is authorized to, and does, accompany him.

"(b) The transportation allowance authorized by subsection (a) is an allowance provided—

"(1) in connection with authorized leave; and

"(2) for the cost of transportation—

"(A) from a member's permanent duty station to a place approved by the Secretary concerned and from that place to his permanent duty station; or

"(B) from a member's permanent duty station to a place no farther distant than his home of record (if he is a member without dependents) and from that place to his permanent duty station.

"(c) The transportation allowance authorized by subsection (a) may not be provided to an enlisted member who, with respect to an extension of duty described in subsection (a)—

"(1) elects to receive special pay under section 314 of this title for duty performed during such extension of duty; or

"(2) elects to receive rest and recuperative absence or transportation at Government expense, or any combination thereof, under section 705 of title 10 for such extension of duty.

"(d) The authority under this section shall expire on October 1, 1989.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 411f the following new item:

"411g. Travel and transportation allowances: transportation incident to voluntary extensions of overseas tours of duty.".

37 USC 411g note.

(b) Effective Date.—Section 411g of title 37, United States Code, as added by subsection (a), shall apply with respect to agreements to extend overseas tours of duty made after the date of the enactment of this Act.

37 USC 411g note.

(c) GAO Review and Report.—(1) The Comptroller General shall review implementation of section 411g of such title after such section has been in effect for one year, for the purpose of comparing—

(A) the total cost to the Department of Defense of the transportation allowance allowed under such section; with

(B) the total cost that would have been incurred by the Department of Defense over such period if such section had not been in effect, including the costs of more frequent moves by members in connection with permanent station changes.

(2) The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on such review no later than March 1, 1989.

(d) Clarification of Type of Leave for Which Certain Transportation Allowance is Granted.—(1) Subsection (a)(2) of section 411b of such title is amended by striking out "the first time the member is granted leave." and inserting in lieu thereof the following: "the time the member is first granted leave— 37 USC 411b.

"(A) which is to be taken away from the member's permanent duty station; and

"(B) for which a travel and transportation allowance is not otherwise authorized.".

(2) The heading of such section is amended to read as follows:

"§ 411b. Travel and transportation allowances: travel performed in connection with leave between consecutive overseas tours".

(3) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"411b. Travel and transportation allowances: travel performed in connection with leave between consecutive overseas tours.".

SEC. 615. TRANSPORTATION OF FAMILY MEMBERS OF SERIOUSLY ILL OR INJURED MEMBER

(a) In General.—(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 411g, as added by section 614, the following new section:

"§ 411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members 37 USC 411h.

"(a)(1) Under uniform regulations prescribed by the Secretaries concerned, transportation described in subsection (c) may be provided for not more than two family members of a member described in paragraph (2) if the attending physician or surgeon and the commander or head of the military medical facility exercising military control over the member determine that the presence of the family member is necessary for the member's health and welfare.

"(2) A member referred to in paragraph (1) is a member of the uniformed services who—

"(A) is serving on active duty;

"(B) is seriously ill or seriously injured; and

"(C) is hospitalized in a medical facility in or outside the United States.

"(b)(1) In this section, the term 'family member', with respect to a member, means—

"(A) the member's spouse;

"(B) children of the member (including stepchildren, adopted children, and illegitimate children);

"(C) parents of the member or persons in loco parentis to the member, as provided in paragraph (2); and

"(D) siblings of the member.

"(2) Parents of a member or persons in loco parentis to a member include fathers and mothers through adoption and persons who stood in loco parentis to the member for a period not less than one year immediately before the member entered the uniformed service. However, only one father and one mother or their counterparts in loco parentis may be recognized in any one case.

"(c) The transportation authorized by subsection (a) is round-trip transportation between the home of the family member and the location of the medical facility in which the member is hospitalized.

"(d)(1) The transportation authorized by subsection (a) may be provided by any of the following means:

"(A) Transportation in-kind.

"(B) A monetary allowance in place of transportation in-kind at a rate to be prescribed by the Secretaries concerned.

"(C) Reimbursement for the commercial cost of transportation.

"(2) An allowance payable under this subsection may be paid in advance.

"(3) Reimbursement payable under this subsection may not exceed the cost of government-procured commercial round-trip air travel.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 411g (as added by section 614) the following new item:

"411h. Travel and transportation allowances: transportation of family members incident to the serious illness or injury of members.".

37 USC 411h note.

(b) Effective Date.—The authority to provide transportation or to pay transportation expenses under section 411h of title 37, United States Code, as added by subsection (a), shall be effective only with respect to travel that occurs on or after the effective date of regulations prescribed under such section.

SEC. 616. AUTHORITY TO TRANSPORT VEHICLES LEASED BY MEMBERS OF THE ARMED FORCES

(a) PCS Moves.—Section 2634 of title 10, United States Code, is amended—

(1) by inserting "or leased" after "owned" both places it appears in the matter in subsection (a) preceding paragraph (1); and

(2) by adding at the end the following new subsection:

"(e) The Secretary of Defense (and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy) may prescribe regulations limiting those leased motor vehicles that may be transported pursuant to this section based upon the length of the lease and other terms and conditions of the lease that the Secretary considers appropriate.".

(b) Other Moves.—Section 406(h)(1)(B) of title 37, United States Code, is amended by inserting "or leased" after "owned".

SEC. 617. REIMBURSEMENT FOR TRAVEL AND TRANSPORTATION EXPENSES WHEN ACCOMPANYING MEMBERS OF CONGRESS

(a) Members of the Armed Forces.—Section 404 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(h)(1) Subject to paragraph (2), a member of the armed forces accompanying a Member of Congress or a congressional employee on official travel may be authorized reimbursement for actual travel and transportation expenses incurred for such travel.

"(2) The reimbursement authorized in paragraph (1) may be paid—

"(A) at a rate that does not exceed the rate approved for official congressional travel; and

"(B) only when the travel of the member is directed or approved by the Secretary of Defense or the Secretary concerned.

"(3) In this subsection:

"(A) The term 'Member of Congress' means a member of the Senate or the House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

"(B) The term 'congressional employee' means an employee of a Member of Congress or an employee of Congress.".

(b) CIVILIAN EMPLOYEES.—(1) Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1591. Reimbursement for travel and transportation expenses when accompanying Members of Congress

10 USC 1591.

"(a) Subject to subsection (b), the Secretary concerned may authorize reimbursement to a civilian employee who is accompanying a Member of Congress or a congressional employee on official travel for actual travel and transportation expenses incurred for such travel.

"(b) The allowance provided in subsection (a) may be paid—

"(1) at a rate that does not exceed the rate approved for official congressional travel; and

"(2) only when the travel of the member is directed or approved by the Secretary concerned.

"(c) In this section:

"(1) The term 'Member of Congress' means a member of the Senate or the House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

"(2) The term 'congressional employee' means an employee of a Member of Congress or an employee of Congress.

"(3) The term 'Secretary concerned' includes the Secretary of Defense with respect to civilian employees of the Department of Defense other than a military department.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1591. Reimbursement for travel and transportation expenses when accompanying Members of Congress.".

10 USC 1591 note.

(c) EFFECTIVE DATES.—Subsection (h) of section 404 of title 37, United States Code (as added by subsection (a)), and section 1591 of title 10, United States Code (as added by subsection (b)), shall apply with respect to travel performed after the date of the enactment of this Act.

PART C—BONUSES AND SPECIAL AND INCENTIVE PAYS

SEC. 621. RESTRUCTURING OF CAREER SEA PAY

(a) RATES.—Subsection (b) of section 305a of title 37, United States Code, is amended to read as follows:

"(b) The monthly rates for special pay under subsection (a) are as follows:

"ENLISTED MEMBERS

"Pay grade	Years of sea duty																
	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6	Over 7	Over 8	Over 9	Over 10	Over 11	Over 12	Over 13	Over 14	Over 16	Over 18
E-4	$50	$60	$120	$150	$160	$160	$160	$160	$160	$160	$160	$160	$160	$160	$160	$160	$160
E-5	50	60	120	150	170	315	325	350	350	350	350	350	350	350	350	350	350
E-6	100	100	120	150	170	315	325	350	350	365	365	365	380	395	410	425	450
E-7	100	100	120	175	190	350	350	375	390	400	400	410	420	450	475	500	500
E-8	100	100	120	175	190	350	350	375	390	400	400	410	420	450	475	500	520
E-9	100	100	120	175	190	350	350	375	390	400	400	410	420	450	475	520	520

"WARRANT OFFICERS

"Pay grade	Years of sea duty																
	1 or less	Over 1	Over 2	Over 3	Over 4	Over 5	Over 6	Over 7	Over 8	Over 9	Over 10	Over 11	Over 12	Over 13	Over 16	Over 18	Over 20
W-1	$130	$135	$140	$150	$170	$175	$200	$250	$270	$300	$325	$325	$340	$360	$375	$375	$375
W-2	150	150	150	150	170	260	265	265	270	310	340	340	375	400	400	400	400
W-3	150	150	150	150	170	270	280	285	290	310	350	375	400	425			
W-4	150	150	150	150	170	290	310	310	310	310	350	375	400	450			

"WARRANT OFFICERS—Continued

"Pay grade	Years of sea duty Over 16	Over 18	Over 20
W-3	425	450	450
W-4	450	500	500

"OFFICERS

"Pay grade	Years of sea duty Over 3	Over 4	Over 5	Over 6	Over 7	Over 8	Over 9	Over 10	Over 11	Over 12	Over 14	Over 16	Over 18	Over 20
O-1	$150	$160	$185	$190	$195	$205	$215	$225	$225	$240	$250	$260	$270	$280
O-2	150	160	185	190	195	205	215	225	225	240	250	260	270	280
O-3	150	160	185	190	195	205	215	225	225	240	260	270	280	290
O-4	185	190	200	205	215	220	220	225	225	240	270	280	290	300
O-5	225	225	225	225	230	245	250	260	265	265	285	300	315	340
O-6	225	230	230	240	255	265	280	290	300	310	325	340	355	380".

(b) CAREER SEA PAY PREMIUM.—Subsection (c) of such section is amended by inserting "(other than an enlisted member in a pay grade above E-4 with more than five years of sea duty)" after "sea duty" the first place it appears.

(c) DEFINITION OF SEA DUTY.—Subsection (d) of such section is amended to read as follows:

"(d)(1) In this section, the term 'sea duty' means duty performed by a member—

"(A) while permanently or temporarily assigned to a ship, ship-based staff, or ship-based aviation unit and while serving on a ship the primary mission of which is accomplished while under way or while serving as a member of the off-crew of a two-crewed submarine; or

"(B) while permanently or temporarily assigned to a ship or ship-based staff and while serving on a ship the primary mission of which is normally accomplished while in port, but only during a period that the ship is away from its homeport.

"(2) For the purpose of determining the years of sea duty with which a member may be credited for purposes of this section, the term 'sea duty' also includes duty performed on or after the effective date specified in section 621(e)(1) of the National Defense Authorization Act for Fiscal Year 1988 by a member while permanently or temporarily assigned to a ship or ship-based staff and while serving on a ship on which the member would be entitled, during a period that the ship is away from its homeport, to receive sea pay by reason of paragraph (1)(B).

"(3) A ship shall be considered to be away from its homeport for purposes of this subsection when it is—

"(A) at sea; or

"(B) in a port that is more than 50 miles from its homeport.".

37 USC 305a note.

(d) Save Pay.—A member of the uniformed services who at any time during the three-month period ending on the day before the effective date applicable to that member under subsection (e) for the new rates of career sea pay is entitled to career sea pay at a rate that is higher than the rate established under such new rates for the member's pay grade and years of sea duty shall be paid such special pay, when entitled to receive it, at such higher rate until the member is permanently reassigned to duty for which the member is not entitled to such special pay. In the case of a member covered by the preceding sentence who is reduced in grade under the Uniform Code of Military Justice (chapter 47 of title 10, United States Code), the old rate of career sea pay applicable to such member under the preceding sentence which may be paid in lieu of the rate applicable to the member under the new rates of career sea pay shall be the rate under the old rates of career sea pay for the member's pay grade as so reduced and the member's years of sea duty.

37 USC 305a note.

(e) Effective Date.—(1) Except as provided under paragraph (2), the amendments made by this section shall take effect on the first day of the first month beginning after the date of the enactment of this Act and shall apply with respect to duty performed on or after that date.

(2) The new rates of career sea pay that are applicable to enlisted members in pay grades above pay grade E-4 who have five or more years of sea duty and the amendment made by subsection (b) shall take effect on the first day of the fourth month beginning after the effective date specified under paragraph (1). In the case of such members, the old rates of career sea pay shall remain in effect until the new rates take effect under the preceding sentence.

37 USC 305a note.

(f) Definitions.—For purposes of subsections (d) and (e):

(1) The term "career sea pay" means special pay under section 305a of title 37, United States Code.

(2) The term "old rates", with respect to career sea pay, means the rates of such pay in effect on the date of the enactment of this Act.

(3) The term "new rates", with respect to career sea pay, means the rates of such pay provided by the amendment made by subsection (a).

SEC. 622. SPECIAL PAY FOR AVIATION CAREER OFFICERS

(a) In General.—(1) Subsection (a) of section 301b of title 37, United States Code, is amended by striking out clause (5) of the first sentence and all that follows through the second sentence and inserting in lieu thereof the following:

"(5) has not previously been paid special pay authorized by this section;

"(6) executes a written agreement to remain on active duty in aviation service for at least one year; and

"(7) is in an aviation specialty designated as critical, may, upon the acceptance of the written agreement by the Secretary of Defense or the Secretary of Transportation, as appropriate, be paid an amount not to exceed $4,000 for each year covered by the agreement if the officer agrees to remain on active duty for one year, two years, or three years, or an amount not to exceed $6,000 for each year covered by the agreement if the officer agrees to remain on active duty for four years.".

(2) Subsection (e) of such section is amended to read as follows:

"(e)(1) During the period beginning on October 1, 1987, and ending on September 30, 1989, an agreement under this section may be accepted only—

"(A) from an officer of the Navy who meets the conditions set forth in subsection (a) and who has completed fewer than 11 years of active duty; and

"(B) if the agreement requires the officer to remain on active duty in aviation service for three years or for four years.

"(2) An agreement that requires an officer to remain on active duty in aviation service for six years may also be accepted during such period if the officer meets the conditions set forth in subsection (a) and has completed fewer than eight years of active duty. An officer from whom such an agreement is accepted may be paid an amount not to exceed $6,000 for each year covered by the agreement.".

(3) Subsection (f) of such section is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1989".

37 USC 301b note.

(b) EFFECTIVE DATE.—(1) The amendments made by subsection (a) to subsections (a), (e), and (f) of section 301b of title 37, United States Code, shall apply to agreements entered into on or after October 1, 1987, and special pay may be paid as if such amendments were in effect on such date.

(2) Such amendments shall not affect an agreement entered into under such section as in effect on September 30, 1987, and the provisions of such section as in effect on such day shall continue to apply with respect to such agreement.

SEC. 623. SUBMARINE DUTY INCENTIVE PAY

(a) MARINE CORPS COVERAGE.—Subsection (a) of section 301c of title 37, United States Code, is amended by striking out "Navy" and inserting in lieu thereof "naval service".

(b) INCREASED RATES.—Subsection (b) of such section is amended to read as follows:

"(b) A member who meets the requirements prescribed in subsection (a) is entitled to monthly submarine duty incentive pay as follows:

"(b) The monthly rates for special pay under subsection (a) are as follows:

"ENLISTED MEMBERS

"Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-9	$225	$225	$225	$270	$295	$310	$315
E-8	225	225	225	250	270	295	310

“ENLISTED MEMBERS—Continued

“Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
E-7	225	225	225	250	255	265	275
E-6	155	170	175	215	230	245	255
E-5	140	155	155	175	190	195	195
E-4	80	95	100	170	175	175	175
E-3	80	90	100	170	175	175	90
E-2	75	90	90	90	90	90	90
E-1	75	75	75	75	75	75	75
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
E-9	$330	$345	$355	$355	$355	$355	$355
E-8	315	330	330	345	345	345	345
E-7	295	310	310	310	310	310	310
E-6	265	265	265	265	265	265	265
E-5	195	195	195	195	195	195	195
E-4	175	175	175	175	175	175	175
E-3	90	90	90	90	90	90	90
E-2	90	90	90	90	90	90	90
E-1	75	75	75	75	75	75	75

“COMMISSIONED OFFICERS

“Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
O-10	$355	$355	$355	$355	$355	$355	$355
O-9	355	355	355	355	355	355	355
O-8	355	355	355	355	355	355	355
O-7	355	355	355	355	355	355	355
O-6	595	595	595	595	595	595	595
O-5	595	595	595	595	595	595	595
O-4	365	365	365	405	595	595	595
O-3	355	355	355	390	595	595	595
O-2	235	235	235	235	235	235	355
O-1	175	175	175	175	175	175	355
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
O-10	$355	$355	$355	$355	$355	$355	$355
O-9	355	355	355	355	355	355	355
O-8	355	355	355	355	355	355	355
O-7	355	355	540	535	535	410	355
O-6	595	595	595	595	595	595	595
O-5	595	595	595	595	595	595	595
O-4	595	595	595	595	595	595	595
O-3	595	595	595	595	595	595	595
O-2	355	355	355	355	355	355	355
O-1	355	355	355	355	355	355	355

"WARRANT OFFICERS

"Pay grade	Years of service computed under section 205						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
W-4	$235	$310	$310	$355	$355	$355	$355
W-3	235	310	310	355	355	355	355
W-2	235	310	310	355	355	355	355
W-1	235	310	310	355	355	355	355
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
W-4	$355	$355	$355	$355	$355	$355	$355
W-3	355	355	355	355	355	355	355
W-2	355	355	355	355	355	355	355
W-1	355	355	355	355	355	355	355"

37 USC 301c note.

(c) EFFECTIVE DATE.—(1) Subject to paragraph (2), the amendments made by this section shall take effect on the first day of the first month beginning after the date of the enactment of this Act and shall apply only with respect to duty performed on or after that date.

(2) The amendments made by this section shall take effect only if legislation as described in section 3(c) is enacted.

SEC. 624. DIVING PAY FOR MEMBERS OF RESERVE COMPONENTS

(a) IN GENERAL.—Section 304 of title 37, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d)(1) Under regulations prescribed by the Secretary concerned and to the extent provided for by appropriations, when a member of the National Guard or a reserve component of a uniformed service who is entitled to compensation under section 206 of this title performs diving duty, pursuant to orders, such member is entitled to an increase in compensation equal to 1/30 of the monthly special pay prescribed by the Secretary concerned for the performance of diving duty by a member of comparable diving classification who is entitled to basic pay under section 204 of this title. Such member is entitled to the increase—

"(A) for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least two hours, including that performed on a Sunday or holiday; or

"(B) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title.

"(2) This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.".

37 USC 304 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the fourth calendar month following the month in which this Act is enacted and shall apply only with respect to diving duty performed on or after that date.

SEC. 625. SELECTIVE REENLISTMENT BONUSES

(a) IN GENERAL.—Paragraph (1) of section 308(b) of title 37, United States Code, is amended to read as follows:

"(1) Bonus payments authorized under this section may be paid in either a lump sum or in installments. If the bonus is paid in installments, the initial payment shall be not less than 50 percent of the total bonus amount.".

37 USC 308 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to bonuses paid for reenlistment or extension of enlistment agreements entered into after September 30, 1987.

SEC. 626. EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES

(a) FIVE-YEAR EXTENSION OF ACTIVE-DUTY BONUSES.—Sections 308(g), 308a(c), and 308f(c) of title 37, United States Code, are amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1992".

(b) THREE-YEAR EXTENSION OF RESERVE COMPONENT BONUSES.—Sections 308b(g), 308c(f), 308e(e), 308g(h), 308h(g), and 308i(i) of such title are amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1990".

37 USC 308 note.

(c) COVERAGE OF PERIOD OF LAPSED AUTHORITY.—(1) The Secretary concerned, in the case of any person who during the period beginning on October 1, 1987, and ending on the date of the enactment of this Act would have qualified for an agreement with the Secretary described in paragraph (2) but for the fact that the authority for the payment of bonuses provided by that section had lapsed, shall pay to that person a bonus under the terms of the appropriate section specified in that paragraph (and related regulations) as in effect on September 30, 1987.

(2) An agreement referred to in paragraph (1) is an agreement with the Secretary for the payment of a bonus under section 308, 308a, 308b, 308c, 308e, 308f, 308g, 308h, or 308i of title 37, United States Code.

PART D—MISCELLANEOUS

SEC. 631. AUTHORITY FOR CERTAIN REMARRIED SURVIVOR BENEFIT PLAN PARTICIPANTS TO WITHDRAW FROM PLAN

10 USC 1448 note.

(a) AUTHORITY TO WITHDRAW.—(1) An individual who is a participant in the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, and is described in paragraph (2) may, with the consent of such individual's spouse, withdraw from participation in the Plan.

(2) An individual referred to in paragraph (1) is an individual who—

(A) is providing coverage for a spouse or for a spouse and child under the Plan; and

(B) remarried before March 1, 1986, and at a time when such individual was a participant in the Plan but did not have an eligible spouse beneficiary under the Plan.

(b) APPLICABLE PROVISIONS.—An election under subsection (a) shall be subject to subparagraphs (B) and (D) of section 1448(a)(6) of title 10, United States Code, except that in applying such subparagraph (B) to subsection (a), the one-year period referred to in clause (ii) of such subparagraph shall extend until the end of the one-year period beginning 90 days after the date of the enactment of this Act.

(c) TREATMENT OF PRIOR CONTRIBUTIONS.—No refund of amounts by which the retired pay of a participant in the Survivor Benefit Plan has been reduced by reason of section 1452 of title 10, United States Code, may be made to an individual who withdraws from the Survivor Benefit Plan under subsection (a).

SEC. 632. LAW APPLICABLE TO OCCUPANCY BY COAST GUARD PERSONNEL OF SUBSTANDARD FAMILY HOUSING UNITS

(a) IN GENERAL.—Section 2830 of title 10, United States Code, is amended—

(1) by striking out "the Secretary of a military department" in subsection (a) and inserting in lieu thereof "the Secretary concerned";

(2) by striking out "Subject to" in subsection (b) and all that follows through "military department" and inserting in lieu thereof "(1) The Secretary concerned"; and

(3) by adding at the end of subsection (b) the following new paragraph:

"(2) The authority to enter into leases under paragraph (1) shall be exercised—

"(A) in the case of a lease by the Secretary of a military department, subject to regulations prescribed by the Secretary of Defense; and

"(B) in the case of a lease by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, subject to regulations prescribed by that Secretary.".

(b) CONFORMING AMENDMENTS.—(1) Section 2801(d) of such title is amended by inserting "(other than section 2830)" after "This chapter".

(2) Section 475 of title 14, United States Code, is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 633. COLLECTION OF AMOUNTS OWED TO SERVICE RELIEF SOCIETIES FROM FINAL PAY OF MEMBERS

(a) COLLECTION OF AMOUNTS OWED RELIEF SOCIETIES.—Section 1007 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(h)(1) Upon request by a service relief society and subject to paragraph (2), an amount owed by a member of the uniformed services to the relief society may be deducted from the pay on final statement of such member and paid to that relief society.

"(2) An amount may not be deducted under paragraph (1) from the pay of a member unless the Secretary concerned makes a determination of the amount owed in accordance with the regulations prescribed under subsection (c). Any amount determined to be owed to a service relief society under this paragraph shall be considered an amount that the member is administratively determined to owe the United States under subsection (c) and shall be collectible in accordance with such subsection.

"(3) The Secretaries concerned shall prescribe regulations to carry out this subsection.

"(4) In this subsection, the term 'service relief society' means the Army Emergency Relief, the Air Force Aid Society, the Navy Relief Society, or the Coast Guard Mutual Assistance.".

37 USC 1007 note.

(b) Effective Date.—Subsection (h) of section 1007 of title 37, United States Code (as added by subsection (a)), shall apply with respect to debts incurred by members of the uniformed services after the date of the enactment of this Act.

SEC. 634. LIMITATION ON RESERVE UNIT AND INDIVIDUAL TRAINING FUNDING FOR FISCAL YEAR 1988

During fiscal year 1988, the amount appropriated for reserve unit and individual training may not exceed $4,644,582,000.

SEC. 635. EXPANSION OF MILITARY SPOUSE EMPLOYMENT PREFERENCE

Section 806(b)(2) of the Military Family Act of 1985 (10 U.S.C. 113 note), is amended by striking out "GS-4" and inserting in lieu thereof "GS-1".

SEC. 636. REDUCTION IN AGE FOR NONTERMINATION OF SBP SURVIVING SPOUSE ANNUITY AFTER REMARRIAGE

(a) Resumption of Annuity Upon Termination of DIC for Remarriage.—Section 1450(k)(1) of title 10, United States Code, is amended by striking out "60" and inserting in lieu thereof "55".

10 USC 1450 note.

(b) Applicability.—The amendment made by subsection (a) shall apply as if included in the amendments made by section 643(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3886).

10 USC 1450.

10 USC 113 note.

SEC. 637. REGULATIONS REGARDING EMPLOYMENT AND VOLUNTEER WORK OF SPOUSES OF MILITARY PERSONNEL

Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations to establish the policy that—

(1) the decision by a spouse of a member of the Armed Forces to be employed or to voluntarily participate in activities relating to the Armed Forces should not be influenced by the preferences or requirements of the Armed Forces; and

(2) neither such decision nor the marital status of a member of the Armed Forces should have an effect on the assignment or promotion opportunities of the member.

10 USC 113 note.

SEC. 638. TEST PROGRAM FOR REIMBURSEMENT FOR ADOPTION EXPENSES

(a) Test Program.—The Secretary of Defense shall establish a test program under which a member of the Armed Forces may be reimbursed, as provided in this section, for qualifying adoption expenses incurred by the member in the adoption of a child under 18 years of age.

(b) Adoptions Covered.—An adoption for which expenses may be reimbursed under this section includes an adoption by a single person, an infant adoption, an intercountry adoption, and an adoption of a child with special needs (as defined in section 473(c) of the Social Security Act (42 U.S.C. 673(c)).

(c) BENEFITS PAID AFTER ADOPTION IS FINAL.—Benefits paid under this section in the case of an adoption may be paid only after the adoption is final.

(d) TREATMENT OF OTHER BENEFITS.—A benefit may not be paid under this section for any expense paid to or for a member of the Armed Forces under any other adoption benefits program administered by the Federal Government or under any such program administered by a State or local government.

(e) LIMITATIONS.—(1) Not more than $2,000 may be paid to a member of the Armed Forces under this section for expenses incurred in the adoption of a child.

(2) Not more than $5,000 may be paid to a member of the Armed Forces under this section for adoptions by such member in any calendar year.

(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

(g) DEFINITIONS.—In this section:

(1) The term "qualifying adoption expenses" means reasonable and necessary expenses that are directly related to the legal adoption of a child, but only if such adoption is arranged—

(A) by a State or local government agency which has responsibility under State or local law for child placement through adoption;

(B) by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption; or

(C) through a private placement.

(2) The term "qualifying adoption expenses" does not include any expense incurred—

(A) for any travel performed outside the United States by an adopting parent, unless such travel—

(i) is required by law as a condition of a legal adoption in the country of the child's origin, or is otherwise necessary for the purpose of qualifying for the adoption of a child;

(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting member of the Armed Forces is stationed; or

(B) in connection with an adoption arranged in violation of Federal, State, or local law.

(3) The term "reasonable and necessary expenses" includes—

(A) public and private agency fees, including adoption fees charged by an agency in a foreign country;

(B) placement fees, including fees charged adoptive parents for counseling;

(C) legal fees, including court costs;

(D) medical expenses, including hospital expenses of a newborn infant, for medical care furnished the adopted child before the adoption, and for physical examinations for the adopting parents;

(E) expenses relating to pregnancy and childbirth for the biological mother; including counseling, transportation, and maternity home costs;

(F) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

(G) except as provided in paragraph (2)(A), transportation expenses relating to the adoption.

(h) EFFECTIVE DATE AND DURATION OF TEST PROGRAM.—The test program required under this section shall apply with respect to qualifying adoption expenses incurred for adoption proceedings initiated after September 30, 1987, and before October 1, 1989.

TITLE VII—HEALTH CARE PROVISIONS

10 USC 1071 note. Military Health Care Amendments of 1987.

SEC. 701. SHORT TITLE

This title may be cited as the "Military Health Care Amendments of 1987".

PART A—MEDICAL READINESS

SEC. 711. REVISION OF RESERVE FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAM

(a) IN GENERAL.—Chapter 105 of title 10, United States Code, is amended—

(1) by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 105—ARMED FORCES HEALTH PROFESSIONS FINANCIAL ASSISTANCE PROGRAMS

"Subchapter Sec.
I. Health Professions Scholarship Program for Active Service 2120
II. Health Professions Stipend Program for Reserve Service 2128

"SUBCHAPTER I—HEALTH PROFESSIONS SCHOLARSHIP PROGRAM FOR ACTIVE SERVICE";

(2) by striking out "chapter" each place it appears in sections 2120, 2123, 2124, and 2127 and inserting in lieu thereof "subchapter"; and

(3) by adding at the end the following new subchapter:

"SUBCHAPTER II—HEALTH PROFESSIONS STIPEND PROGRAM FOR RESERVE SERVICE

"Sec.
"2128. Financial assistance: health-care professionals in reserve components.
"2129. Reserve service: required active duty for training.
"2130. Penalties, limitations; and other administrative provisions.

10 USC 2128.

"§ 2128. Financial assistance: health-care professionals in reserve components

"(a) ESTABLISHMENT OF PROGRAM.—For the purpose of obtaining adequate numbers of commissioned officers in the reserve components who are qualified in health professions specialties critically needed in wartime, the Secretary of each military department may establish and maintain a program to provide financial assistance under this subchapter to persons engaged in training in such specialties. Under such a program, the Secretary concerned may agree to pay a financial stipend to persons engaged in training in certain health care specialties in return for a commitment to subsequent service in the Ready Reserve.

"(b) PHYSICIANS IN CRITICAL SPECIALTIES.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a person who—

"(A) is a graduate of a medical school;

"(B) is eligible for appointment, designation, or assignment as a medical officer in the Reserve of the armed force concerned; and

"(C) is enrolled or has been accepted for enrollment in a residency program for physicians in a medical specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (e), for the period or the remainder of the period of the residency program in which the participant enrolls or is enrolled;

"(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as a medical officer for service in the Ready Reserve;

"(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

"(D) the participant shall agree to serve, upon successful completion of the program, two years in the Ready Reserve for each year, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement.

"(c) REGISTERED NURSES IN CRITICAL SPECIALTIES.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a person who—

"(A) is a registered nurse;

"(B) is eligible for appointment as—

"(i) a Reserve officer for service in the Army Reserve in the Army Nurse Corps;

"(ii) a Reserve officer for service in the Naval Reserve in the Navy Nurse Corps; or

"(iii) a Reserve officer for service in the Air Force Reserve with a view to designation as an Air Force nurse under section 8067(e) of this title; and

"(C) is enrolled or has been accepted for enrollment in an accredited program in nursing in a specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (e), for the period or the remainder of the period of the nursing program in which the participant enrolls or is enrolled;

"(B) the participant shall not be eligible to receive such stipend before being appointed as a Reserve officer for service in the Ready Reserve—

"(i) in the Nurse Corps of the Army or Navy; or

"(ii) as an Air Force nurse of the Air Force;

"(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

"(D) the participant shall agree to serve, upon successful completion of the program, two years in the Ready Reserve for each year, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement.

"(d) BACCALAUREATE STUDENTS IN NURSING OR OTHER HEALTH PROFESSIONS.—(1) Under the stipend program under this subchapter, the Secretary of the military department concerned may enter into an agreement with a person who—

"(A) will, upon completion of the program, be eligible to be appointed, designated, or assigned as a Reserve officer for duty as a nurse or other health professional; and

"(B) is enrolled, or has been accepted for enrollment in the third or fourth year of—

"(i) an accredited baccalaureate nursing program; or

"(ii) any other accredited baccalaureate program leading to a degree in a health-care profession designated by the Secretary concerned as a profession critically needed by that military department in wartime.

"(2) Under the agreement—

"(A) the Secretary shall agree to pay the participant a stipend of $100 per month for the period or the remainder of the period of the baccalaureate program in which the participant enrolls or is enrolled;

"(B) the participant shall not be eligible to receive such stipend before enlistment in the Ready Reserve;

"(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

"(D) the participant shall agree to serve, upon graduation from the baccalaureate program, one year in the Ready Reserve for each year, or part thereof, for which the stipend is paid.

"(e) AMOUNT OF STIPEND.—The amount of a stipend under an agreement under subsection (b) or (c) shall be—

"(1) the stipend rate in effect for participants in the Armed Forces Health Professions Scholarship Program under section 2121(d) of this title, if the participant has agreed to serve in the Selected Reserve; or

"(2) one-half of that rate, if the participant has agreed to serve in the Individual Ready Reserve.

"(f) INDIVIDUAL READY RESERVE DEFINED.—In this subchapter, the term 'Individual Ready Reserve' means that element of the Ready Reserve of an armed force other than the Selected Reserve.

"§ 2129. Reserve service: required active duty for training

10 USC 2129.

"(a) SELECTED RESERVE.—A person who is required under an agreement under section 2128 of this title to serve in the Selected Reserve shall serve not less than 12 days of active duty for training each year during the period of service required by the agreement.

"(b) IRR SERVICE.—A person who is required under an agreement under section 2128 of this title to serve in the Individual Ready Reserve shall serve—

"(1) not less than 30 days of initial active duty for training; and

"(2) not less than five days of active duty for training each year during the period of service required by the agreement.

"§ 2130. Penalties, limitations, and other administrative provisions

10 USC 2130.

"(a) FAILURE TO COMPLETE PROGRAM OF TRAINING.—(1) A member of the program who, under regulations prescribed by the Secretary of Defense, is dropped from the program for deficiency in training, or for other reasons, shall be required, at the discretion of the Secretary concerned—

"(A) to perform one year of active duty for each year (or part thereof) for which such person was provided financial assistance under this section; or

"(B) to repay the United States an amount equal to the total amount paid to such person under the program.

Regulations.

"(2) The Secretary of a military department, under regulations prescribed by the Secretary of Defense, may relieve a member participating in the program who is dropped from the program from any requirement that may be imposed under paragraph (1), but such relief shall not relieve him from any military obligation imposed by any other law.

"(b) PROHIBITIONS OF DUPLICATE BENEFITS.—Financial assistance may not be provided under this section to a member receiving financial assistance under section 2107 of this title.

"(c) REGULATIONS.—This subchapter shall be administered under regulations prescribed by the Secretary of Defense.".

(b) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of subtitle A, and at the beginning of part III of subtitle A, of title 10, United States Code, are amended by striking out the item relating to chapter 105 and inserting in lieu thereof the following:

"105. Armed Forces Health Professions Financial Assistance Programs......... 2120".

10 USC 2121 note, 2124 note.

(c) REPEAL OF PRIOR PROGRAM.—(1) Section 672 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 663), is repealed.

10 USC 2121 note.

(2) The repeal of section 672 of the Department of Defense Authorization Act, 1986, by paragraph (1) does not affect an agreement entered into under that section before such repeal, and the provisions of such section as in effect before such repeal shall continue to apply with respect to such agreement.

(d) FUNDING LIMIT FOR FISCAL YEAR 1988.—The total amount obligated during fiscal year 1988 under agreements under section 2128 of title 10, United States Code, as added by subsection (a), may not exceed $9,000,000.

10 USC 2121 note.

(e) EFFECTIVE DATES.—(1) The repeal made by subsection (c) shall take effect on the date of the enactment of this Act.

10 USC 2128 note.

(2) An agreement entered into by the Secretary of a military department under section 2128 of title 10, United States Code, as

added by subsection (a), may not obligate the United States to make a payment for any period before the date of the enactment of this Act.

SEC. 712. ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

(a) CRITICALLY NEEDED WARTIME SKILLS RESIDENCY REQUIREMENT PERMITTED.—Section 2122 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "To be eligible"; and

(2) by adding at the end the following new subsection:

"(b) The Secretary of Defense may require, as part of the agreement under subsection (a)(2), that a person must agree to accept, if offered, residency training in a health profession skill which has been designated by the Secretary as a critically needed wartime skill.".

(b) 2,500 SCHOLARSHIPS TARGETED FOR CRITICALLY NEEDED WARTIME SKILLS.—

(1) IN GENERAL.—Section 2124 of title 10, United States Code, is amended by striking out "except that" and all that follows through the end of the section and inserting in lieu thereof the following: "except that—

"(1) the total number of persons so designated in all of the programs authorized by this subchapter shall not, at any time, exceed 6,000; and

"(2) of the total number of persons so designated, at least 2,500 shall be persons—

"(A) who are in the final two years of their course of study; and

"(B) who have agreed to accept, if offered, residency training in a health profession skill which has been designated by the Secretary as a critically needed wartime skill.".

10 USC 2124 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1989.

SEC. 713. EDUCATION LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE

(a) COVERAGE OF CERTAIN LOANS TO NURSES.—Subsection (a)(3) of section 2172 of title 10, United States Code, is amended by inserting "or under part B of title VIII of such Act (42 U.S.C. 297 et seq.)" after "seq.)".

(b) EXTENSION OF DATE FOR INITIAL APPOINTMENT.—Subsection (d) of such section is amended by striking out "October 1, 1988" and inserting in lieu thereof "October 1, 1990".

SEC. 714. CONSTRUCTIVE SERVICE CREDIT FOR OFFICERS APPOINTED WITH HEALTH PROFESSIONS EXPERIENCE

(a) REGULAR COMPONENTS.—Section 533(b)(1)(B) of title 10, United States Code, is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following:

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.".

(b) ARMY RESERVE.—Section 3353(b)(1)(B) of such title is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following:

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the Army.".

(c) Naval Reserve and Marine Corps Reserve.—Section 5600(b)(1)(B) of such title is amended— 10 USC 5600.

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following:

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the Navy or Marine Corps, as appropriate.".

(d) Air Force Reserve.—Section 8353(b)(1)(B) of such title is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following:

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the Air Force.".

SEC. 715. STANDBY CAPABILITY FOR SELECTIVE SERVICE REGISTRATION OF HEALTH CARE PERSONNEL

Section 10(h) of the Military Selective Service Act (50 U.S.C. App. 460(h)) is amended—

(1) by striking out "If at" and all that follows through "nevertheless," and inserting in lieu thereof "The Selective Service system shall"; and

(2) by inserting "(including a structure for registration and classification of persons qualified for practice or employment in a health care occupation essential to the maintenance of the Armed Forces)" after "national emergency".

SEC. 716. LIMITED CEILING REMOVAL ON SPECIAL PAY FOR MEDICAL OFFICERS

(a) Limited Ceiling Removal.—Section 302(b) of title 37, United States Code, is amended—

(1) by striking out "in an amount not to exceed $8,000" in paragraph (1);

(2) by adding at the end of paragraph (1) the following: "No payment to an officer under this subsection may exceed $8,000 for any twelve-month period unless the Secretary concerned determines that the officer is qualified and serving in a health profession skill which has been designated by the Secretary concerned as a critically needed wartime skill."; and

(3) by striking out paragraph (3).

(b) Limit on Obligations.—The Secretary concerned may not obligate funds during fiscal year 1988 for incentive special pay under section 302(b) of such title in an amount which is more than the amount proposed to be available for such purpose in the budget presentation materials submitted to Congress for fiscal year 1988.

SEC. 717. AUTHORITY TO RETAIN IN ACTIVE STATUS UNTIL AGE 67 RESERVE OFFICERS IN MEDICAL SPECIALTIES

(a) Army Personnel.—Section 3855 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "Notwithstanding";

(2) by striking out ", but not later than the date on which he becomes 60 years of age";

(3) by designating the second sentence as subsection (b); and

(4) by adding at the end the following:

"(c) An officer may not be retained in an active status under this section later than the date on which the officer becomes 67 years of age (or, in the case of an officer in the Chaplains, 60 years of age).".

(b) NAVAL PERSONNEL.—(1) Chapter 573 of title 10, United States Code, is amended by inserting after section 6391 the following new section:

10 USC 6392.

"§ 6392. Retention in active status of certain officers

"(a) Notwithstanding any other section of this chapter except subsections (b), (d), and (e) of section 6383, the Secretary of the Navy may, with the officer's consent, retain in an active status any reserve officer of the Navy who is designated as a medical officer, dental officer, veterinary officer, optometrist, podiatrist, chaplain, nurse, or biomedical sciences officer.

"(b) An officer may be retained in an active status under this section only to fill a mission-based requirement.

"(c) An officer may not be retained in an active status under this section later than the date on which the officer becomes 67 years of age (or, in the case of an officer in the Chaplain Corps, 60 years of age).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6391 the following new item:

"6392. Retention in active status of certain officers.".

(c) AIR FORCE PERSONNEL.—Section 8855 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "Notwithstanding";

(2) by striking out ", but not later than the date on which he becomes 60 years of age";

(3) by designating the second sentence as subsection (b); and

(4) by adding at the end the following:

"(c) An officer may not be retained in an active status under this section later than the date on which the officer becomes 67 years of age (or, in the case of an officer who is designated as a chaplain, 60 years of age).".

(d) CLERICAL AMENDMENTS.—(1)(A) The heading of section 3855 of such title is amended to read as follows:

"§ 3855. Retention in active status of certain officers".

(B) The item relating to that section in the table of sections at the beginning of chapter 363 of such title is amended to read as follows:

"3855. Retention in active status of certain officers.".

(2)(A) The heading of section 8855 of such title is amended to read as follows:

"§ 8855. Retention in active status of certain officers".

(B) The item relating to that section in the table of sections at the beginning of chapter 863 of such title is amended to read as follows:

"8855. Retention in active status of certain officers.".

SEC. 718. AGE FOR INITIAL APPOINTMENT OF RESERVE OFFICERS IN CRITICAL MEDICAL SPECIALTIES

(a) Maximum Age To Be Not Less Than 47.—Section 591 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) In prescribing age qualifications under subsection (b) for the appointment of persons as Reserves of the armed forces under his jurisdiction, the Secretary concerned may not prescribe a maximum age qualification of less than 47 years of age for the initial appointment of a person as a Reserve to serve in a health profession specialty which has been designated by the Secretary concerned as a specialty critically needed in wartime.".

(b) Deadline for Regulations.—The Secretary concerned shall prescribe regulations implementing subsection (e) of section 591 of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act. 10 USC 591 note.

SEC. 719. AUTHORITY TO DEFER MANDATORY RETIREMENT FOR AGE OF MEDICAL OFFICERS

Section 1251 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Secretary concerned may defer the retirement under subsection (a) of a health professions officer if during the period of the deferment the officer will be performing duties consisting primarily of providing patient care or performing other clinical duties.

"(2) A deferment under this subsection may not extend beyond the first day of the month following the month in which the officer becomes 67 years of age.

"(3) For purposes of this subsection, a health professions officer is—

"(A) a medical officer;

"(B) a dental officer; or

"(C) an officer in the Army Nurse Corps, an officer in the Navy Nurse Corps, or an officer in the Air Force designated as a nurse.".

Part B—Peacetime Health Care

SEC. 721. CATASTROPHIC LOSS PROTECTION UNDER CHAMPUS

(a) Active Duty Dependents.—Section 1079(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) An individual or family group of two or more persons covered by this section may not be required by reason of this subsection to pay a total of more than $1,000 for health care received during any fiscal year under a plan under subsection (a).".

(b) Retirees and Dependents.—Section 1086(b) of such title is amended by adding at the end the following new paragraph:

"(4) A member or former member of a uniformed service covered by this section by reason of section 1074(b) of this title, or an individual or family group of two or more persons covered by this section, may not be required to pay a total of more than $10,000 for health care received during any fiscal year under a plan contracted for under section 1079(a) of this title.".

(c) Effective Date.—Paragraph (5) of section 1079(b) of title 10, United States Code, as added by subsection (a), and paragraph (4) of 10 USC 1079 note.

section 1086(b) of such title, as added by subsection (b), shall apply with respect to fiscal years beginning after September 30, 1987.

10 USC 1074 note.

SEC. 722. TWO-YEAR PROHIBITION ON FEE FOR OUTPATIENT CARE AT MILITARY MEDICAL TREATMENT FACILITIES

During fiscal years 1988 and 1989, the Secretary of Defense may not impose a fee for the receipt of outpatient medical or dental care at a military medical treatment facility.

SEC. 723. ALLOCATION TO HEALTH PROFESSIONS OF SPECIFIED PORTION OF NAVY OFFICER ACCESSIONS AND GROWTH IN END STRENGTHS

The Secretary of the Navy shall ensure that—

(1) not less than 25 percent of the number of original appointments made in officer grades in the Navy during each of fiscal years 1989 and 1990 shall be made in health profession specialties (or with a view to assignment of the officer to a health profession specialty); and

(2) not less than 15 percent of any increase in authorized end strength for the Navy for each of fiscal years 1989 and 1990 over the end strength of the Navy authorized for fiscal year 1988 shall be dedicated to personnel to be assigned to duty in the health professions.

SEC. 724. REVISED DEADLINES FOR THE USE OF DIAGNOSIS-RELATED GROUPS

Section 701(d)(4) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 10 U.S.C. 1101 note) is amended—

(1) in subparagraph (A), by striking out "after September 30, 1987" and inserting in lieu thereof "not later than October 1, 1988"; and

(2) in subparagraph (B), by striking out "after September 30, 1988" and inserting in lieu thereof "not later than October 1, 1989".

SEC. 725. FEDERAL PREEMPTION REGARDING CONTRACTS FOR MEDICAL AND DENTAL CARE

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 1103.

"§ 1103. Contracts for medical and dental care: State and local preemption

"(a) The provisions of any contract under this chapter which relate to the nature and extent of coverage of benefits (including payments with respect to benefits) shall preempt any law of a State or local government, or any regulation issued under such a law, which relates to health insurance or plans to the extent that such law or regulation is inconsistent with such contractual provisions.

"(b) In this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each territory and possession of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1103. Contracts for medical and dental care: State and local preemption.".

(b) APPLICABILITY.—Section 1103 of such title, as added by subsection (a), shall apply with respect to any contract entered into after October 1, 1987.

10 USC 1103 note.

SEC. 726. CHAMPUS COVERAGE FOR SUDDEN INFANT DEATH SYNDROME MONITORING EQUIPMENT

(a) CHAMPUS COVERAGE ALLOWED.—Section 1079(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (13);

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(15) electronic cardio-respiratory home monitoring equipment (apnea monitors) for home use may be provided if a physician prescribes and supervises the use of the monitor for an infant—

"(A) who has had an apparent life-threatening event,

"(B) who is a subsequent sibling of a victim of sudden infant death syndrome,

"(C) whose birth weight was 1,500 grams or less, or

"(D) who is a pre-term infant with pathologic apnea,

in which case the coverage may include the cost of the equipment, hard copy analysis of physiological alarms, professional visits, diagnostic testing, family training on how to respond to apparent life threatening events, and assistance necessary for proper use of the equipment.".

(b) EFFECTIVE DATE.—Paragraph (15) of section 1079(a) of such title, as added by subsection (a), shall apply with respect to costs incurred for home monitoring equipment after the date of the enactment of this Act.

10 USC 1079 note.

PART C—HEALTH CARE MANAGEMENT

SEC. 731. DEMONSTRATION PROJECT ON MANAGEMENT OF HEALTH CARE IN CATCHMENT AREAS AND OTHER DEMONSTRATION PROJECTS

10 USC 1092 note.

(a) DEMONSTRATION PROJECTS.—The Secretary of Defense shall conduct projects designed to demonstrate the alternative health care delivery system described in subsection (b). Each military department shall carry out at least one such project. The projects—

(1) shall begin during fiscal year 1988, if feasible, and continue for not less than two years;

(2) shall each include all covered beneficiaries within one catchment area of a medical facility of the uniformed services; and

(3) shall be designed, with respect to the number and location of demonstration sites and otherwise, to ensure that the results of such projects will likely be representative of the results of a nationwide implementation.

(b) ALTERNATIVE HEALTH CARE DELIVERY SYSTEM.—The alternative health care delivery system referred to in subsection (a) that the projects shall demonstrate is a system under which the commander of a medical facility of the uniformed services is responsible for all funding and all medical care of the covered beneficiaries in the catchment area of the facility. The commander may use any type of health care delivery system, for any scope of coverage, he considers appropriate.

(c) ADDITIONAL DEMONSTRATION PROJECTS REQUIRED.—(1) The Secretary of Defense also shall conduct the projects described in paragraph (2) for the purpose of demonstrating alternatives to providing health care under the military health care system. The demonstration projects shall be carried out in accordance with this subsection.

(2) The demonstration projects are as follows:

(A) The Tidewater mental health demonstration project (Solicitation No. MDA906-86-C-0001).

(B) The Fort Drum demonstration project.

(C) The civilian-run primary care clinics known as PRIMUS and NAVCARE.

(D) The New Orleans demonstration project, if a contract is awarded as a result of the solicitation issued in fiscal year 1987 (Solicitation No. MDA903-87-R-0047).

Contracts.
State and local governments.

(E) A fiscal intermediary demonstration project, to be implemented by amending one or more existing Department of Defense contracts with fiscal intermediaries in a State or region to require the intermediary to demonstrate a managed health care network with cost-containment initiatives, such as utilization review, pre-admission screening, second surgical opinions, contracting for care on a discounted basis, and other methods.

(F) Catchment area management demonstration projects described in subsection (a).

(G) A demonstration project for non-active duty beneficiaries in the catchment area of the Philadelphia Naval Hospital that demonstrates a managed health care network.

Reports.

(3) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that provides an outline and discussion of the manner in which the Secretary intends to structure and conduct each demonstration project required under this subsection.

Reports.

(4) The Secretary of Defense shall develop a methodology to be used in evaluating the results of the demonstration projects required under this subsection. The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on such methodology no later than 30 days after the development of the methodology is completed.

(5) Each project required under this subsection shall begin during fiscal year 1988 (or shall continue in the case of a project begun before fiscal year 1988).

(6) The Secretary of Defense shall evaluate the demonstration projects required under this subsection, using the methodology developed under paragraph (4), as alternatives to methods of providing health care under the military health care system.

(d) AUTHORITY.—For purposes of carrying out this section, the Secretary of Defense may delegate the authority given in sections 1079, 1086, 1092, 1097, 1098, and 1099 of title 10, United States Code.

(e) REPORTS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives—

(A) an interim report on each demonstration project described in this section after such project has been in effect for at least 12 months; and

(B) a final report on each such project when each project is completed.

(2) Each report shall include—

(1) a description of any results of the demonstration project;

(2) a comparison of the costs of providing health care under the system used in the demonstration project with the costs of providing health care under CHAMPUS and under other alternative health care delivery systems; and

(3) an analysis and evaluation of the benefits of incorporating the health care management techniques demonstrated by the project into the military health care system as it exists at the time of the report or into such health care system in conjunction with any other health care delivery systems which have been or are being studied under another demonstration project.

(f) Definitions.—In this section:

(1) The term "catchment area" means the area within approximately 40 miles of a medical facility of the uniformed services.

(2) The term "CHAMPUS" has the meaning given such term by section 1072(4) of title 10, United States Code.

(3) The term "covered beneficiary" means a beneficiary under chapter 55 of title 10, United States Code.

SEC. 732. ADDITIONAL REQUIREMENTS FOR CHAMPUS REFORM INITIATIVE

(a) Evaluation Methodology Required for Demonstration Phase of CHAMPUS Reform Initiative.—(1) Section 702(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3899) is amended by adding at the end the following new paragraph:

10 USC 1073 note.

Reports.

"(4) The Secretary of Defense shall develop a methodology to be used in evaluating the results of the demonstration project required by paragraph (1) and shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on such methodology.".

(2) Clause (i) of section 702(c)(1)(C) of such Act is amended by inserting before the semicolon the following: ", evaluated in accordance with the methodology developed under subsection (a)(4)".

(b) One Contract Per Contractor Allowed Under Solicitation for Demonstration Phase of CHAMPUS Reform Initiative.—No contractor may be awarded more than one contract for subregions I, II, and III under Solicitation No. MDA903-87-R-0047 (issued for the CHAMPUS reform initiative demonstration project required by section 702(a) of the National Defense Authorization Act for Fiscal Year 1987).

(c) Limitations on Issuance of Requests for Proposals.—Section 702(c) of the National Defense Authorization Act for Fiscal Year 1987 is amended by adding at the end the following new paragraph:

"(2) The Secretary may not issue a request for proposals with respect to the second (or any subsequent) phase of the CHAMPUS reform initiative until—

"(A) all principal features of the demonstration project, including networks of providers of health care, have been in operation for not less than one year; and

"(B) the expiration of 60 days after the date on which the report described in paragraph (1)(C) has been received by the committees referred to in such paragraph.".

(d) Report on Risk Assumption.—No later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on—

(1) the level of risk, as of the date of the report, to be assumed by contractors under the request for proposals for the CHAMPUS reform initiative demonstration project required by section 702(a) of the National Defense Authorization Act for Fiscal Year 1987; and

(2) whether any alteration in that level of risk has been made from the time that the original request for proposals was issued.

Contracts.
10 USC 1073 note.

(e) REQUIREMENT FOR AVAILABILITY OF ADDITIONAL INSURANCE COVERAGE.—(1) The Secretary of Defense shall make every effort to enter into an agreement, similar to the one being negotiated with a private insurer on the date of the enactment of this Act, that would provide an insurance plan that meets the requirements described in paragraph (3).

(2) If an agreement referred to in paragraph (1) is not entered into before a request for proposals with respect to the second phase of the CHAMPUS reform initiative is issued, the Secretary shall provide for an insurance plan which meets the requirements described in paragraph (3) through either of the following means:

(A) By including, in any request for proposals with respect to the second (and any subsequent) phase of the CHAMPUS reform initiative, a requirement for the contractor to offer an option to elect an insurance plan which meets the requirements described in paragraph (3).

(B) By including, in any request for proposals for a contract to process claims for CHAMPUS, a requirement for the contractor (known as a fiscal intermediary) to offer an option to elect an insurance plan which meets the requirements described in paragraph (3).

(3) The insurance plan requirements referred to in paragraphs (1) and (2) are the following:

(A) At the election of the individual, the plan shall be available to an individual losing eligibility (by reason of discharge, release from active duty, a change in family status (including divorce or annulment, or, in the case of a child, reaching age 22), or other similar reason) to be a covered beneficiary under chapter 55 of title 10, United States Code.

(B) The plan shall provide for coverage of benefits similar to the coverage of benefits available to the individual under CHAMPUS, regardless of any pre-existing condition.

(C) The plan shall provide that enrollees in the plan shall pay the full periodic charges for the benefit coverage.

Contracts.
10 USC 1073 note.

(f) FUNDING LIMITATIONS.—(1) None of the funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for the purpose of entering into a contract for the demonstration phase of the CHAMPUS reform initiative required by section 702(a)(1) of the National Defense Authorization Act for Fiscal Year 1987 until the requirements of section 702(a)(4) of such Act (as added by subsection (a)) are met.

(2) None of the funds appropriated or otherwise made available to the Department of Defense may be obligated or expended for the purpose of requesting a proposal for the second (or any subsequent) phase of the CHAMPUS reform initiative as described in section 702(c) of the National Defense Authorization Act for Fiscal Year 1987 until the requirements of paragraph (2) of section 702(c) of such Act (as added by subsection (c)) are met.

(g) CHAMPUS DEFINED.—In this section, the term "CHAMPUS" has the meaning given such term by section 1072(4) of title 10, United States Code.

10 USC 1073 note.

SEC. 733. MEDICAL INFORMATION SYSTEMS ACQUISITION AMENDMENTS

(a) TEST AND EVALUATION PHASE LIMITATIONS.—Subsection (a) of section 704 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3900) is amended to read as follows:

Contracts. Reports.

"(a) LIMITATION ON TEST AND EVALUATION PHASE OF COMPOSITE HEALTH CARE SYSTEM.—With respect to the acquisition of a Department of Defense medical information system for use in all military medical treatment facilities, the Secretary may not award any contract for the operational test and evaluation phase for the Composite Health Care System referred to in subsection (b) until—

"(1) the testing required by paragraphs (1) and (2) of that subsection is completed;

"(2) the Armed Services Committees receive—

"(A) the report submitted by the Secretary under subsection (b)(3); and

"(B) the report submitted by the Comptroller General under subsection (b)(4).".

(b) REPORTS ON TESTING.—Subsection (b) of such section is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) Not later than the end of the 30-day period beginning on the date that the testing required by paragraphs (1) and (2) is completed, the Secretary shall—

"(A) evaluate the competing medical information systems, based on the results of the testing; and

"(B) submit to the Armed Services Committees a report on such evaluation.

"(4) Not later than the end of the 30-day period beginning on the date that the Armed Services Committees receive the report submitted by the Secretary under paragraph (3), the Comptroller General shall submit to the Armed Services Committees a report describing—

"(A) the results of the testing required by paragraphs (1) and (2); and

"(B) the competitive acquisition process that the Secretary is following in selecting vendors for the operational test and evaluation phase of the Composite Health Care System.".

(c) VA COMPUTER PROGRAM AMENDMENTS.—(1) Subsection (c) of such section is amended by striking out "not later than October 1, 1987" and inserting in lieu thereof "on the same date as the date on which the operational test and evaluation phase of the Composite Health Care System described in subsection (d) is completed".

(2) Section 1203 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 718), is amended—

(A) in subsection (c), by striking out "that are available" and all that follows through "expected to be completed" and inserting in lieu thereof "that are available and delivered in a form suitable for testing on the date on which the Secretary approves and accepts the software for the operational test and evaluation phase of the Composite Health Care System"; and

(B) in subsection (e), by striking out ", and by the Secretary of each military department,".

(d) CONDUCT OF TEST AND EVALUATION PHASE.—Section 704 of the National Defense Authorization Act for Fiscal Year 1987 is further amended—

(1) by redesignating subsection (e) as subsection (h); and

(2) by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"(d) CONDUCT OF TEST AND EVALUATION PHASE OF COMPOSITE HEALTH CARE SYSTEM.—(1) The Secretary shall conduct the operational test and evaluation phase of the Composite Health Care System at no fewer than six sites.

"(2) Of the amounts authorized to be appropriated to the Department of Defense for fiscal years 1988 and 1989 by the National Defense Authorization Act for Fiscal Years 1988 and 1989, the amounts authorized to be appropriated to carry out such operational test and evaluation phase are $92,000,000 for fiscal year 1988 and $88,500,000 for fiscal year 1989.

"(e) REPORT BY SECRETARY.—After the operational test and evaluation phase referred to in subsection (d) is completed, the Secretary shall submit to the Armed Services Committees a report which—

"(1) analyzes the results of the operational test and evaluation phase;

"(2) analyzes the results of the Veterans' Administration demonstration project referred to in subsection (c);

"(3) analyzes the costs and benefits of the Composite Health Care System for Levels I, II, and IID in combination and for Level III on a module by module basis, based on operational experience at the sites at which the operational test and evaluation phase is carried out; and

"(4) contains a plan for full production of a medical information system for use in all military medical treatment facilities, based on an analysis of costs and benefits within any cost limitations that may be applicable to the program at the time the report is submitted.

"(f) REPORT BY COMPTROLLER GENERAL.—The Comptroller General shall monitor the conduct of the operational test and evaluation phase referred to in subsection (d) and related Composite Health Care System acquisition activities. Not later than the end of the 30-day period beginning on the date that the Armed Services Committees receive the report submitted by the Secretary under subsection (e), the Comptroller General shall submit to the Armed Services Committees a report evaluating—

"(1) the results of the operational test and evaluation phase; and

Contracts.

"(2) the competitive acquisition process the Secretary is following in awarding a contract for full production of a medical information system for use in all military medical treatment facilities.

"(g) LIMITATION ON AWARDING CONTRACT FOR FULL PRODUCTION OF MEDICAL INFORMATION SYSTEM.—The Secretary may not award a contract for full production of a medical information system for use in all military medical treatment facilities until—

"(1) the Armed Services Committees receive the report submitted by the Secretary under subsection (e); and

"(2) 30 days elapse after the Armed Services Committees receive the report submitted by the Comptroller General under subsection (f).".

(e) DEFINITIONS.—Subsection (h) of such section, as redesignated by subsection (d)(1), is amended by adding at the end the following:

"(5) The term 'Armed Services Committees' means the Committees on Armed Services of the Senate and the House of Representatives.".

SEC. 734. GAO REPORT ON PAYMENT OF CERTAIN MEDICAL EXPENSES

(a) REVIEW.—The Comptroller General shall review and evaluate the practices under various insurance plans with respect to payments to hospitals for charges for medical services in cases in which the hospital does not impose a legal obligation on patients to pay for such services. In the review, the Comptroller General shall—

(1) review the practices with respect to such payments of private sector insurance plans, including self-insured plans, as well as federally sponsored or funded programs, including Medicare, Medicaid, and the Federal Employees' Health Benefit Plan; and

(2) provide an assessment and comparison of the practices with respect to such payments under regulations of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), together with such recommendations for changing such practices as the Comptroller General considers appropriate and an estimate of the costs involved in carrying out such recommendations.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the review and evaluation required under subsection (a).

TITLE VIII—ACQUISITION POLICY

PART A—ACQUISITION PROCESS

SEC. 801. FUNCTIONS OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION

Section 138(d) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following:

"(2) The Director may not be assigned any responsibility for developmental test and evaluation, other than the provision of advice to officials responsible for such testing.".

SEC. 802. SURVIVABILITY AND LETHALITY TESTING OF MAJOR SYSTEMS

(a) INCLUSION OF SIGNIFICANT PRODUCT IMPROVEMENT PROGRAMS.—(1) Subsection (a) of section 2366 of title 10, United States Code, is amended—

(A) by inserting "(1)" after "REQUIREMENTS.—";

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(C) by adding at the end the following:

"(2) The Secretary of Defense shall provide that a covered product improvement program may not proceed beyond low-rate initial production until—

"(A) in the case of a product improvement to a covered system, realistic survivability testing is completed in accordance with this section; and

"(B) in the case of a product improvement to a major munitions program or a missile program, realistic lethality testing is completed in accordance with this section.

(2) Subsection (b)(1) of such section is amended—

(1) by inserting "(including a covered product improvement program)" after "system or program"; and

(2) by inserting "(or in the product modification or upgrade to the system, munition, or missile)" after "or missile".

(3) Subsection (c) of such section is amended by striking out "or missile program" and inserting in lieu thereof "missile program, or covered product improvement program".

(4) Subsection (e) of such section is amended—

(A) by inserting "(or a covered product improvement program for a covered system)" in paragraph (4) after "in the case of a covered system";

(B) by inserting "(or a covered product improvement program for such a program)" in paragraph (5) after "missile program"; and

(C) by adding at the end the following new paragraph:

"(8) The term 'covered product improvement program' means a program under which—

"(A) a modification or upgrade will be made to a covered system which (as determined by the Secretary of Defense) is likely to affect significantly the survivability of such system; or

"(B) a modification or upgrade will be made to a major munitions program or a missile program which (as determined by the Secretary of Defense) is likely to affect significantly the lethality of the munition or missile produced under the program.".

(b) USE OF CONTRACTOR PERSONNEL IN OPERATIONAL TEST AND EVALUATION.—Subsection (b)(2) of such section is amended by adding at the end the following new sentence: "The limitation in the preceding sentence does not apply to the extent that the Secretary of Defense plans for persons employed by that contractor to be involved in the operation, maintenance, and support of the system being tested when the system is deployed in combat.".

Reports.

(c) EXPLANATION FOR WAIVERS BY SECRETARY OF DEFENSE.—Subsection (c) of such section is amended by adding at the end the following new sentence: "The Secretary shall include with any such certification a report explaining how the Secretary plans to evaluate the survivability or the lethality of the system or program and assessing possible alternatives to realistic survivability testing of the system or program.".

(d) REPORTING TO CONGRESS.—Such section is further amended—

(1) by inserting "(1)" in subsection (c) before "The Secretary";

(2) by striking out "(d)" and all that follows through "In time of war" and inserting in lieu thereof "(2) In time of war"; and

(3) by inserting before subsection (e) the following new subsection (d):

"(d) REPORTING TO CONGRESS.—At the conclusion of survivability or lethality testing under subsection (a), the Secretary of Defense shall submit a report on the testing to the defense committees of Congress (as defined in section 2362(e)(3) of this title).".

(e) DEFINITION OF REALISTIC SURVIVABILITY TESTING.—Subsection (e)(4) of such section is amended—

(1) by striking out "and survivability"; and

(2) by striking out "operational requirements" and inserting in lieu thereof "susceptibility to attack".

SEC. 803. OVERSIGHT OF COST OR SCHEDULE VARIANCES IN CERTAIN MAJOR ACQUISITION PROGRAMS

(a) ENHANCED PROGRAM STABILITY.—Section 2435(b)(2) of title 10, United States Code, is amended by striking out "under paragraph (1)" and inserting in lieu thereof the following: "under paragraph (1), and for which the total cost of completion of the stage will exceed by 15 percent or more, in the case of a development stage, or by 5 percent or more, in the case of a production stage, the amount specified in the baseline description established under subsection (a) for such stage; or any milestone specified in such baseline description will be missed by more than 90 days".

(b) MILESTONE AUTHORIZATION.—Section 2437 of such title is amended by redesignating paragraph (1) as paragraph (1)(A) and by adding at the end of such paragraph the following new subparagraph:

"(B) Notwithstanding the Secretary's failure to designate a program to be considered for milestone authorization under subparagraph (A), the Committees on Armed Services of the Senate and the House of Representatives may consider such program to have been designated as a defense enterprise program under this section. If the Secretary of Defense is not otherwise required to submit a baseline description for the program, the Secretary shall submit such a baseline description upon the written request of either such Committee."

(c) DEFENSE ENTERPRISE PROGRAM.—Section 2436(d)(1) of such title is amended by inserting after "concerned" the following: "with the approval of the Under Secretary of Defense for Acquisition".

SEC. 804. TRUTH-IN-NEGOTIATIONS ACT AMENDMENTS

Contracts.

(a) DEFINITION OF COST OR PRICING DATA.—Subsection (g) of section 2306a of title 10, United States Code, is amended to read as follows:

"(g) COST OR PRICING DATA DEFINED.—In this section, the term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification), a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.".

(b) TECHNICAL AMENDMENTS.—(1) Subsection (a)(5) of such section is amended—

(A) by striking out the first sentence; and

(B) by striking out "such a waiver" and inserting in lieu thereof "a waiver under subsection (b)(2)".

(2) Subsection (e)(2) of such section is amended to read as follows:

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.".

10 USC 2306a note.

(c) EFFECTIVE DATES.—(1) Subsection (a) shall apply to any contract, or modification of a contract, entered into after the end of the 30-day period beginning on the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply with respect to contracts, or modifications of contracts, entered into after the end of the 120-day period beginning on October 18, 1986.

Contracts.

SEC. 805. ALLOWABLE COSTS NOT TO INCLUDE GOLDEN PARACHUTE PAYMENTS

(a) In General.—Section 2324(e)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(K) Costs incurred in making any payment (commonly known as a 'golden parachute payment') which is—

"(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.".

10 USC 2324 note.

(b) Effective Date.—Subparagraph (K) of section 2324(e)(1) of title 10, United States Code, as added by subsection (a), shall apply to any contract entered into after the end of the 120-day period beginning on the date of the enactment of this Act.

10 USC 2301 note.

SEC. 806. REQUIREMENT FOR SUBSTANTIAL PROGRESS ON MINORITY AND SMALL BUSINESS CONTRACT AWARDS

(a) Requirement for Substantial Progress.—The Secretary of Defense shall ensure that substantial progress is made in increasing awards of Department of Defense contracts to section 1207(a) entities.

(b) Regulations.—The Secretary shall carry out the requirement of subsection (a) through the issuance of regulations which provide for the following:

(1) Guidance to contracting officers for making advance payments to section 1207(a) entities under section 2307 of title 10, United States Code.

(2) Procedures or guidelines for contracting officers to—

(A) set goals which Department of Defense prime contractors that are required to submit subcontracting plans under section 8(d)(4)(B) of the Small Business Act (15 U.S.C. 637(d)(4)(B)) in furtherance of the Department's program to meet the 5 percent goal established under section 1207 of the National Defense Authorization Act for Fiscal Year 1987 should meet in awarding subcontracts, including subcontracts to minority-owned media, to section 1207(a) entities; and

(B) provide incentives for such prime contractors to increase subcontractor awards to section 1207(a) entities.

(3) A requirement that contracting officers emphasize the award of contracts to section 1207(a) entities in all industry categories, including those categories in which section 1207(a) entities have not traditionally dominated.

(4) Guidance to Department of Defense personnel on the relationship among the following programs:

(A) The program implementing section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973).

(B) The program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(C) The small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)).

(5) A requirement that a business which represents itself as a section 1207(a) entity and is seeking a Department of Defense contract maintain its status as such an entity at the time of contract award.

(6) With respect to a Department of Defense procurement which is reasonably likely to be set aside for section 1207(a) entities, a requirement that (to the maximum extent practicable) the procurement be designated as such a set-aside before the solicitation for the procurement is issued.

(7) Policies and procedures which, to the maximum extent practicable, will ensure that current levels in the number or dollar value of contracts awarded under the program established under section 8(a) of the Small Business Act and under the small business set-aside program established under section 15(a) of the Small Business Act are maintained and that every effort is made to provide new opportunities for contract awards to eligible entities, in order to meet the goal of section 1207 of the National Defense Authorization Act for Fiscal Year 1987.

(8) Implementation of section 1207 of the National Defense Authorization Act for Fiscal Year 1987 in a manner which will not alter the procurement process under the program established under section 8(a) of the Small Business Act.

(9) A requirement that one factor used in evaluating the performance of contracting officers be the ability of the officer to increase contract awards to section 1207(a) entities.

(10) Partial set-asides for section 1207(a) entities.

(11) Increased technical assistance to section 1207(a) entities.

(12) A prohibition of the award of a contract under section 1207 of the National Defense Authorization Act for Fiscal Year 1987 to a section 1207(a) entity unless the entity agrees to comply with the requirements of section 15(o)(1) of the Small Business Act.

(c) Definition of Section 1207(a) Entities.—For purposes of this section, the term "section 1207(a) entities" means the small business concerns, historically Black colleges and universities, and minority institutions described in section 1207(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973), as amended by subsection (d).

(d) Clarification of Coverage of Section 1207(a) Entities.—Section 1207(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973) is amended— 10 USC 2301 note.

(1) by striking out "or" at the end of paragraph (2) and inserting in lieu thereof "and";

(2) by striking out "(as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.))" in paragraph (3) and inserting in lieu thereof "(as defined in paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058))"; and

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", including any nonprofit research institution that was an integral part of a historically Black college or university before November 14, 1986.".

SEC. 807. AMENDMENTS TO PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) FUNDING.—(1) Of the amounts appropriated for operation and maintenance for the Defense Agencies, $7,000,000 is available for each of fiscal years 1988 and 1989 only for the purpose of carrying out cooperative agreements entered into by the Secretary of Defense under chapter 142 of title 10, United States Code, to furnish procurement technical assistance to business entities.

(2) Of the amount provided under paragraph (1) for fiscal year 1988, $500,000 shall be available only for the purpose of carrying out programs sponsored by eligible entities defined in subparagraph (D) of section 2411(1) of title 10, United States Code (as amended by subsection (b)), that provide procurement technical assistance in distressed areas as defined in subparagraph (B) of section 2411(2) of such title (as amended by subsection (b)). If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow effective use of the funds authorized under this paragraph in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415(c) of such title.

(b) AMENDMENTS TO DEFINITIONS OF ELIGIBLE ENTITY AND DISTRESSED AREA.—(1) Paragraph (1) of section 2411 of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(D) A tribal organization, as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (Public Law 93-638; 25 U.S.C. 450(c)), or an economic enterprise, as defined in section 3(e) of the Indian Financing Act of 1974 (Public Law 93-262; 25 U.S.C. 1452(e)).".

(2) Paragraph (2) of such section is amended—

(A) by striking out "means" and inserting in lieu thereof "means—";

(B) by designating the text beginning with "the area of a unit" as subparagraph (A) and indenting such text two additional ems;

(C) by redesignating subparagraphs (A) and (B) in such text as clauses (i) and (ii) and indenting such clauses (as redesignated) two additional ems;

(D) by striking out the period at the end of such subparagraph (A) (as redesignated) and inserting in lieu thereof "; or"; and

(E) by adding at the end the following new subparagraph:

"(B) a reservation, as defined in section 3(d) of the Indian Financing Act of 1974 (Public Law 93-262; 25 U.S.C. 1452(d)).".

(c) TECHNICAL REVISION OF FUND DISTRIBUTION METHOD.—Section 2415 of title 10, United States Code, is amended—

(1) by striking out subsections (a) and (b); and

(2) by striking out "(c) For any amount" and all that follows through "$3,000,000, the" and inserting in lieu thereof "The".

Contracts.

SEC. 808. RIGHTS IN TECHNICAL DATA

(a) IN GENERAL.—(1) Section 2320(a) of title 10, United States Code, is amended by adding at the end of paragraph (1) the following: "Such regulations also may not impair the right of a contractor or subcontractor to receive from a third party a fee or royalty for the use of technical data pertaining to an item or process developed exclusively at private expense by the contractor or subcontractor, except as otherwise specifically provided by law.".

(2) Paragraph (2)(E) of such section is amended—

(A) by striking out "agreed upon" and inserting in lieu thereof "established";

(B) by striking out the comma after "negotiations)" and inserting in lieu thereof the following: "and shall be based upon negotiations between the United States and the contractor, except in any case in which the Secretary of Defense determines, on the basis of criteria established in the regulations, that negotiations would not be practicable. The establishment of such rights shall be"; and

(C) by adding at the end the following new clause:

"(iv) Such other factors as the Secretary of Defense may prescribe.".

(3) Paragraph (2)(F) of such section is amended to read as follows:

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract—

"(i) to sell or otherwise relinquish to the United States any rights in technical data except—

"(I) rights in technical data described in subparagraph (C); or

"(II) under the conditions described in subparagraph (D); or

"(ii) to refrain from offering to use, or from using, an item or process to which the contractor is entitled to restrict rights in data under subparagraph (B).".

(4) Paragraph (2)(G) of such section is amended—

(A) in clause (i)—

(i) by striking out "pertaining" and all that follows through "private expense" and inserting in lieu thereof "not otherwise provided under subparagraph (C) or (D),"; and

(ii) by striking out "or" at the end of such clause;

(B) in clause (ii)—

(i) by striking out "such regulations" and inserting in lieu thereof "this section"; and

(ii) by striking out the period at the end and inserting in lieu thereof "; or"; and

(C) by adding at the end of such paragraph the following new clause:

"(iii) permit a contractor or subcontractor to license directly to a third party the use of technical data which the contractor is otherwise allowed to restrict, if necessary to develop alternative sources of supply and manufacture.".

(5) Paragraph (3) of such section is amended—

(A) by striking out "and 'private expense' " and inserting in lieu thereof ", 'exclusively with Federal funds', and 'exclusively at private expense' "; and

(B) by adding at the end the following: "In defining such terms, the Secretary shall specify the manner in which indirect costs shall be treated and shall specify that amounts spent for independent research and development and bid and proposal costs shall not be considered to be Federal funds for the purposes of definitions under this paragraph.".

(b) CONDUCT OF NEGOTIATIONS.—Section 2320(c) of such title is amended—

(1) by striking out "from" and inserting in lieu thereof "from—";

(2) by designating the text beginning with "prescribing standards" as paragraph (1) and indenting such text two ems;

(3) by striking out the period at the end of such paragraph and inserting in lieu thereof "; or"; and

(4) by adding at the end the following new paragraph:

"(2) prescribing reasonable and flexible guidelines, including negotiation objectives, for the conduct of negotiations regarding the respective rights in technical data of the United States and the contractor.".

10 USC 2320 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) the last day of the 120-day period beginning on the date of the enactment of this Act; or

(2) the date on which regulations are prescribed and made effective to implement such amendments.

SEC. 809. SMALL BUSINESS SET-ASIDE PROGRAM AMENDMENTS

(a) SMALL BUSINESS SMALL PURCHASE RESERVE EXCLUDED FROM ANNUAL GOALS.—(1) Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by inserting "having a value of $25,000 or more" after "procurement contracts of such agency" in the first sentence. Such amendment shall be in effect until September 30, 1988.

(2) Such section is amended, effective October 1, 1988, by striking out "having a value of $25,000 or more" after "procurement contracts of such agency".

(b) SUBCONTRACTING LIMITATIONS.—(1) Section 15(o) of the Small Business Act (15 U.S.C. 644(o)) is amended by striking out "this subsection" and inserting in lieu thereof "subsection (a)".

(c) REPEAL.—Section 15(p) of the Small Business Act (15 U.S.C. 644(p)) is repealed.

15 USC 632 note.

Regulations. Federal Register, publication.

(d) INITIAL REVIEW OF SIZE STANDARDS.—Paragraph (3) of section 921(h) of the Defense Acquisition Improvement Act of 1986 (as contained in title IX of Public Law 99-661) is amended by striking out the second and third sentences and inserting in lieu thereof the following: "The Administrator shall publish proposed regulations, including any revised size standards, in the Federal Register by November 30, 1987, or the date of enactment of the National Defense Authorization Act for Fiscal Years 1988 and 1989, whichever is later. The proposed regulations shall provide not less than 60 days for public comment. The Administrator shall issue final regulations not later than May 31, 1988.".

SEC. 810. CONTRACT TERMS AND CONDITIONS RELATING TO CONTRACTOR COSTS FOR PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TEST EQUIPMENT

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2329.

"§ 2329. Production special tooling and production special test equipment: contract terms and conditions

"(a) REGULATIONS.—The Secretary of Defense (acting through the Under Secretary of Defense for Acquisition) shall prescribe regulations providing for payment to contractors for production special tooling and production special test equipment acquired or fabricated in the performance of contracts described in subsection (b). Such regulations shall establish a uniform policy for the Department of Defense.

"(b) CONTRACTS TO WHICH REGULATIONS APPLY.—(1) Except as provided in paragraph (2), regulations under this section shall apply in the case of any contract for production of an item that is awarded by the Secretary of a military department and under which the contractor, in order to perform the contract, is required to acquire or fabricate items of production special tooling or items of production special test equipment.

"(2) Such regulation shall not apply to a contract in which the cost to the contractor of the special production tooling and special production test equipment used in the performance of the contract is less than $1,000,000.

"(c) REQUIREMENTS.—Regulations under subsection (a) shall include the following:

Regulations.

"(1) A requirement that the terms and conditions for the acquisition or fabrication of production special test equipment and production special tooling by a contractor under a contract described in subsection (b) (including specification of the maximum amount for which the contractor may be paid for such tooling and equipment)—

"(A) shall be specified in the contract, and

"(B) shall be determined by the Secretary concerned and the contractor through negotiations.

"(2) A requirement that if the Secretary concerned, at the time a contract described in subsection (b) is entered into, reasonably anticipates that the United States will later contract with the same contractor for the same or similar items for which the contractor would be able to use the special production tooling or special production test equipment that the contractor was required to acquire or fabricate for performance of the contract, and if that tooling and equipment will not be used by the contractor solely for final production acceptance testing under the contract, the contractor—

"(A) shall be paid for such tooling and equipment in accordance with the terms and conditions of the contract, but in a total amount not less than a percentage (determined under paragraph (3)) of the maximum amount for such payment agreed to under paragraph (1); and

"(B) shall be paid for the balance of such amount subject to the availability of appropriations and in accordance with an amortization schedule determined by the Secretary concerned and the contractor through negotiations.

"(3) The percentage to be used under paragraph (2)(A) shall be specified in the contract based upon negotiations between the Secretary concerned and the contractor and may not be less than 50 percent, except that a lower percentage may be specified in the case of any contract if the Secretary concerned, before the contract is entered into, approves the use of that lower percentage with respect to that contract. Any such approval by the Secretary concerned shall be made under criteria established by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition.

"(4) A requirement that a contract described in subsection (b) include provisions, determined on the basis of negotiations between the Secretary concerned and the contractor, which ensure that if the contract, or the program with respect to which such contract is awarded, is terminated before the maximum amount specified under paragraph (1) has been paid to the contractor, and the termination is not for a reason that reflects a failure of the contractor to perform the contract, the Secretary concerned, subject to the availability of appropriations, shall pay the contractor the balance of such maximum amount in accordance with the terms and conditions of the contract.

"(5) A requirement that, except as provided in paragraph (2), a contractor under a contract described in subsection (b) shall be paid for the special production tooling or special production test equipment that the contractor was required to acquire or fabricate for performance under the contract in the maximum amount provided in the contract and in accordance with the terms and conditions of the contract.

"(d) Costs incurred by a contractor under a contract described in subsection (b) for the acquisition and fabrication of production special tooling and production special test equipment for which reimbursement is made under this section shall be considered to be direct costs incurred by the contractor.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2329. Production special tooling and production special test equipment: contract terms and conditions.".

10 USC 2329 note.

(b) Effective Date.—Section 2329 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into pursuant to solicitations issued after the end of the 120-day period beginning on the date of the enactment of this Act.

Part B—Other Acquisition Matters

SEC. 821. CONFLICT OF INTEREST IN DEFENSE PROCUREMENT

Section 2397b(a)(1)(C) of title 10, United States Code, is amended by striking out "acted as a primary representative" and inserting in lieu thereof "acted as one of the primary representatives".

SEC. 822. RESTATEMENT AND MODIFICATION OF RESTRICTIONS ON RETIRED MILITARY OFFICERS REGARDING CERTAIN MATTERS AFFECTING THE GOVERNMENT

(a) Repeal of Prior Law.—Sections 281 and 283 of title 18, United States Code, to the extent that such sections were not repealed by section 2 of Public Law 87-849 (76 Stat. 1126; approved October 23, 1962), are repealed.

(b) Restatement and Modification of Law.—(1) Chapter 15 of title 18, United States Code, is amended by inserting after the table of sections the following new section:

Law enforcement and crime. 18 USC 281.

"§ 281. Restrictions on retired military officers regarding certain matters affecting the Government

"(a)(1) A retired officer of the Armed Forces who, while not on active duty and within two years after release from active duty, directly or indirectly receives (or agrees to receive) any compensation for representation of any person in the sale of anything to the

United States through the military department in which the officer is retired (in the case of an officer of the Army, Navy, Air Force, or Marine Corps) or through the Department of Transportation (in the case of an officer of the Coast Guard) shall be fined under this title or imprisoned not more than two years, or both.

"(2) Any person convicted under paragraph (1) shall be incapable of holding any office of honor, trust, or profit under the United States.

"(b) A retired officer of the Armed Forces who, while not on active duty and within two years after release from active duty, acts as agent or attorney for prosecuting or assisting in the prosecution of any claim against the United States—

"(1) involving the military department in which the officer is retired (in the case of an officer of the Army, Navy, Air Force, or Marine Corps) or the Department of Transportation (in the case of an officer of the Coast Guard); or

"(2) involving any subject matter with which the officer was directly connected while in an active-duty status;

shall be fined under this title or imprisoned not more than one year, or both.

"(c) This section does not apply—

District of Columbia.

"(1) to any person because of the person's membership in the National Guard of the District of Columbia; or

"(2) to any person specifically excepted by law.".

(2) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 281 through 284 and inserting in lieu thereof the following new item:

"281. Restrictions on retired military officers regarding certain matters affecting the Government.".

Contracts.

SEC. 823. RESTRICTION ON PURCHASE OF FOREIGN-MADE ADMINISTRATIVE MOTOR VEHICLES

(a) VEHICLES FOR USE INSIDE THE UNITED STATES.—Neither the Secretary of Defense nor the Secretary of a military department may enter into a contract during the period beginning on the date of the enactment of this Act and ending on September 30, 1989, for the procurement of administrative motor vehicles that are manufactured in a country other than the United States or Canada and are for use inside the United States unless the type of motor vehicle proposed to be procured is not available in sufficient and reasonably available quantities and satisfactory quality from a manufacturer in the United States or Canada.

(b) VEHICLES FOR USE OVERSEAS.—(1) Neither the Secretary of Defense nor the Secretary of a military department may enter into a contract during the period beginning on the date of the enactment of this Act and ending on September 30, 1989, for the procurement of administrative motor vehicles that are manufactured in a country other than the United States or Canada and are for use outside the United States (other than motor vehicles intended for use in security, intelligence, and criminal investigative operations) unless firms which manufacture similar vehicles in the United States or Canada are afforded a fair opportunity to compete for the contract.

(2) In awarding any contract subject to paragraph (1), the Secretary of Defense or the Secretary of the military department concerned may take into consideration the cost and availability of maintenance and other logistic services and supplies required for the operation of such vehicles.

(c) EXCEPTIONS.—This section shall not apply to the procurement of administrative motor vehicles in the case of a contract—

(1) for an amount less than $50,000; or

(2) that is specifically authorized by law.

(d) APPLICABILITY.—(1) Except as provided in paragraph (2)(B), subsection (b) shall not apply in the case of a contract authorized or required to be entered into as provided under the terms of a country-to-country agreement for the support of United States Armed Forces in Europe if the agreement is in existence on the date of the enactment of this Act.

(2)(A) After the date of the enactment of this Act, the Secretary of Defense may not enter into a country-to-country agreement for the support of United States Armed Forces in Europe that is inconsistent with the limitations on the procurement of administrative motor vehicles under this section applicable during the period beginning on the date of the enactment of this Act and ending on September 30, 1989.

(B) If an agreement described in paragraph (1) is renewed or extended after the date of the enactment of this Act, the Secretary shall ensure that such agreement, as renewed or extended, is not inconsistent with the limitations on the procurement of administrative motor vehicles under this section applicable during the period beginning on the date of the enactment of this Act and ending on September 30, 1989.

SEC. 824. PROCUREMENT OF MANUAL TYPEWRITERS FROM WARSAW PACT COUNTRIES

(a) MOST-FAVORED-NATION COUNTRIES.—Section 2400 of title 10, United States Code, as amended by section 124, is amended by adding at the end the following:

"(c) MANUAL TYPEWRITERS FROM WARSAW PACT COUNTRIES.—Funds appropriated to or for the use of the Department of Defense may not be used for the procurement of manual typewriters which contain one or more components manufactured in a country which is a member of the Warsaw Pact unless the products of that country are accorded nondiscriminatory treatment (most-favored-nation treatment).".

(b) CONFORMING REPEAL.—Section 1262 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 703), is repealed.

SEC. 825. SENSE OF CONGRESS ON PREPARATION OF CERTAIN ECONOMIC IMPACT AND EMPLOYMENT INFORMATION CONCERNING NEW ACQUISITION PROGRAMS

10 USC 2432 note.

It is the sense of Congress that the Secretary of Defense should not, before an acquisition program is approved to proceed into full-scale development, prepare any material, report, list, or analysis with respect to economic benefits or the employment impact of that program in a particular State or congressional district.

Union of Soviet Socialist Republics.

TITLE IX—MATTERS RELATING TO ARMS CONTROL

SEC. 901. MISSILE TECHNOLOGY CONTROL REGIME

(a) FINDINGS.—The Congress finds that—

(1) the proliferation of nuclear weapons and of missiles capable of the delivery of nuclear weapons is a threat to international peace and security;

(2) in the early 1980's, the danger of the proliferation of such weapons and missiles was formally recognized in discussions among the governments of the United States, Canada, France, the Federal Republic of Germany, Italy, Japan, and the United Kingdom; and

(3) these seven governments, after four years of negotiations, on April 7, 1987, concluded an agreement known as the Missile Technology Control Regime, for the purpose of limiting the proliferation of missiles capable of the delivery of nuclear weapons (and hardware and technology related to such missiles) throughout the world.

International agreements.

(b) EXPRESSIONS OF CONGRESS.—The Congress—

(1) expresses its firm support for the Missile Technology Control Regime as a means of enhancing international peace and security;

(2) expresses its strong hope that all nations of the world will adhere to the Guidelines of the Missile Technology Control Regime; and

(3) expresses its expectation that all relevant agencies of the United States Government will ensure the fully effective implementation of this regime.

(c) REPORT ON MANPOWER REQUIRED TO IMPLEMENT THE MISSILE TECHNOLOGY CONTROL REGIME.—(1) Not later than February 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) identifying the functional responsibilities of the Department of Defense for implementing the Missile Technology Control Regime;

(B) describing the number and skills of personnel currently available in the Department of Defense to perform these functions; and

(C) assessing the adequacy of these resources for the effective performance of these responsibilities.

(2) The report required by paragraph (1) shall identify the total number of current Department of Defense full-time employees or military personnel and the grades of such personnel and the special knowledge, experience, and expertise of such personnel, required to carry out each of the following responsibilities of the Department under the regime:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Enforcement and technology security operations.

(F) Technical review.

(3) The report shall include the Secretary's assessment of the adequacy of staffing in each of the categories specified in subparagraphs (A) through (F) of paragraph (2) and shall make recommendations concerning measures, including legislation if necessary, to eliminate any identified staffing deficiencies and to improve interagency coordination with respect to the regime.

SEC. 902. SENSE OF CONGRESS ON THE KRASNOYARSK RADAR

(a) FINDINGS.—The Congress finds the following:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party to the Treaty from deploying ballistic missile early warning

International agreements.

radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party to the Treaty from deploying an anti-ballistic missile system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the 1972 Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead, faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missile early warning radar network.

(7) The President has certified that the Krasnoyarsk radar is an unequivocal violation of the 1972 Anti-Ballistic Missile Treaty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Soviet Union is in violation of its legal obligation under the 1972 Anti-Ballistic Missile Treaty.

International agreements.

SEC. 903. REPORT ON COMPLIANCE BY THE SOVIET UNION WITH THRESHOLD TEST BAN TREATY

President of U.S.

(a) IN GENERAL.—The President shall submit to Congress, not later than 30 days after the date of the enactment of this Act, a report discussing the use of the current official United States method of estimating the yield of Soviet underground nuclear tests to determine the extent to which the Soviet Union is complying with the 150 kiloton limit on underground nuclear tests contained in the Threshold Test Ban Treaty.

(b) FORM AND CONTENT OF REPORT.—The report shall be submitted in both classified form and (if possible) unclassified form and shall include the following matters:

(1) A discussion of whether past assessments made by the United States of the extent of Soviet compliance with the 150 kiloton limit contained in the Threshold Test Ban Treaty would have been different if the United States, in making those assessments, had used the current official United States method of estimating the yield of underground nuclear tests conducted by the Soviet Union.

(2) The number of nuclear tests conducted by the Soviet Union after March 31, 1976, that have a central value exceeding 150 kilotons yield (estimated on the basis of the current official method used by the United States in estimating underground nuclear test yields), the central value of those tests (estimated on such basis), and the dates on which those tests were conducted.

(3) The number, dates, and estimated central values of tests, if any, conducted by the United States after March 31, 1976,

which, if measured on the basis of the current official method used by the United States in estimating Soviet underground nuclear test yields (taking into account the differences between the United States and Soviet test sites), would have an indicated central value exceeding 150 kilotons yield.

(4) The number of tests conducted by the United States after March 31, 1976, if any, which actually had yields exceeding 150 kilotons, the estimated central value of each such test, and the date on which each such test was conducted.

(5) A description of all nuclear testing activities of the Soviet Union which the President has found to be likely violations of the legal obligations under the Threshold Test Ban Treaty, the dates on which those activities took place, and the specific legal obligations under the Threshold Test Ban Treaty likely to have been violated by the Soviet Union in conducting such activities.

(6) A discussion of whether and, if so, the extent to which, the President, in arriving at his finding that several nuclear tests conducted by the Soviet Union constituted a likely violation of legal obligations under the Threshold Test Ban Treaty, considered the mutual agreement contained in the Threshold Test Ban Treaty which permits one or two minor, unintended breaches of the 150 kiloton limit per year to be considered nonviolations of the Treaty.

(7) A detailed comparison of the current official method used by the United States Government in estimating Soviet underground nuclear test yields with the method replaced by the current method, and the date on which the current official method was adopted by the United States.

SEC. 904. CONGRESSIONAL FINDINGS AND DECLARATIONS CONCERNING ARMS CONTROL NEGOTIATIONS

(a) Congressional Findings.—The Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in negotiations to conclude a treaty on intermediate-range nuclear forces (INF) and are continuing serious negotiations on other issues of vital importance to the national security of the United States.

(2) The current negotiations, which reflect delicate compromises on both sides, are a culmination of years of detailed and complex negotiations in which the negotiators for the United States have been pursuing a policy consistently advocated by the past two Presidents regarding nuclear arms control in the European theater.

President of U.S.

(3) While recognizing fully that the President, under clause 2, section 2, article II of the Constitution, has the power, by and with the advice and consent of the Senate, to make treaties, the Congress also recognizes the special responsibility conferred by the Founding Fathers on the Senate in requiring that it give its advice and consent before a treaty may be ratified by the United States and that in carrying out this responsibility the Senate is accountable to the people of the United States and has a duty to ensure that no treaty is ratified which would be detrimental to the welfare and security of the United States.

Arms Control Observer Group, establishment.

(4) In recognition of this responsibility, the Senate has established a special continuing oversight body, the Arms Control Observer Group, which over the last two and one-half years has

functioned to provide advice and counsel to the President and his negotiators, when appropriate, on a continuing basis during the course of the negotiations to achieve an INF treaty.

President of U.S.

(5) The Senate and the President both have a role under the Constitution in the making of treaties and Congress as a whole has a role under the Constitution in the regulating of expenditures, including expenditures for weapons systems that may be the subject of treaty negotiations.

(b) CONGRESSIONAL DECLARATIONS.—In light of the findings in subsection (a), Congress—

(1) fully supports the efforts of the President to negotiate stabilizing, equitable, and verifiable arms reduction treaties with the Soviet Union;

(2) endorses the principle of mutuality and reciprocity in arms control negotiations with the Soviet Union and cautions that neither the Congress nor the President should take actions which are unilateral concessions to the Soviet Union; and

(3) urges the President to take care that no provision is agreed to in those negotiations that would be harmful to the security of the United States or its allies and friends.

(c) DECLARATION OF THE SENATE.—The Senate declares that it will reserve judgment regarding the approval of any arms control treaty until it has conducted a thorough examination of the provisions of the treaty and has assured itself that those provisions—

(1) are effectively verifiable; and

(2) serve to enhance the strength and security of the United States and its allies and friends.

SEC. 905. REPORT ON MILITARY CONSEQUENCES OF THE ELIMINATION OF BALLISTIC MISSILES

(a) REPORT REQUIREMENT.—Not later than 30 days after the date of the enactment of this Act, the Chairman of the Joint Chiefs of Staff shall submit to the Committees on Armed Services of the Senate and House of Representatives a report examining the military consequences of any arms control agreement between the United States and the Soviet Union that would provide for the elimination of all strategic ballistic missiles of the United States and the Soviet Union.

(b) MATTERS TO BE DISCUSSED.—Such report shall be submitted in both classified and unclassified form and shall include a discussion of the strategic, budgetary, and force structure implications of an agreement described in subsection (a) for—

(1) conventional defenses of the United States and its allies in Europe, the Far East, and other regions vital to the national security of the United States;

(2) tactical nuclear deterrence by the United States in those regions;

(3) strategic offensive retaliatory systems of the United States that would not be affected by such an agreement, including bomber forces and cruise missiles;

(4) air defenses of the United States needed to counter bomber forces and cruise missiles of the Soviet Union;

(5) Strategic Defense Initiative programs designed to provide possible defenses against strategic ballistic missiles; and

(6) any new programs which the Chairman of the Joint Chiefs of Staff may consider necessary in order for the United States to protect its national security interests in light of the relative

advantage conferred by such an agreement on other nations possessing nuclear weapons whose strategic ballistic missile forces would not be affected by the agreement.

SEC. 906. REPORT ON IMPLICATIONS OF CERTAIN ARMS CONTROL POSITIONS

Not later than June 30, 1988, the Secretary of Defense shall submit to Congress a report, in both classified and unclassified versions, containing the following:

(1) A description of the quantitative and qualitative implications for the strategic modernization program of the United States of the publicly-announced position of the United States at the Strategic Arms Reduction Talks in Geneva, giving special, but not exclusive, attention to the implications of such position for the Trident SSBN program, the rail-garrison Peacekeeper program, and the small intercontinental ballistic missile ("Midgetman") program.

(2) A description of the advantages and drawbacks of following the recommendations made in 1983 in the report of the President's Commission on Strategic Forces with regard to research on smaller ballistic-missile carrying submarines, each carrying fewer missiles than the Trident, as a potential follow-on to the Trident submarine force.

(3) The recommendations of the Secretary of Defense with regard to paragraphs (1) and (2) on United States force modernization policy and arms control policy.

SEC. 907. SUPPORT FOR NUCLEAR RISK REDUCTION CENTERS

International agreements.

(a) Congress applauds the recent signing of an agreement between the United States and the Soviet Union on the establishment of nuclear risk reduction centers. Congress regards this agreement as an important and practical first step in reducing the threat of nuclear war due to accident, misinterpretation, or miscalculation. Congress notes that the agreement calls for centers to be established in each nation's respective capital for the routine exchange of information and advanced notification of nuclear and missile testing.

(b) It is the hope of Congress that this first step in nuclear risk reduction will increase the confidence and mutual trust of both parties to the agreement and lead to an expansion in functions to reduce further the chances of accidental war. Such functions may include joint discussions on crisis prevention and the development of strategies to deal with incidents or threats of nuclear terrorism, nuclear proliferation, or other mutually agreed upon issues of concern in reducing nuclear risk.

TITLE X—MATTERS RELATING TO NATO COUNTRIES AND OTHER ALLIES

PART A—NATO DETERRENCE

SEC. 1001. REPORT ON REQUIREMENTS FOR MAINTAINING NATO'S STRATEGY OF DETERRENCE

(a) REQUIREMENT.—The Secretary of Defense shall submit to Congress a report regarding the ability of the North Atlantic Treaty Organization (NATO) to maintain its strategy of deterrence through the 1990s. The report shall include a specific discussion of the implications for such deterrence if the United States and the Soviet Union agree to a treaty which requires the elimination of all intermediate-range nuclear force (INF) missiles having a range between 500 and 5,500 kilometers. The report shall be prepared in consultation with the Supreme Allied Commander, Europe, and the Chairman of the Joint Chiefs of Staff.

(b) Form and Content of Report.—The Secretary shall submit the report required by subsection (a) in both classified and unclassified forms and shall include in the report the following:

(1) A discussion of the effect that the elimination under an INF treaty of intermediate range missiles deployed by the United States and the Soviet Union would likely have on the ability of NATO to maintain an effective flexible response strategy and credible deterrence.

(2) The appropriate numbers and types of nuclear weapons and nuclear-capable delivery systems of the United States not limited by the proposed INF treaty which the Secretary of Defense recommends for deployment in or redeployment to the European theater if an INF treaty is ratified and enters into force, including a description of any nuclear modernization program the Secretary has recommended or proposes to recommend as necessary to ensure that NATO will be able to maintain a credible and effective military strategy.

(3) A discussion of the balance between the nonnuclear forces of NATO and the Warsaw Pact in the European theater, the likelihood of NATO making significant improvements in that balance over the next few years, the potential effect of conventional force balance alternatives currently under consideration by the United States Government, and the likelihood and potential effect of a new agreement between NATO and the Warsaw Pact limiting nonnuclear forces on that balance.

(4) A discussion of the feasibility and cost effectiveness of substituting advanced conventional munitions for nuclear weapons currently deployed by NATO, including a discussion of the costs of such weapons and prospects for sharing such costs among NATO allies.

(5) A description of nonnuclear forces that would be needed to support the operational concept of Follow-on Forces Attack (FOFA).

(6) The status of improvements being made in the air defenses of NATO in Europe.

(7) A discussion of the views of the leaders of member nations of NATO (other than the United States) and of the Supreme Allied Commander, Europe (SACEUR), on the matters described in paragraphs (1) through (5).

(c) Deadline of Report.—The report required by subsection (a) shall be submitted not later than the earlier of—

(1) 90 days after the date of the enactment of this Act; or

(2) the date on which the President submits to the Senate for its advice and consent a treaty described in subsection (a).

SEC. 1002. SENSE OF CONGRESS ON LEVEL OF UNITED STATES FORCES PERMANENTLY STATIONED IN EUROPE IN SUPPORT OF NATO

(a) Findings.—The Congress makes the following findings with respect to the level of United States military forces permanently stationed in Europe:

(1) The agreement in principle between the United States and the Soviet Union to eliminate all intermediate-range nuclear missiles has important implications for the defense posture of the North Atlantic Treaty Organization alliance.

(2) The presence of United States forces in Europe constitutes the most visible and meaningful evidence of the continuing strong commitment of the United States to the integrity of the alliance.

(3) NATO Defense Ministers stated in May 1987 that the "continued presence of United States forces at existing levels in Europe plays an irreplaceable role in the defense of North America as well as Europe".

(b) SENSE OF CONGRESS.—(1) In light of the findings in subsection (a), it is the sense of Congress that—

(A) the stationing in Europe of United States military forces in support of NATO at the level of military personnel permanently stationed in Europe in support of NATO on the date of the enactment of this Act plays an indispensable role for peace and deterrence; and

(B) the commitment of United States forces should be continued at that level (assuming all existing basing agreements remain in effect).

(2) It is further the sense of Congress that it would not be inconsistent with the sense of Congress expressed in paragraph (1) if the actual number of United States military personnel permanently stationed in Europe in support of NATO at any time falls below the level of such personnel on the date of the enactment of this Act because of administrative fluctuations or if such level is reduced following a determination by the President that national security considerations require such a reduction.

SEC. 1003. STUDY OF FUTURE OF NATO

The Secretary of Defense shall contribute, from funds appropriated for fiscal year 1988 for operation and maintenance of Defense Agencies, the amount of $50,000 to the North Atlantic Assembly for a study on the future of the North Atlantic Treaty Organization.

PART B—BURDEN SHARING

SEC. 1011. STUDY OF DEFENSE EXPENDITURES IN JAPAN

Far East.

(a) IN GENERAL.—The Secretary of Defense shall conduct a study of the ways in which the United States may further its national security interests in the Far East.

(b) REPORT.—Within 90 days after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on such study. The report shall contain—

(1) the plans of the Department of Defense in the current five-year defense plan for defense expenditures for each fiscal year covered by the plan to be made in support of United States security interests in the Far East and, of such planned expenditures in each such fiscal year, how much is attributable to projected increases in defense outlays for that fiscal year;

(2) the projections for national defense expenditures by Japan for each such fiscal year;

(3) the projections for national defense expenditures by the United States directly in support of United States forces, facili-

ties, and equipment stationed or located in Japan for each such fiscal year; and

(4) the projections for national defense expenditures by Japan directly in support of United States forces stationed in Japan for each such fiscal year.

SEC. 1012. SENSE OF CONGRESS REGARDING JAPAN'S CONTRIBUTIONS TO GLOBAL STABILITY

(a) Findings.—The Congress makes the following findings:

(1) The alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributing factor to the democratic freedoms and economic prosperity enjoyed by both the United States and Japan.

(2) Threats to the security of both the United States and Japan have increased significantly since 1976, principally as the result of—

Afghanistan.
Union of Soviet Socialist Republics.
South Pacific.
Cambodia.
Vietnam.
Persian Gulf.

(A) the occupation of Afghanistan by the Soviet Union;

(B) the continued expansion and buildup of military forces of the Soviet Union (particularly the expansionist efforts by the Soviet Union in the South Pacific and the buildup of the Soviet Pacific fleet);

(C) the occupation of Cambodia by Vietnam; and

(D) instability in the Persian Gulf region (from which Japan receives 60 percent of its petroleum and one-third of its total energy requirements).

(3) In keeping with the declaration made at the 1983 meeting in Williamsburg, Virginia, of the leaders of the leading industrialized democracies that "the security of our countries is indivisible and must be approached on a global basis", the government of Japan—

(A) has raised its defense spending by an average of 5 percent per year since 1981;

(B) has rescinded a limit on annual expenditures for defense of 1 percent of the gross national product of Japan; and

Seigo Suzuki.

(C) is fulfilling the pledge of Prime Minister Suzuki to defend the territory, airspace, and sea lanes of Japan to a distance of 1,000 miles by 1990.

(4) While recognizing and applauding the actions by the government of Japan referred to in paragraph (3), Congress notes that Japan has the second largest gross national product in the world, is a major creditor nation, and has a large private savings rate, but nevertheless lags far behind other industrialized democracies in terms of the percentage of its gross national product that it spends for national defense and programs to promote global security and stability.

(b) Sense of Congress.—It is the sense of Congress that the United States would welcome an initiative by Japan to assume a politically acceptable and significant global security role consistent with its economic status by taking the following actions:

(1) Increasing spending for its Official Development Assistance program and its defense programs so that, by 1992, the level of spending by Japan on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization on official development

assistance and defense programs (stated as a percentage of their respective gross national products).

(2) Devoting increased spending for its Official Development Assistance program primarily to the Republic of the Philippines and regions of importance to global stability outside of East Asia, particularly Oceania, Latin America, and the Caribbean and Mediterranean nations.

Philippines.
Oceania.
Latin America.
Caribbean nations.
Mediterranean nations.

(3) Devoting any increase in spending for that program primarily to concessional, untied grants and increasing the portion of total expenditures made for that program for those multilateral financial institutions of which Japan is a member.

(4) Designating those nations that are to be recipients of increased development assistance as described in paragraphs (1) through (3) through consultation with its security partners.

(5) Completing its five-year defense program for fiscal years 1986 through 1990 and, at the earliest possible date after the completion of that program, further enhancing the fulfillment of the pledge of Prime Minister Suzuki referred to in subsection (a)(3).

PART C—PROCUREMENT MATTERS

SEC. 1021. OVERSEAS WORKLOAD PROGRAM

10 USC 2341 note.
Contracts.

(a) IN GENERAL.—A firm of any member nation of the North Atlantic Treaty Organization (NATO) or of any major non-NATO ally shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

(b) SITE FOR PERFORMANCE OF WORK.—A contract awarded during fiscal year 1988 or 1989 to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

(c) EXCEPTIONS.—The Secretary of a military department may restrict the geographic region in which a contract referred to in subsection (a) may be performed if the Secretary determines that performance of the contract outside that specific region—

(1) could adversely affect the military preparedness of the Armed Forces of the United States; or

(2) would violate the terms of an international agreement to which the United States is a party.

(d) REPORT REQUIREMENT.—(1) Not later than December 1, 1988, the Secretary of Defense shall submit to Congress a report on the nature of the maintenance, repair, and overhaul work of the Department of Defense performed under the program of the Department of Defense known as the Overseas Workload Program.

(2) The report shall include the following:

(A) A description of the categories of work performed under that program and the costs associated with those categories of work.

(B) A description of the capabilities of facilities that United States firms have established in Europe to perform work under that program.

(C) A description of the capabilities to perform work under that program by firms in the United States, Canada, and countries that are major non-NATO allies of the United States.

Canada.

Canada.

(D) A description of the maintenance, repair, and overhaul work under that program that could be performed in the United States or Canada, or in a country that is a major non-NATO ally, on a cost-effective basis and without a significant adverse effect on the readiness of the Armed Forces of the United States.

(E) A list and detailed explanation of each of the instances, through October 31, 1988, in which the Secretary of a military department exercised the authority provided in subsection (c).

(e) DEFINITION.—For purposes of this section, the term "major non-NATO ally" has the meaning given that term by section 1105(g)(1) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661).

SEC. 1022. NATO COOPERATIVE PROJECT AGREEMENTS

Clause (C) of section 27(b)(1) of the Arms Export Control Act (22 U.S.C. 2767(b)(1)(C)) is amended by inserting "or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization" after "member country".

SEC. 1023. REPORT ON CO-PRODUCTION OR CO-ASSEMBLY OF M1A1 TANK

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress a detailed report on any plans of the Department of Defense as of the time of the submission of the report regarding co-production or co-assembly of the M1 or M1A1 Abrams tank with a foreign country. The Secretary shall include in such report the following:

(1) The status of any current negotiations by the Secretary of Defense with any foreign country regarding the co-production or co-assembly of the M1 or M1A1 tank by the United States and that country.

(2) A comparison of the long-term effects on the United States mobilization base of production of such tank under a co-production or co-assembly arrangement with a foreign country.

(3) The effect an arrangement with a foreign country for the co-production or co-assembly of such tank would have on the national security of the United States.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required under subsection (a) not later than 90 days after the date of the enactment of this Act.

(c) CLASSIFICATION OF REPORT.—The Secretary shall submit the report required under subsection (a) in both classified and unclassified form.

SEC. 1024. WEAPONS STORAGE AND SECURITY SYSTEMS

(a) LIMITATION ON INSTALLATION.—Funds appropriated or otherwise made available to the Department of Defense for fiscal years 1988 and 1989 may not be expended for installation of Weapons Storage and Security Systems (WSSS) in the territory of any European member nation of the North Atlantic Treaty Organization until the Secretary of Defense certifies to Congress that the construction program with respect to such systems is eligible for common financing under the NATO Infrastructure program.

(b) EFFECT OF INF TREATY.—If a treaty on Intermediate Range Nuclear Forces (INF) is ratified before the certification under subsection (a) is made, the Secretary shall submit with the certification a plan for revising the installation of those systems in order to reflect any additional requirements resulting from that treaty.

Reports.

(c) MILESTONES.—The Secretary shall submit with the certification under subsection (a) a description of the key milestones for entering into contracts under the program and for reaching an agreement concerning NATO financing and shall include a certification that all available steps are being taken to accelerate agreement with NATO on a final plan for recoupment of advance funding by the United States for the installation of such systems.

TITLE XI—DEPARTMENT OF DEFENSE MANAGEMENT

PART A—CONSTRUCTION AND MAINTENANCE OF NAVAL VESSELS

SEC. 1101. CLARIFICATION OF LIMITATION ON CONTRACTING FOR SHORT-TERM NAVAL VESSEL REPAIR WORK

Rivers and harbors.

Subsection (d) of section 7299a of title 10, United States Code, is amended to read as follows:

"(d)(1) Before issuing a solicitation for a contract for short-term work for the overhaul, repair, or maintenance of a naval vessel, the Secretary of the Navy shall determine if there is adequate competition available among firms able to perform the work at the homeport of the vessel. If the Secretary determines that there is adequate competition among such firms, the Secretary—

"(A) shall issue such a solicitation only to firms able to perform the work at the homeport of the vessel; and

"(B) may not award such contract to a firm other than a firm that will perform the work at the homeport of the vessel.

"(2) Paragraph (1) applies notwithstanding subsection (b) or any other provision of law.

"(3) Paragraph (1) does not apply—

"(A) in the case of voyage repairs; or

"(B) in the case of a vessel that is assigned to the Naval Reserve force and homeported on the West Coast of the United States.

"(4) In this subsection, the term 'short-term work' means work that will be for a period of six months or less.".

SEC. 1102. RATES FOR PROGRESS PAYMENTS ON CERTAIN NAVAL SHIP REPAIR CONTRACTS

(a) IN GENERAL.—(1) Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 7312.

"§ 7312. Repair or maintenance of naval vessels: progress payments under certain contracts

"(a) The Secretary of the Navy shall provide that the rate for progress payments on naval ship contracts to which this section applies shall be—

Small business.

"(1) 90 percent, in the case of firms considered to be small businesses, and

"(2) 85 percent, in the case of all other firms.

"(b) This section applies to any contract awarded by the Secretary of the Navy for repair, maintenance, or overhaul of a naval vessel (other than a nuclear-powered vessel) for work required to be performed in one year or less.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7312. Repair or maintenance of naval vessels: progress payments under certain contracts.".

Contracts. 10 USC 7312 note.

(b) TRANSITION.—The amendment made by subsection (a) does not apply to a contract awarded pursuant to a solicitation issued before the date of the enactment of this Act.

SEC. 1103. DOMESTIC CONSTRUCTION OF CERTAIN VESSELS

Section 7309(a) of title 10, United States Code, is amended by striking out "no naval vessel, and no vessel of any other military department," and inserting in lieu thereof "no vessel to be constructed for any of the armed forces".

SEC. 1104. CONTRACTS FOR THE OVERHAUL, REPAIR, AND MAINTENANCE OF NAVAL VESSELS

Funds appropriated pursuant to authorizations in this Act may not be obligated or expended for the overhaul, repair, or maintenance of any naval vessel unless, in the evaluation of bids or proposals for such activity, the Secretary of the Navy complies with the requirement of section 7299a of title 10, United States Code.

PART B—CONTRACTING OUT

10 USC 2304 note. Regulations.

SEC. 1111. AUTHORITY OF BASE COMMANDERS OVER CONTRACTING FOR COMMERCIAL ACTIVITIES

(a) AUTHORITY.—The Secretary of Defense shall direct that the commander of each military installation (under regulations prescribed by the Secretary of Defense and subject to the authority, direction, and control of the Secretary) shall have the authority and the responsibility to carry out the following:

(1) Prepare an inventory each fiscal year of commercial activities carried out by Government personnel on the military installation.

(2) Decide which commercial activities shall be reviewed under the procedures and requirements of Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy).

(3) Conduct a solicitation for contracts for those commercial activities selected for conversion to contractor performance under the Circular A-76 process.

(4) To the maximum extent practicable, assist in finding suitable employment for any employee of the Department of Defense who is displaced because of a contract entered into with a contractor for performance of a commercial activity on the military installation.

(b) DEADLINE FOR REGULATIONS.—The Secretary shall prescribe the regulations required by subsection (a) no later than 60 days after the date of the enactment of this Act.

(c) DEFINITION.—In this section, the term "military installation" means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam.

(d) TERMINATION OF AUTHORITY.—The authority provided for commanders of military installations by subsection (a) shall terminate on October 1, 1989.

SEC. 1112. PROHIBITION ON CONTRACTS FOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS

(a) In General.—Subsection (a) of section 2693 of title 10, United States Code, is amended by inserting "or security-guard" after "firefighting".

(b) Clerical and Conforming Amendments.—

(1) Subsection (b) of such section is amended by striking out "the function" and inserting in lieu thereof "a function".

(2) The heading for such section is amended to read as follows:

"§ 2693. Prohibition on contracts for performance of firefighting or security-guard functions".

(3) The item relating to section 2693 in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2693. Prohibition on contracts for performance of firefighting or security-guard functions.".

Part C—Security and Counterintelligence Matters

SEC. 1121. COUNTERINTELLIGENCE POLYGRAPH PROGRAM

10 USC 113 note.

(a) Authority for Program.—The Secretary of Defense may carry out a program for the administration of counterintelligence polygraph examinations to persons described in subsection (b). The program shall be based on Department of Defense Directive 5210.48, dated December 24, 1984.

Classified information.

(b) Persons Covered.—Except as provided in subsection (d), the following persons whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.2(a) of Executive Order 12356 (or a successor Executive order) are subject to this section:

(1) Military and civilian personnel of the Department of Defense.

(2) Personnel of defense contractors.

(c) Limitation on Number of Examinations.—The number of counterintelligence polygraph examinations that may be administered under this section—

(1) may not exceed 10,000 during each of fiscal years 1988, 1989, and 1990; and

(2) may not exceed 5,000 during any fiscal year after fiscal year 1990 for which a specific number is not otherwise provided by law.

(d) Exceptions From Coverage for Certain Intelligence Agencies and Functions.—This section does not apply—

(1) to a person assigned or detailed to the Central Intelligence Agency or to an expert or consultant under a contract with the Central Intelligence Agency;

(2) to (A) a person employed by or assigned or detailed to the National Security Agency, (B) an expert or consultant under contract to the National Security Agency, (C) an employee of a contractor of the National Security Agency, or (D) a person applying for a position in the National Security Agency;

(3) to a person assigned to a space where sensitive cryptographic information is produced, processed, or stored; or

(4) to a person employed by, or assigned or detailed to, an office within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs or a contractor of such an office.

(e) POLYGRAPH RESEARCH PROGRAM.—The Secretary of Defense shall carry out a continuing research program to support the polygraph activities of the Department of Defense. The program shall include—

(1) an on-going evaluation of the validity of polygraph techniques used by the Department;

(2) research on polygraph countermeasures and anti-countermeasures; and

(3) developmental research on polygraph techniques, instrumentation, and analytic methods.

(f) ANNUAL REPORT ON POLYGRAPH PROGRAMS.—(1) Not later than January 15 of each year, the Secretary of Defense shall submit to Congress a report on polygraph examinations administered by or for the Department of Defense during the previous fiscal year (whether administered under this section or any other authority).

(2) Each such report shall include the following with regard to the program authorized by subsection (a):

(A) A statement of the number of polygraph examinations administered by or for the Department of Defense during such fiscal year.

(B) A description of the purposes and results of such examinations.

(C) A description of the criteria used for selecting programs and persons for such examination.

(D) A statement of the number of persons who refused to submit to such an examination and a description of the actions taken as a result of the refusals.

(E) A statement of the number of persons for which such an examination indicated deception and the action taken as a result of the examinations.

(F) A detailed accounting of those cases in which more than two such examinations were needed to attempt to resolve discrepancies and those cases in which the examination of a person extended over more than one day.

(3) Each such report shall also include the following:

(A) A description of any plans to expand the use of polygraph examinations in the Department of Defense.

(B) A discussion of any plans of the Secretary for recruiting and training additional polygraph operators together with statistical data on the employment turnover of Department of Defense polygraph operators.

(C) A description of the results during the preceding fiscal year of the research program under subsection (e).

(D) A statement of the number of polygraph examinations administered to persons described in subsection (d) (which number may be set forth in a classified annex to the report).

(g) REPEAL.—Section 1221 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 726), is repealed.

10 USC 133 note.

(h) EFFECTIVE DATE.—This section shall take effect as of October 1, 1987.

SEC. 1122. ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE

District of Columbia.

Communications and telecommunications.

Reports.

(a) Review and Assessment.—The Secretary of Defense shall review and assess the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia. The Secretary shall submit to Congress a report on such review and assessment not later than 90 days after the date of the enactment of this Act.

(b) Determination of Consistency With National Security.—The report required by subsection (a) shall include a determination by the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Government of the Soviet Union is consistent with the national security of the United States.

(c) Classification of Report.—The report required by subsection (a) shall be submitted in both a classified and unclassified form, except that the determination required by subsection (b) shall be submitted in an unclassified form.

(d) Limitation on Delegation.—The Secretary of Defense may not delegate the duty to make the determination required by subsection (b).

SEC. 1123. DISSEMINATION OF UNCLASSIFIED INFORMATION CONCERNING PHYSICAL PROTECTION OF SPECIAL NUCLEAR MATERIAL

(a) In General.—Chapter 3 of title 10, United States Code, is amended by inserting after section 127 the following new section:

"§ 128. Physical protection of special nuclear material: limitation on dissemination of unclassified information

10 USC 128.

Regulations.

"(a)(1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, the Secretary of Defense, with respect to special nuclear materials, shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to security measures, including security plans, procedures, and equipment for the physical protection of special nuclear material.

Regulations. Safety.

"(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of—

"(A) illegal production of nuclear weapons, or

"(B) theft, diversion, or sabotage of special nuclear materials, equipment, or facilities.

"(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

"(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in paragraph (1)—

"(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

"(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of—

"(i) illegal production of nuclear weapons, or

"(ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

"(b) Nothing in this section shall be construed to authorize the Secretary to withhold, or to authorize the withholding of, information from the appropriate committees of the Congress.

"(c) Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5.

Reports.

"(d) The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons or the theft, diversion, or sabotage of special nuclear materials, equipment, or facilities, as specified under subsection (a); and

"(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 127 the following new item:

"128. Physical protection of special nuclear material: limitation on dissemination of unclassified information.".

Part D—Special Access Programs

SEC. 1131. SENSE OF CONGRESS WITH RESPECT TO DISCLOSURE OF CERTAIN BUDGET AND SCHEDULE INFORMATION ABOUT SPECIFIED SPECIAL ACCESS PROGRAMS

It is the sense of Congress that—

Research and development.

(1) the Advanced Technology Bomber program, the Advanced Cruise Missile program, and the Advanced Tactical Aircraft program involve the development and production of new ad-

vanced technologies that are critical to United States national security;

Classified information.

(2) it is appropriate and necessary that certain information involving the technological characteristics and performance of the systems referred to in paragraph (1) remain appropriately classified in conjunction with the national security interest; and

Public information.

(3) it would be consistent with the public interest and would not jeopardize the national security for the Secretary of Defense to disclose, in a nonclassified form, information about each of the systems referred to in paragraph (1) with respect to total program cost, the amount of the annual program budget request, and a general description of program schedule.

Reports.

SEC. 1132. CONGRESSIONAL OVERSIGHT OF SPECIAL ACCESS PROGRAMS

(a) SUBMISSION OF CERTAIN BUDGET INFORMATION TO CONGRESS.—(1) Chapter 2 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 119.

"§ 119. Special access programs: congressional oversight

"(a)(1) Not later than February 1 of each year, the Secretary of Defense shall submit to the defense committees a report on special access programs.

"(2) Each such report shall set forth—

"(A) the total amount requested for special access programs of the Department of Defense in the President's budget for the next fiscal year submitted under section 1105 of title 31; and

"(B) for each program in that budget that is a special access program—

"(i) a brief description of the program;

"(ii) a brief discussion of the major milestones established for the program;

"(iii) the actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted; and

"(iv) the estimated total cost of the program and the estimated cost of the program for (I) the current fiscal year, (II) the fiscal year for which the budget is submitted, and (III) each of the four succeeding fiscal years during which the program is expected to be conducted.

"(3) In the case of a report under paragraph (1) submitted in a year during which the President's budget for the next fiscal year, because of multiyear budgeting for the Department of Defense, does not include a full budget request for the Department of Defense, the report required by paragraph (1) shall set forth—

"(A) the total amount already appropriated for the next fiscal year for special access programs of the Department of Defense and any additional amount requested in that budget for such programs for such fiscal year; and

"(B) for each program of the Department of Defense that is a special access program, the information specified in paragraph (2)(B).

"(b)(1) Not later than February 1 of each year, the Secretary of Defense shall submit to the defense committees a report that, with respect to each new special access program, provides—

"(A) notice of the designation of the program as a special access program; and

"(B) justification for such designation.

"(2) A report under paragraph (1) with respect to a program shall include—

"(A) the current estimate of the total program cost for the program; and

"(B) an identification of existing programs or technologies that are similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

"(3) In this subsection, the term 'new special access program' means a special access program that has not previously been covered in a notice and justification under this subsection.

"(c) Whenever a change is made in the status of a program of the Department of Defense as a special access program, the Secretary of Defense shall submit to the defense committees a report describing the change. Any such report shall be submitted not later than 30 days after the date on which the change takes effect.

"(d) Whenever there is a modification or termination of the policy and criteria used for designating a program of the Department of Defense as a special access program, the Secretary of Defense shall promptly notify the defense committees of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy as modified.

"(e)(1) The Secretary of Defense may waive any requirement under subsection (a), (b), or (c) that certain information be included in a report under that subsection if the Secretary determines that inclusion of that information in the report would adversely affect the national security. Any such waiver shall be made on a case-by-case basis.

"(2) If the Secretary exercises the authority provided under paragraph (1), the Secretary shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, jointly to the chairman and ranking minority member of each of the defense committees.

"(f) In this section, the term 'defense committees' means—

"(1) the Committees on Armed Services of the Senate and House of Representatives; and

"(2) the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"119. Special access programs: congressional oversight.".

10 USC 119 note.

(b) Five-Year Reference Amounts.—The first report under subsection (a) of section 119 of title 10, United States Code (as added by subsection (a)), shall set forth—

(1) the total amount requested in the President's budget for each of the five previous fiscal years for special access programs of the Department of Defense that were included in the budget; and

(2) the total amount appropriated for each such year for such programs.

10 USC 119 note.

(c) Initial Report on Special Access Program Designations.—The first report under subsection (b) of section 119 of title 10, United States Code (as added by subsection (a)), shall cover each existing special access program.

SEC. 1133. REPORTS ON CRITERIA FOR DESIGNATING SPECIAL ACCESS PROGRAMS

(a) DOD REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the defense committees a report on the management of special access programs, including the policy and criteria used for designating a program of the Department of Defense as a special access program.

(b) GAO REPORT.—The Comptroller General of the United States shall study the criteria used by the Secretary of Defense in determining whether to designate a program as a special access program, as set forth in the report under subsection (a), and shall submit to the defense committees a report on the results of that study not later than April 1, 1988.

(c) DEFINITION.—In this section, the term "defense committees" has the meaning given that term in section 119(f) of title 10, United States Code (as added by section 1132(a)).

TITLE XII—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

SEC. 1201. TRANSFER AUTHORITY

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in title I, II, or III for any fiscal year between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations for any fiscal year that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON OBLIGATION LIMITATIONS.—A transfer made under the authority of this section increases by the amount of the transfer the obligation limitation provided on the account (or other amount) to which the transfer is made.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1202. LIMITATION ON AVAILABILITY OF FUNDS

Section 2202 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "Notwithstanding"; and

(2) by adding at the end the following:

"(b) Except as otherwise provided by law, the availability for obligation of funds appropriated for any program, project, or activity of the Department of Defense expires at the end of the three-year period beginning on the date that such funds initially become available for obligation unless before the end of such period the Secretary of Defense enters into a contract for such program, project, or activity.".

SEC. 1203. REQUIREMENT FOR CONSISTENCY IN THE BUDGET PRESENTATIONS OF THE DEPARTMENT OF DEFENSE

Section 114 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) The amounts of the estimated expenditures and proposed appropriations necessary to support programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress by the President under such section for any fiscal year or years and the amounts specified in all program and budget information submitted to Congress by the Department of Defense in support of such estimates and proposed appropriations shall be mutually consistent unless, in the case of each inconsistency, there is included detailed reasons for the inconsistency.

"(g) The Secretary of Defense shall submit to Congress not later than April 1 of each year, the five-year defense program (including associated annexes) used by the Secretary in formulating the estimated expenditures and proposed appropriations included in such budget to support programs, projects, and activities of the Department of Defense.".

PART B—FORCE STRUCTURE AND POLICY

SEC. 1211. IMPLEMENTATION OF SPECIAL OPERATIONS FORCES REORGANIZATION

(a) ASSISTANT SECRETARY OF DEFENSE.—(1) Section 136(b)(4) of title 10, United States Code, is amended by adding at the end the following new sentence: "The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters and (after the Secretary and Deputy Secretary) is the principal special operations and low intensity conflict official within the senior management of the Department of Defense.".

10 USC 136 note.

(2) The Secretary of Defense shall publish a directive setting forth the charter of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict not later than 30 days after the date of the enactment of this Act. The directive shall set forth—

(A) the duties and responsibilities of the Assistant Secretary;

(B) the relationships between the Assistant Secretary and other Department of Defense officials;

(C) any delegation of authority from the Secretary of Defense to the Assistant Secretary; and

(D) such other matters as the Secretary considers appropriate.

(3) On the date that such directive is published, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(A) a copy of the directive; and

Reports.

(B) a report explaining how the charter of the Assistant Secretary fulfills the provisions of section 136(b)(4) of title 10, United States Code (as amended by paragraph (1)), that provide that the Assistant Secretary—

(i) exercises overall supervision of special operations activities and low intensity conflict activities of the Department of Defense;

(ii) is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters; and

(iii) is the principal special operations and low intensity conflict official (after the Secretary and Deputy Secretary) within the senior management of the Department of Defense.

(4)(A) Until the office of Assistant Secretary of Defense for Special Operations and Low Intensity Conflict is filled for the first time by a person appointed from civilian life by the President, by and with the advice and consent of the Senate, the Secretary of the Army shall carry out the duties and responsibilities of that office.

Reports.

(B) Throughout the period of time during which the Secretary of the Army is carrying out the duties and responsibilities of that office, he shall submit to the Committees on Armed Services of the Senate and House of Representatives a monthly report on the administrative actions that he has taken and the policy guidance that he has issued to carry out such duties and responsibilities. Each such report shall also describe the actions that he intends to take and the guidance that he intends to issue to fulfill the provisions of section 136(b)(4) of title 10, United States Code (as amended by paragraph (1)), along with a timetable for completion of such actions and issuance of such guidance. The first such report shall be submitted not later than 30 days after the date of the enactment of this Act.

(5) Until the first individual appointed to the position of Assistant Secretary of Defense for Special Operations and Low Intensity Conflict by the President, by and with the advice and consent of the Senate, leaves that office, that Assistant Secretary (and the Secretary of the Army when carrying out the duties and responsibilities of the Assistant Secretary) shall, with respect to the duties and responsibilities of that office, report directly, without intervening review or approval, to the Secretary of Defense personally or, as designated by the Secretary, to the Deputy Secretary of Defense personally.

10 USC 167 note.

(b) RESOURCES FOR CINCSOF.—The Secretary of Defense shall provide sufficient resources for the commander of the unified combatant command for special operations forces established pursuant to section 167 of title 10, United States Code, to carry out his duties and responsibilities, including particularly his duties and responsibilities relating to the following functions:

(1) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

(2) Providing advice and assistance to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict in the Assistant Secretary's overall supervision of the preparation and justification of the program recommendations and budget proposals for special operations forces.

(3) Managing assigned resources from the major force program category for special operations forces of the Five-Year Defense Plan of the Department of Defense (as required to be created pursuant to subsection (e)).

(c) PERSONNEL ASSIGNED TO COMBATANT COMMAND STAFF.—(1) On September 30, 1988, the total number of members of the Armed Forces and civilian employees of the Department of Defense assigned or detailed to permanent duty on the staff of the unified combatant command for special operations forces may not be less than 450.

(2) Of the personnel assigned or detailed pursuant to paragraph (1), the number of civilian employees shall be 111 unless otherwise directed by the commander of the command or the Secretary of Defense.

(d) ACQUISITION AUTHORITY.—Subsection (e) of section 167 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out his functions under paragraph (1)(G), shall have authority to exercise the functions of the head of an agency under chapter 137 of this title. The staff of the commander shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the special operations command and such other inspector general functions as may be assigned.".

10 USC 167 note.

(e) RESOURCES AND PROGRAMMING.—(1) The major force program category for special operations forces of the Five-Year Defense Plan of the Department of Defense, to be created pursuant to section 1311(c) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), shall be created not later than 30 days after the date of the enactment of this Act.

(2) On the date that such major force program category is created, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(A) a certification that all program recommendations and budget proposals for special operations forces are included in such category; and

Reports.

(B) a report explaining the program recommendations and budget proposals that have been included in such category.

Reports.

SEC. 1212. CONVENTIONAL DEFENSE ADVISORY BOARD.

(a) CONVENTIONAL DEFENSE ADVISORY BOARD.—(1) The Secretary of Defense shall appoint within the Department of Defense a Conventional Defense Advisory Board for the purpose of reviewing the report of the Conventional Defense Study Group submitted to the Secretary under subsection (b). The advisory board shall submit to the Secretary of Defense a report on such review, including any recommendations for the implementation of the report of the study group, not later than 75 days after the date on which that report is received by the Secretary.

(2) Not later than 90 days after the date on which the report of the study group is received by the Secretary, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a copy of the report of the advisory board under paragraph (1), together with any comments the Secretary has on such report. The report of the advisory board shall be submitted to the committees in exactly the same form and with the same content as submitted to the Secretary under paragraph (1).

(b) CONVENTIONAL DEFENSE STUDY GROUP.—The Comptroller General of the United States shall convene and chair a Conventional Defense Study Group composed of representatives of the Library of

Congress, the Office of Technology Assessment, and the Congressional Budget Office. The study group shall assess the balance of conventional forces in Europe between forces of the North Atlantic Treaty Organization and forces of the Warsaw Pact and shall submit a report on such assessment to the Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives. The report shall be submitted not later than April 15, 1988, and shall provide—

(1) the study group's assessment of that balance of forces; and

(2) recommendations for improving that balance so as to provide for a more adequate conventional defense for NATO.

SEC. 1213. REPORT ON COMPETITIVE STRATEGIES

(a) In General.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on Competitive Strategies. Such report shall be provided in classified and unclassified versions and shall include the following:

(1) A discussion of the Competitive Strategy concept.

Union of Soviet Socialist Republics.

(2) An assessment of Soviet and Warsaw Pact weaknesses, including military, political, and systemic weaknesses that could be candidates for exploitation through competitive strategies.

(3) A discussion of the initial areas selected for examination in the Competitive Strategy initiative, including a discussion of the rationale for the areas selected.

(4) A discussion of the initial findings resulting from the Competitive Strategy process.

(b) Deadline for Report.—The report described in subsection (a) shall be submitted not later than January 15, 1988.

SEC. 1214. PUBLICATION OF ANNUAL UNITED STATES-SOVIET NET ASSESSMENT

Section 113 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) The Secretary of Defense shall transmit to Congress each year a report that contains a comprehensive net assessment of the defense capabilities and programs of the armed forces of the United States and its allies as compared with those of their potential adversaries. Each such report shall be transmitted in both a classified and an unclassified form.".

Part C—Miscellaneous Reports

SEC. 1221. STUDY OF SPACE OPERATIONS CENTER, COLORADO

Reports.

(a) In General.—The Secretary of Defense shall carry out a study of the requirements necessary to establish and conduct a centralized manned and unmanned military space operation which would be part of the Consolidated Space Operations Center near Colorado Springs, Colorado.

(b) Report.—Within 60 days after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Armed Services of the Senate and House of Representatives a report containing the findings and conclusions of the study carried out under subsection (a).

Energy.

SEC. 1222. REPORT ON CONTINGENCY PLANS TO DEAL WITH DISRUPTIONS IN PERSIAN GULF CRUDE OIL SUPPLY

(a) Report Requirement.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Energy shall submit to Congress a joint report on contingency plans of the Department of Defense and the Department of Energy for dealing with significant disruptions in the supply to the United States of crude oil produced by the nations of the Persian Gulf region. The report shall be prepared with the assistance of the Secretary of State.

(2) If the Secretary of Defense and the Secretary of Energy find it necessary to classify the report (or any portion of the report), a nonclassified version containing all energy policy recommendations made by the two Secretaries shall be transmitted with the report.

(b) Matters To Be Studied.—In preparing the report required by this section, and any periodic update to that report, the Secretaries shall—

(1) ascertain the extent to which the Armed Forces of the United States, the civilian economy of the United States, and the nations of the free world (with specific reference to the NATO allies and to other strategic allies of the United States) currently depend on crude oil produced in the Persian Gulf region;

(2) prepare a range of estimates on the types of disruptions that could occur in the supply of crude oil from the Persian Gulf region and the effect of each such disruption (including duration) on reduced availability of crude oil supply from the oi producing nations of the Persian Gulf;

(3) develop a range of plans for dealing with supply disruptions and shortages of crude oil from the Persian Gulf region, including—

(A) the role and use of existing domestic crude oil production, other non-Persian Gulf sources of the world supply of crude oil, and the Strategic Petroleum Reserve; and

(B) the use of any emergency power or authority provided for by existing law; and

International agreements.

(4) identify and review any bilateral or multilateral agreement (including the International Energy Agreement) which commits or obligates the United States to furnish crude oil or petroleum products to other nations.

(c) Recommendations.—The report under subsection (a) shall set forth the policy and legislative recommendations of the Secretaries for improving the ability of the United States to respond effectively to problems created by significant disruptions in the production, transportation, and supply of crude oil in the Persian Gulf region.

(d) Cost Estimates.—The report under subsection (a) shall include estimates of the total annual and per barrel cost of Persian Gulf crude oil to the world economy and to the United States economy.

U.S.S. *George Washington.*

SEC. 1223. STUDY OF EARLY DECOMMISSIONING OF TWO AIRCRAFT CARRIERS

(a) Requirement for Study.—The Secretary of Defense shall conduct a comprehensive study comparing—

U.S.S. *Abraham Lincoln.*

(1) the current plan of the Department of Defense under which one existing aircraft carrier would be decommissioned when the U.S.S. George Washington (CVN73) is commissioned in fiscal year 1992 and a second existing aircraft carrier would

be decommissioned when the next aircraft carrier (CVN74) is commissioned in fiscal year 1997, with

(2) an alternative plan under which one existing aircraft carrier would be decommissioned and one existing Navy air wing would be deactivated when the aircraft carrier U.S.S. Abraham Lincoln (CVN72) is commissioned in fiscal year 1990 and a second existing aircraft carrier would be decommissioned when the aircraft carrier U.S.S. George Washington (CVN73) is commissioned in fiscal year 1992.

(b) MATTERS TO BE INCLUDED.—In conducting the study under subsection (a), the Secretary of Defense shall determine the implications of adopting the alternative plan described in subsection (a)(2) for aircraft carrier retirements, as compared to the implications of the current plan described in subsection (a)(1), with respect to each of the following:

(1) Total direct and indirect costs in outlays and in budget authority (stated in constant fiscal year 1988 dollars) through fiscal year 1997.

(2) Requirements of the Navy for naval aircraft through fiscal year 1997 (assuming that the aircraft from the deactivated naval air wing are reassigned in the active force).

(3) Requirements of the Navy for active-duty and Reserve personnel (stated in terms of fiscal year end strengths) through fiscal year 1997.

(4) Requirements for naval surface ship combatants and support ships through fiscal year 1997.

(5) The cost and feasibility of making available to the active fleet for operation during a time of national emergency—

(A) an aircraft carrier that is in the Service Life Extension Program (SLEP); and

(B) an aircraft carrier that has been decommissioned but is still under the jurisdiction of the Navy.

(c) PEACETIME DEPLOYMENT COMMITMENTS.—(1) The Secretary of Defense shall direct the Chairman of the Joint Chiefs of Staff to assess the implications that accelerated aircraft carrier retirements in accordance with the alternative plan described in subsection (a)(2) would have on the ability of the United States to meet both peacetime aircraft carrier deployment commitments and the wartime requirements for aircraft carriers set forth by the commanders of the unified combatant commands and to report to the Secretary the results of that assessment.

Reports.

(2) Insofar as the report required by paragraph (1) notes a deficiency between peacetime aircraft carrier deployment requirements and the number of deployable aircraft carriers, the report shall also include an assessment regarding—

(A) how aircraft carrier deployment strategies could be adjusted or changed to cover commitments while maintaining an equitable distant deployment rotation for personnel and equipment considerations;

(B) what alternative combinations of ships and aircraft might be deployed to substitute for an aircraft carrier, either permanently or temporarily, in all situations in which aircraft carriers are currently deployed; and

U.S.S. *Midway*.
Japan.

(C) what special considerations will accompany the eventual removal of the U.S.S. Midway from her homeport in Japan.

(d) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study conducted by the Secretary under subsection (a) and a copy of the report submitted to the Secretary under subsection (c). The Secretary's report shall include such comments and recommendations as the Secretary considers appropriate and shall be submitted not later than 30 days after the date of the enactment of this Act.

PART D—TECHNICAL AND CLERICAL AMENDMENTS

SEC. 1231. AMENDMENTS TO TITLE 10, UNITED STATES CODE

Title 10, United States Code, is amended as follows:

(1) Section 101(14) is amended by inserting "a" after "means".

(2) Section 179 is amended by realigning subsection (e) so as to appear flush to the left margin.

(3) The table of sections at the beginning of chapter 21 is amended by striking out the item relating to section 423 and inserting in lieu thereof the following:

"423. Authority to use proceeds from counterintelligence operations of the military departments.".

(4) The table of sections at the beginning of chapter 39 is amended by transferring the item relating to section 686 from the end of such table to appear immediately below the item relating to section 685.

(5) Section 1102(c)(2) is amended by striking out ", United States Code" in the second sentence.

(6) Section 2321 is amended—

(A) in subsection (d)(4)(A), by striking out "paragraph" and inserting in lieu thereof "subsection"; and

(B) in subsection (i), by inserting "or subcontractor" after "contractor".

(7) Section 2322(b) is amended by inserting a period at the end.

(8) Section 2327(d) is amended by inserting "(1)" after "APPLICABILITY.—".

(9) The heading of section 2342 is amended by inserting a hyphen between the first and second words.

(10)(A) Section 2364 is amended by striking out "milestone O, I, and II decisions" in subsection (b)(5) and inserting in lieu thereof "milestone O, milestone I, and milestone II decisions".

(B) The heading of such section is amended by revising the fifth word so that the first letter is lower case.

(C) The item relating to that section in the table of sections at the beginning of chapter 139 is amended to conform to the amendment made by subparagraph (B).

(11) Section 2366(e)(1)(B) is amended by striking out "section 2303(5)" and inserting in lieu thereof "section 2302(5)".

(12) The item relating to section 2367 in the table of sections at the beginning of chapter 139 is amended so that the initial letter of the third word is lower case.

(13) Section 2406(f)(2)(A) is amended by inserting "section" after "is defined in".

(14) Section 2436(c)(5) is amended by inserting "law," after "auditing,".

(15) Section 2801(c)(3) is amended by striking out "defense agencies" and inserting in lieu thereof "Defense Agencies".

(16) Section 3723 is amended by striking out the comma after "disease".

(17) Sections 801, 1447, 2005(e), 2101, 2147(d), 2393(c), 2687(e), and 9511 are amended—

(A) by inserting "The term" in each paragraph (other than paragraph (2) of section 801) after the paragraph designation; and

(B) by revising the first word after the first quotation marks in each paragraph (other than paragraph (2) of section 801, paragraph (1) of section 1447, and paragraphs (7) and (11) of section 9511) so that the initial letter of such word is lower case.

(18)(A) Sections 1089(g), 2002(b), 2141(c), 2143(c), and 2145(b) are amended by inserting "the term" after "In this section,".

(B) Section 2356(b) is amended by inserting ", the term" after "In this section".

(19)(A) Sections 3251 and 8251 are amended by inserting ", the term" after "In this chapter".

(B) Sections 4801, 8368(a), and 9801 are amended by inserting "the term" after "In this chapter,".

(20) Section 101(20) is amended by striking out " 'Rate" at the beginning of the second sentence and inserting in lieu thereof "The term 'rate".

(21) Section 1401a(a) is amended by striking out "pay" after "retired pay".

SEC. 1232. AMENDMENTS TO TITLE 37, UNITED STATES CODE

Section 303(2) of title 37, United States Code, is amended—

(1) by striking out the comma at the end of subparagraph (A) and inserting in lieu thereof a semicolon; and

(2) by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof "; or".

SEC. 1233. MISCELLANEOUS AMENDMENTS

(a) AMENDMENTS TO PUBLIC LAW 100-26.—Public Law 100-26 is amended—

Ante, p. 273.

(1) in section 7(b)(3)(A), by inserting "in subsection (a)," before "by";

10 USC 2432.

(2) in section 7(k)(1)(C), by inserting "(2)" after "paragraphs (1),"; and

10 USC 101.

(3) in section 8(d)(7), by striking out "Section 406" and inserting in lieu thereof "Section 406b".

37 USC 406.

(b) CORRECTION OF AMBIGUOUS REFERENCE.—Section 956(b)(1) of the Defense Acquisition Improvement Act of 1986 (as contained in title IX of Public Law 99-661 and in title X of section 101(c) of Public Laws 99-500 and 99-591) is amended by inserting "the first place it appears" before the semicolon.

10 USC 2413.

100 Stat. 3954, 1783-174, 3341-174.

(c) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply as if included in the enactment of the Defense Technical Corrections Act of 1987 (Public Law 100-26).

10 USC 101 note.
10 USC 2413 note.

(2) The amendment made by subsection (b) shall apply as if included in the enactment of Public Laws 99-500, 99-591, and 99-661.

100 Stat. 1783, 3341, 3816.

PART E—MISCELLANEOUS MATTERS

21 USC 801 note.

SEC. 1241. GAO STUDY OF THE CAPABILITIES OF THE UNITED STATES TO CONTROL DRUG SMUGGLING INTO THE UNITED STATES

(a) STUDY REQUIREMENT.—The Comptroller General of the United States shall conduct a comprehensive study regarding smuggling of illegal drugs into the United States and the current capabilities of the United States to deter such smuggling. In carrying out such study, the Comptroller General shall—

(1) assess the national security implications of the smuggling of illegal drugs into the United States;

(2) assess the magnitude, nature, and operational impact that current resource limitations have on the drug smuggling interdiction efforts of Federal law enforcement agencies and the capability of the Department of Defense to respond to requests for assistance from those law enforcement agencies;

(3) assess the effect on military readiness, the costs that would be incurred, the operational effects on military and civilian agencies, the potential for improving drug interdiction operations, and the methods for implementing increased drug law enforcement assistance by the Department of Defense under section 825 of H.R. 1748 as passed the House of Representatives on May 20, 1987, as if such section were enacted into law and were to become effective on January 1, 1988;

National Guard.
Arizona.
Utah.
Missouri.
Wisconsin.

(4) assess results of a cooperative drug enforcement operation between the United States Customs Service and National Guard units from the States of Arizona, Utah, Missouri, and Wisconsin conducted along the United States-Mexico border beginning on August 29, 1987, and include in the assessment information relating to the cost of conducting the operation, the personnel and equipment used in such operation, the command and control relationships in such operation, and the legal issues involved in such operation;

(5) determine whether giving the Armed Forces a more direct, active role in drug interdiction activities would enhance the morale and readiness of the Armed Forces;

(6) determine what assets are currently available to and under consideration for the Department of Defense, the Department of Transportation, the Department of Justice, and the Department of the Treasury for the detection of airborne drug smugglers;

(7) assess the current plan of the Customs Service for the coordinated use of such assets;

(8) determine the cost effectiveness and the capability of the Customs Service to use effectively the information generated by the systems employed by or planned for the Department of Defense, the Coast Guard, and the Customs Service, respectively, to detect airborne drug smugglers;

(9) determine the availability of current and anticipated tracking, pursuit, and apprehension resources to use the capabilities of such systems; and

(10) at a minimum, assess the detection capabilities of the Over-the-Horizon Backscatter radar (OTH-B), ROTHR, aerostats, airships, and the E-3A, E-2C, P-3, and P-3 Airborne Early Warning aircraft (including any variant of the P-3 Airborne Early Warning aircraft).

(b) Reports.—(1) Not later than April 30, 1988, the Comptroller General shall, as provided in paragraph (3), submit a report on the results of the study required by subsection (a) with respect to the elements of the study specified in paragraphs (1) through (5) of that subsection.

(2) As soon as practicable after the report under paragraph (1) is submitted, and not later than March 31, 1989, the Comptroller General shall, as provided in paragraph (3), submit a report on the results of the study required by subsection (a) with respect to the elements of the study specified in paragraphs (6) through (10) of that subsection.

(3) The reports under paragraphs (1) and (2) shall be submitted to—

(A) the Committees on Armed Services, the Judiciary, Foreign Relations, and Appropriations of the Senate;

(B) the Committees on Armed Services, the Judiciary, Foreign Affairs, and Appropriations of the House of Representatives;

(C) the members of the Senate Caucus on International Narcotics Control; and

(D) the Select Committee on Narcotics Abuse and Control of the House of Representatives.

(4) The reports under this subsection shall be submitted in both classified and unclassified forms and shall include such comments and recommendations as the Comptroller General considers appropriate.

SEC. 1242. TRANSFER OF FUNDS TO THE COAST GUARD

Of the amounts appropriated to the Department of Defense for fiscal years 1988 and 1989, the Secretary of Defense shall transfer to the Secretary of Transportation funds to assist in providing for the Law Enforcement Detachment program of the Coast Guard as follows:

(1) $3,000,000 from amounts appropriated for fiscal year 1988.

(2) $6,000,000 from amounts appropriated for fiscal year 1989.

SEC. 1243. ANNUAL PLAN ON DEPARTMENT OF DEFENSE ASSISTANCE FOR CIVILIAN DRUG LAW ENFORCEMENT

(a) In General.—Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 380.

"§ 380. Department of Defense drug law enforcement assistance: annual plan

Reports.

"(a)(1) At the same time as the President submits the budget to Congress each year under section 1105(a) of title 31, the Secretary of Defense shall submit to Congress a report containing the following:

"(A) A detailed list of all forms of assistance under this chapter that is proposed to be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies (including the United States Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service) during the fiscal year for which the budget is submitted.

"(B) A detailed plan for lending equipment and rendering other drug interdiction-related assistance included on such list during such fiscal year.

"(2) The list required by paragraph (1)(A) shall include a description of the following:

"(A) Surveillance equipment suitable for detecting drug smuggling activities by air, by land, and by sea.

Communications and telecommunications.

"(B) Communications equipment, including secure communications.

"(C) Support available from the reserve components for drug interdiction operations of civilian drug law enforcement agencies.

"(D) Intelligence on the production, processing, and shipment of drugs in countries that are the source of illegal drugs in the United States and the transshipment of drugs between those countries and the United States.

"(E) Support from the Southern Command and other unified and specified commands that is available to assist in drug interdiction.

Aircraft and aircraft carriers.

"(F) Aircraft suitable for use in air-to-air detection, interception, tracking, and seizure by civilian drug interdiction agencies.

Maritime affairs.

"(G) Vessels suitable for use in maritime detection, interception, tracking, and seizure by civilian drug interdiction agencies.

Motor vehicles.

"(H) Such land vehicles as may be appropriate for support activities relating to drug interdiction operations by civilian drug law enforcement agencies.

"(b) The Secretary of Defense, not earlier than 30 days and not later than 45 days after the date on which Congress receives a report submitted under subsection (a), shall convene a conference of the heads of all Federal law enforcement agencies having jurisdiction over drug law enforcement (including the Customs Service, the Coast Guard, and the Drug Enforcement Administration) and of the Secretary of State to determine the appropriate distribution of the assets, items of support, and other assistance to be made available by the Department of Defense under this chapter to those agencies during the fiscal year for which the report is submitted. Not later than 60 days after the date on which such conference convenes, the Secretary of Defense and the heads of such agencies shall enter into appropriate memoranda of agreement specifying the distribution of such assistance.

Reports.

"(c) The Comptroller General of the United States shall monitor the compliance of the Department of Defense with subsections (a) and (b). Not later than 90 days after the date on which a conference is convened under subsection (b), the Comptroller General shall transmit to Congress a written report containing the Comptroller General's findings regarding the compliance of the Department of Defense with such subsections. The report shall include a review of the memoranda of agreement entered into under subsection (b).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"380. Department of Defense drug law enforcement assistance: annual plan.".

Florida.

SEC. 1244. PROVISION OF COMMAND AND CONTROL DATA FROM TYNDALL AIR FORCE BASE FOR DRUG INTERDICTION ASSISTANCE

Whenever the Secretary of the Air Force provides assistance to a civilian law enforcement agency for drug interdiction purposes as authorized by chapter 18 of title 10, United States Code, through the provision of command and control data (including voice and digital information) from the Sector Operations Control Center at Tyndall

Air Force Base, Florida, to the civilian agency, reimbursement that is otherwise required under that chapter shall not be required to the extent that such data are provided to a facility of the civilian law enforcement agency that is located adjacent to such Sector Operations Control Center.

SEC. 1245. ASSISTANT TO THE SECRETARY OF DEFENSE FOR ATOMIC ENERGY

(a) STATUTORY ESTABLISHMENT OF POSITION OF ASSISTANT TO THE SECRETARY OF DEFENSE FOR ATOMIC ENERGY.—(1) Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 141. Assistant to the Secretary of Defense for Atomic Energy

10 USC 141.

"(a) There is an Assistant to the Secretary of Defense for Atomic Energy, appointed by the President, by and with the advice and consent of the Senate.

"(b) The Assistant to the Secretary shall advise the Secretary of Defense and the Nuclear Weapons Council on nuclear energy and nuclear weapons matters.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"141. Assistant to the Secretary of Defense for Atomic Energy ".

10 USC 141 note.

(b) EXCEPTION TO SENATE CONFIRMATION.—The person serving as Chairman of the Military Liaison Committee, Department of Defense, under section 27 of the Atomic Energy Act of 1946 (42 U.S.C. 2037) on October 16, 1986, may be appointed as the Assistant to the Secretary of Defense for Atomic Energy under section 141 of title 10, United States Code (as added by subsection (a)), without the advice and consent of the Senate.

(c) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5316 of title 5, United States Code, is amended by striking out "Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense" and inserting in lieu thereof "Assistant to the Secretary of Defense for Atomic Energy, Department of Defense".

SEC. 1246. OIL SHIPMENTS FOR USE BY MILITARY FACILITIES OVERSEAS

Section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406) is amended by adding at the end the following:

"(k) OIL EXPORTS FOR USE BY UNITED STATES MILITARY FACILITIES.—For purposes of subsection (d) of this section, and for purposes of any export controls imposed under this Act, shipments of crude oil, refined petroleum products, or partially refined petroleum products from the United States for use by the Department of Defense or United States-supported installations or facilities shall not be considered to be exports.".

SEC. 1247. PAYMENT OF CLAIM

Alabama.

(a) PAYMENT OF CLAIM.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $809,609, to the Merchants National Bank of Mobile, Alabama, for compensation for losses sustained during the period beginning on January 1, 1976, and ending on December 31, 1978, concerning the issuance and cancellation of a Government loan guarantee and the subsequent issuance of a second loan guarantee on reduced terms, resulting from actions of the Defense Logistics

Agency of the Department of Defense and its fiscal agent, the Federal Reserve Bank of Atlanta.

(b) FULL SETTLEMENT OF CLAIM.—The payment made pursuant to subsection (a) shall constitute full settlement of the legal and equitable claims by the Merchants National Bank of Mobile, Alabama, against the United States, covered by that subsection.

(c) LIMITATION ON ATTORNEYS' FEES.—No part of the amount appropriated in this section in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this subsection is a misdemeanor punishable by a fine not to exceed $1,000.

Drugs and drug abuse.
Law enforcement and crime.
10 USC 912.

SEC. 1248. PROCEDURES FOR FORENSIC EXAMINATION OF CERTAIN PHYSIOLOGICAL EVIDENCE

(a) ESTABLISHMENT OF PROCEDURES.—The Secretary of Defense shall establish procedures to ensure that whenever, in connection with a criminal investigation conducted by or for a military department, a physiological specimen is obtained from a person for the purpose of determining whether that person has used a controlled substance—

(1) the specimen is in a condition that is suitable for forensic examination when delivered to a forensic laboratory; and

(2) the investigative agency that submits the specimen to the laboratory receives a written statement of the results of the forensic examination from the laboratory within such period as is necessary to use such results in a court-martial or other criminal proceeding resulting from the investigation.

(b) TRANSPORTATION OF SPECIMENS.—The procedures prescribed under subsection (a)—

(1) shall ensure that physiological specimens are preserved and transported in accordance with valid medical and forensic practices; and

(2) insofar as practicable, shall require transportation of the specimen to an appropriate laboratory by the most expeditious means necessary to carry out the requirement in subsection (a)(1).

(c) TESTS FOR USE OF LSD.—Procedures established under subsection (a) shall ensure that whenever the controlled substance with respect to which a physiological specimen is to be examined is lysergic acid diethylamide (LSD), the specimen is submitted to a forensic laboratory that is capable of determining with a reasonable degree of scientific certainty, on the basis of the examination of that specimen, whether the person providing the specimen has used lysergic acid diethylamide (LSD).

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as providing a basis, that is not otherwise available in law, for a defense to a charge or a motion for exclusion of evidence or other appropriate relief in any criminal or administrative proceeding.

(e) CONTROLLED SUBSTANCES COVERED.—For purposes of this section, a controlled substance is a substance described in section 912a(b) of title 10, United States Code.

(f) REPORT.—Not later than March 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the

Senate and the House of Representatives, a report describing the procedures established under this section.

SEC. 1249. ADJUDICATION OF INELIGIBILITY FOR A JOB WITH THE FEDERAL GOVERNMENT ON THE BASIS OF FAILURE TO REGISTER UNDER THE MILITARY SELECTIVE SERVICE ACT

Section 3328(b) of title 5, United States Code, is amended—

(1) by striking out "within the Office" in the second sentence; and

(2) by inserting after the third sentence the following: "Such procedures may provide that determinations of eligibility under the requirements of this section shall be adjudicated by the Executive agency making the appointment for which the eligibility is determined.".

SEC. 1250. TRANSPORTATION ON DEPARTMENT OF DEFENSE AEROMEDICAL EVACUATION AIRCRAFT OF CERTAIN VETERANS' ADMINISTRATION BENEFICIARIES

(a) IN GENERAL.—(1) Chapter 157 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2641. Transportation of certain veterans on Department of Defense aeromedical evacuation aircraft

10 USC 2641.

"(a) The Secretary of Defense may provide transportation on an aircraft operating under the aeromedical evacuation system of the Department of Defense for the purpose of transporting a veteran to or from a Veterans' Administration medical facility.

"(b) Transportation under this section shall be provided in accordance with an agreement entered into between the Secretary of Defense and the Administrator of Veterans' Affairs. Such an agreement shall provide that transportation may be furnished to a veteran on an aircraft referred to in subsection (a) only if—

"(1) the Administrator of Veterans' Affairs notifies the Secretary of Defense that the veteran needs or has been furnished medical care or services in a Veterans' Administration facility and the Administrator requests such transportation in connection with the travel of such veteran to or from the Veterans' Administration facility where the care or services are to be furnished or were furnished to such veteran;

"(2) there is space available for the veteran on the aircraft; and

"(3) there is an adequate number of medical and other service attendants to care for all persons being transported on the aircraft.

"(c) A veteran is not eligible for transportation under this section unless the veteran is a primary beneficiary within the meaning of clause (A) of section 5011(g)(5) of title 38.

"(d)(1) A charge may not be imposed on a veteran for transportation provided to the veteran under this section.

"(2) An agreement under subsection (b) shall provide that the Veterans' Administration shall reimburse the Department of Defense for any costs incurred in providing transportation to veterans under this section that would not otherwise have been incurred by the Department of Defense.

"(e) In this section, the term 'veteran' has the meaning given that term in section 101(2) of title 38.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2641. Transportation of certain veterans on Department of Defense aeromedical evacuation aircraft.".

10 USC 2641 note.

(b) IMPLEMENTATION DEADLINE.—The Secretary of Defense and the Administrator of Veterans' Affairs shall enter into an agreement required by section 2641 of title 10, United States Code (as added by subsection (a)), not later than 60 days after the date of the enactment of this Act.

TITLE XIII—AMENDMENTS RELATED TO GOLDWATER-NICHOLS REORGANIZATION ACT

PART A—JOINT OFFICER PERSONNEL POLICY

SEC. 1301. NOMINATION AND SELECTION OF OFFICERS FOR THE JOINT SPECIALTY

(a) SELECTION AUTHORITY.—(1) Subsection (b) of section 661 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The authority of the Secretary of Defense under paragraph (2) to select officers for the joint specialty may be delegated only to the Deputy Secretary of Defense.".

(b) EDUCATION AND EXPERIENCE REQUIREMENTS.—Subsection (c) of such section is amended—

(1) in paragraph (1)(B), by inserting "(as described in section 664 (f)(1) or (f)(3) of this title)" after "joint duty assignment";

(2) in paragraph (2)—

(A) by striking out "An officer who has" and inserting in lieu thereof "(A) An officer (other than a general or flag officer) who has a military occupational specialty that is";

(B) by striking out "joint duty assignment of not less than two years" and inserting in lieu thereof "full tour of duty in a joint duty assignment (as described in section 664(f)(2) of this title)";

(C) by striking out the second sentence; and

(D) by adding at the end the following:

"(B) The Secretary may not for the purposes of this paragraph designate a military occupational specialty as a critical occupational specialty involving combat operations unless that occupational specialty is within the combat arms, in the case of the Army, or the equivalent, in the case of the Navy, Air Force, and Marine Corps. In determining for the purposes of this paragraph what military occupational specialties within the combat arms (or the equivalent) are critical, the Secretary shall designate as critical any military occupational specialty experiencing severe shortages of trained officers."; and

(3) by adding at the end the following new paragraph:

"(3)(A) In the case of an officer who has completed both a program of education referred to in paragraph (1)(A) and a full tour of duty in a joint duty assignment (as described in section 664 (f)(1) or (f)(3) of this title) and is subsequently nominated for the joint specialty, the Secretary of Defense may waive the requirement in paragraph (1)(B) that the tour of duty in a joint duty assignment be performed after the officer completes the program of education if the Secretary determines that the waiver is necessary in the interests of sound personnel management.

"(B) In the case of an officer who has completed two full tours of duty in a joint duty assignment (as described in section 664(f) of this title) and is subsequently nominated for the joint specialty, the Secretary may waive the requirement that the officer have successfully completed a program of education referred to in paragraph (1)(A) if the Secretary determines that—

"(i) it would be impractical to require the officer to complete such a program at the current stage of the officer's career; and

"(ii) the types of joint duty assignments completed by the officer have been of sufficient breadth to prepare the officer adequately for the joint specialty.

"(C) A waiver under subparagraph (A) or (B) may be made only under unusual circumstances justifying deviation from the conditions established in paragraph (1) for selection of an officer for the joint specialty.

"(D) The authority of the Secretary of Defense to grant a waiver under this paragraph may be delegated only to the Deputy Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer and in the case of a general or flag officer only under exceptional circumstances in which the waiver is necessary to meet a critical need of the armed forces, as determined by the Chairman of the Joint Chiefs of Staff. The total number of waivers granted under this paragraph during any fiscal year may not exceed 5 percent of the total number of officers selected for the joint specialty during that fiscal year.".

SEC. 1302. JOINT DUTY ASSIGNMENT POSITIONS

(a) MINIMUM ASSIGNMENT REQUIREMENTS.—Paragraph (1) of section 661(d) of title 10, United States Code, is amended—

(1) by striking out "by officers who have" and all that follows and inserting in lieu thereof "by officers who—

"(A) have the joint specialty; or

"(B) have been nominated for the joint specialty and—

"(i) have successfully completed a program of education referred to in subsection (c)(1)(A); or

"(ii) have a military occupational specialty that is designated under subsection (c)(2)(A) as a critical occupational specialty involving combat operations.".

(b) DESIGNATION OF CRITICAL JOINT DUTY ASSIGNMENT POSITIONS.—Section 661(d) of such title is further amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The Secretary shall designate not fewer than 1,000 joint duty assignment positions as critical joint duty assignment positions. Such designation shall be made by examining each joint duty assignment position and designating under the preceding sentence those positions for which, considering the duties and responsibilities of the position, it is highly important that the occupant be particularly trained in, and oriented toward, joint matters. Each position so designated may be held only by an officer who has the joint specialty.

"(3)(A) The Secretary shall ensure that, of those joint duty assignment positions that are filled by general or flag officers, a substantial portion are among those positions that are designated under paragraph (2) as critical joint duty assignment positions.

"(B) The Secretary shall ensure that, of those positions designated under paragraph (2) as critical joint duty assignment positions, an appropriate portion are filled by officers with the joint specialty who were selected for the joint specialty under subsection (c)(2).

"(4) Of the officers serving in joint duty assignment positions covered by paragraph (1) who are described in subparagraph (A) or (B) of that paragraph, not more than one-third at any time may be officers described in subparagraph (B)(ii) of that paragraph.".

(c) REVISION OF JDA LIST.—(1) Section 668(b)(2) of such title is amended by inserting "and, of those positions, those that are positions held by general or flag officers and the number of such positions" immediately before the semicolon in subparagraph (A) and immediately before the period in subparagraph (B).

10 USC 668 note.

(2) The Secretary of Defense shall publish a revised list under section 668(b)(2) of title 10, United States Code, taking into account the amendments made by this section, not later than six months after the date of the enactment of this Act.

SEC. 1303. LENGTH OF JOINT DUTY ASSIGNMENTS

(a) REVISION AND CLARIFICATION.—Section 664 of title 10, United States Code, is amended by striking out subsections (b), (c), and (d) and inserting in lieu thereof the following:

"(b) WAIVER AUTHORITY.—The Secretary of Defense may waive subsection (a) in the case of any officer.

"(c) INITIAL ASSIGNMENT OF OFFICERS WITH CRITICAL OCCUPATIONAL SPECIALTIES.—The Secretary may for purposes of section 661(c)(2) of this title authorize a joint duty assignment of less than the period prescribed by subsection (a), but not less than two years, without the requirement for a waiver under subsection (b) in the case of an officer—

"(1) who has been nominated for the joint specialty before such assignment begins;

"(2) who has a military occupational specialty designated under section 661(c)(2) of this title as a critical occupational specialty; and

"(3) for whom such joint duty assignment is the initial joint duty assignment.

"(d) EXCLUSIONS FROM TOUR LENGTH.—The Secretary of Defense may exclude the following service from the standards prescribed in subsection (a):

"(1) Service in a joint duty assignment in which the full tour of duty in the assignment is not completed by the officer because of—

"(A) retirement;

"(B) release from active duty;

"(C) suspension from duty under section 155(f)(2) or 164(g) of this title; or

"(D) a qualifying reassignment (as described in subsection (g)(4)).

Alaska.
Hawaii.

"(2) Service in a joint duty assignment outside the United States or in Alaska or Hawaii.

"(3) Service in a joint duty assignment in a case in which—

"(A) the officer's tour of duty in that assignment brings the officer's cumulative service for purposes of subsection (f)(3) to the applicable standard prescribed in subsection (a); and

"(B) the length of time served in that assignment (in any case other than an assignment which is described in subsection (g)(4)(B)) was not less than two years.

"(e) AVERAGE TOUR LENGTHS.—(1) The Secretary shall ensure that the average length of joint duty assignments during any fiscal year (after fiscal year 1990), measured by the lengths of the joint duty assignments ending during that fiscal year, meets the standards prescribed in subsection (a).

"(2) In computing the average length of joint duty assignments for purposes of paragraph (1), the Secretary may exclude the following service:

"(A) Service described in subsection (c), except that not more than 10 percent of all joint duty assignments shown on the list published pursuant to section 668(b)(2)(A) of this title may be so excluded in any year.

"(B) Service described in subsection (d).

"(f) FULL TOUR OF DUTY.—An officer shall be considered to have completed a full tour of duty in a joint duty assignment upon completion of—

"(1) a joint duty assignment that meets the standards prescribed in subsection (a);

"(2) a joint duty assignment under the circumstances described in subsection (c); or

"(3) cumulative service in joint duty assignments as described in subsection (g).

"(g) CUMULATIVE CREDIT.—(1) Cumulative service for purposes of subsection (f)(3) is service in joint duty assignments which totals in length not less than the applicable standard prescribed in subsection (a) and which includes at least one tour of duty in a joint duty assignment that—

"(A) was performed outside the United States or in Alaska or Hawaii; or Alaska. Hawaii.

"(B) was terminated because of a qualifying reassignment (as described in paragraph (4)).

"(2) In computing cumulative service of an officer in joint duty assignments for purposes of paragraph (1), a tour of duty of the officer in a joint duty assignment other than a tour of duty specified in subparagraph (A) or (B) of paragraph (1) may not be counted unless the officer served at least two years in the assignment. The prohibition on counting certain tours of duty in the preceding sentence does not apply to a joint duty assignment which follows a reassignment described in paragraph (4)(B).

"(3) In computing the cumulative service of an officer in joint duty assignments for purposes of paragraph (1), a tour of duty in a joint duty assignment shall be excluded—

"(A) if the officer served less than 10 months in that assignment; and

"(B) to the extent that the assignment was served more than eight years before the date of computation of the cumulative service.

"(4) For purposes of paragraph (1)(B), a qualifying reassignment is a reassignment of an officer from a joint duty assignment—

"(A) for unusual personal reasons (including extreme hardship and medical conditions) beyond the control of the officer or the armed forces; or

"(B) to another joint duty assignment immediately after—

"(i) the officer was promoted to a higher grade if the reassignment was made because no joint duty assignment was available within the same organization that was commensurate with the officer's new grade; or

"(ii) the officer's position was eliminated in a reorganization.".

(b) CONSECUTIVE ASSIGNMENTS WITHIN SAME ORGANIZATION.—Section 668 of such title is amended by adding at the end the following new subsection:

"(f) CLARIFICATION OF 'TOUR OF DUTY'.—For purposes of this chapter, a tour of duty in which an officer serves in more than one joint duty assignment within the same organization without a break between such assignments shall be considered to be a single tour of duty in a joint duty assignment.".

SEC. 1304. NOTICE TO CONGRESS OF USE OF WAIVER AUTHORITIES AND EXCLUSIONS WITH RESPECT TO OFFICER MANAGEMENT

(a) ADDITIONS TO ANNUAL JOINT OFFICER REPORT.—Section 667 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) through (10) as paragraphs (5), (6), (7), (8), (10), (11), (13), (14), and (16), respectively;

(2) by inserting after paragraph (1) the following new paragraphs (2), (3), and (4):

"(2) The military occupational specialties within each of the armed forces that have been designated as critical occupational specialties under section 661(c)(2) of this title, separately identifying those specialties for which there is a severe shortage of trained officers, together with an explanation of how those specialties meet the criteria for that designation in section 661(c)(2)(B) of this title.

"(3) The number of officers on the active-duty list with a military occupational specialty designated under section 661(c)(2) of this title as a critical occupational specialty who—

"(A) have been nominated for the joint specialty;

"(B) have been nominated for the joint specialty and are serving in a joint duty assignment;

Schools and colleges.

"(C) have completed a joint duty assignment and are attending an appropriate program at a joint professional military education school;

Schools and colleges.

"(D) have completed an appropriate program at a joint professional military education school;

"(E) have been selected for the joint specialty; and

"(F) have served, or are serving in, a second joint duty assignment after being selected for the joint specialty, with the number of such officers who have served, or are serving, in a critical joint duty assignment shown separately for general and flag officers, and for all other officers.

"(4) For each fiscal year—

"(A) the number of officers nominated for the joint specialty and, of those, the number who have a military occupational specialty designated as a critical occupational specialty; and

"(B) a comparison of the number of officers who have the joint specialty who qualified for the joint specialty under section 661(c)(1) of this title with the number of officers who have the joint specialty who were selected for the joint specialty under section 661(c)(2) of this title.";

(3) by striking out "paragraph (2)" in paragraphs (6), (7), and (8) (as redesignated by paragraph (1)) and inserting in lieu thereof "paragraph (5)";

(4) by inserting after paragraph (8) (as redesignated by paragraph (1)) the following new paragraph:

"(9) The promotion rate for officers considered for promotion from above the promotion zone, shown for officers serving on the Joint Staff, officers with the joint specialty, and other officers serving in joint duty assignments, compared in the same manner as specified in paragraph (5).";

(5) by inserting after paragraph (11) (as redesignated by paragraph (1)) the following new paragraph:

"(12) The number of times, in the case of each category of exclusion, that service in a joint duty assignment was excluded in computing the average length of joint duty assignments.";

(6) by striking out "paragraphs (2) through (5)" in paragraph (13) (as redesignated by paragraph (1)) and inserting in lieu thereof "paragraphs (5) through (9)"; and

(7) by inserting after paragraph (14) (as redesignated by paragraph (1)) the following new paragraph:

"(15) The number of times a waiver authority was exercised under this chapter (or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments) and in the case of each such authority—

"(A) whether the authority was exercised for a general or flag officer;

"(B) an analysis of the reasons for exercising the authority; and

"(C) the number of times in which action was taken without exercise of the waiver authority compared with the number of times waiver authority was exercised (in the case of each waiver authority under this chapter or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments).".

(b) APPLICABILITY.—Paragraphs (3) and (4) of section 667 of title 10, United States Code, as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1987. 10 USC 667 note.

SEC. 1305. SPECIAL TRANSITION RULES FOR NUCLEAR PROPULSION OFFICERS

(a) JOINT DUTY ASSIGNMENT REQUIREMENT FOR PROMOTION TO FLAG RANK.—Paragraph (1) of section 619(e) of title 10, United States Code, is amended to read as follows:

"(1) An officer may not be appointed to the grade of brigadier general or rear admiral (lower half) unless the officer has completed a full tour of duty in a joint duty assignment (as described in section 664(f) of this title). Before January 1, 1992, an officer of the Navy designated as a qualified nuclear propulsion officer may be appointed to the grade of rear admiral (lower half) without regard to the preceding sentence, but an officer so appointed may not be appointed to the grade of rear admiral until the officer completes a full tour of duty in a joint duty assignment.".

(b) TRANSITION PLAN.—(1) The Secretary of Defense, after consultation with the Chairman of the Joint Chiefs of Staff, shall develop and carry out a plan for ensuring that— 10 USC 619 note.

(A) during the period before January 1, 1992, the maximum practicable number of officers of the Navy who are qualified nuclear propulsion officers serve in joint duty assignments and otherwise fulfill the provisions of chapter 38 of title 10, United States Code; and

(B) by January 1, 1992, the maximum practicable number of qualified nuclear populsion officers in the grade of captain have qualified for appointment to the grade of rear admiral (lower half) by completing a full tour of duty in a joint duty assignment.

(2) The plan shall include milestones for each calendar year beginning with 1989 requiring that a progressively greater proportion of qualified nuclear propulsion officers fulfill the various requirements of chapter 38 of title 10, United States Code, and other provisions of law enacted by title IV of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433) so that after January 1, 1992, the nuclear propulsion community will be capable of complying with the requirements of that chapter without undue reliance on waivers granted by the Secretary of Defense.

10 USC 619 note. (c) IMPLEMENTATION.—The plan required to be developed under subsection (b) shall be implemented at the earliest practicable date, but in no event later than six months after the date of enactment of this Act. The Chairman of the Joint Chiefs of Staff shall monitor the implementation of such plan.

10 USC 619 note. (d) REPORT.—On the date on which the plan required to be developed under subsection (b) is implemented, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

(1) a copy of the plan; and

(2) a report explaining how the plan fulfills the objectives prescribed in subsection (b).

PART B—OTHER MATTERS

10 USC 136 note.

SEC. 1311. TEMPORARY INCREASE IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE

Until January 20, 1989, the number of Assistant Secretaries of Defense authorized under section 136(a) of title 10, United States Code, and the number of positions at level IV of the Executive Schedule authorized under section 5315 of title 5, United States Code, for Assistant Secretaries of Defense, are each increased by one (to a total of 12).

SEC. 1312. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

Section 601 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (10 U.S.C. 194 note) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) EXCLUSION.—In computing and making reductions under this section, there shall be excluded not more than 1,600 personnel transferred during fiscal year 1988 from the General Services Administration to the Department of Defense for the purpose of having the Department of Defense assume responsibility for the management, operation, and administration of certain real property under the jurisdiction of that Department.".

SEC. 1313. CLARIFICATION OF FORCES NOT REQUIRED TO BE ASSIGNED TO COMBATANT COMMANDS

International organizations.

Section 162(a)(2) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof "or forces assigned to multinational peacekeeping organizations.".

SEC. 1314. TECHNICAL AMENDMENTS

10 USC 2431–2434.

(a) AMENDMENTS TO PUBLIC LAW 99-433.—(1) The table contained in section 101(a)(5) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 995) is amended by striking out "chapter 3" above the right hand column and inserting in lieu thereof "chapter 144".

10 USC 743.

(2) Section 202(b)(2) of such Act (100 Stat. 1011) is amended by inserting "the first place it appears" immediately before the semicolon.

10 USC 3033 note.

(3) Section 532(c)(1) of such Act (100 Stat. 1063) is amended by striking out "section" and inserting in lieu thereof "sections".

10 USC 111 note.

(4) Section 602(e)(3)(B) of such Act (100 Stat. 1067) is amended by striking out "and strength" and inserting in lieu thereof "end strength".

(b) AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1)(A) Section 152 is amended by striking out the section heading and inserting in lieu thereof the following:

"§ 152. Chairman: appointment; grade and rank".

(B) The table of sections at the beginning of chapter 5 is amended by striking out the item relating to section 152 and inserting in lieu thereof the following:

"152. Chairman: appointment; grade and rank.".

(2) Section 155 is amended—

(A) in subsection (f)(4)(B), by inserting "or Congress" after "the President"; and

(B) in subsection (g)(2), by inserting "the President or" after "declared by".

(3) Section 194(e)(2) is amended by inserting "the President or" after "declared by".

(4) Section 619(e)(2)(D) is amended by striking out "the date of the enactment of this subsection" and inserting in lieu thereof "October 1, 1986,".

(5)(A) The heading for section 743 is amended by adding at the end "**; Commandant of the Marine Corps**".

(B) The table of sections at the beginning of chapter 43 is amended by inserting "; Commandant of the Marine Corps" after "Air Force" in the item relating to section 743.

(6) Section 1406(i) is amended—

(A) by inserting "AND VICE CHAIRMEN" after "CHAIRMEN" in the subsection heading; and

(B) by inserting "or Vice Chairman" after "Chairman" in paragraph (1).

(7) Sections 3014(f)(4), 5014(f)(4), and 8014(f)(4) are each amended by inserting "the President or" after "declared by".

(8) The table of sections at the beginning of chapter 549 is amended by striking out the item relating to section 5898 and inserting in lieu thereof the following:

"5898. Action on reports of selection boards.".

(9) Section 8062(e) is amended by striking out "section 114" and inserting in lieu thereof "section 115".

(c) AMENDMENTS TO TITLE 37.—(1) Section 413 of title 37, United States Code, is amended to read as follows:

"§ 413. Chairman and Vice Chairman of the Joint Chiefs of Staff

"The Chairman and Vice Chairman of the Joint Chiefs of Staff are entitled to the allowances provided by law for the Chief of Staff of the Army.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by striking out the item relating to section 413 and inserting in lieu thereof the following:

"413. Chairman and Vice Chairman of the Joint Chiefs of Staff.".

(d) MISCELLANEOUS AMENDMENTS.—Footnote 2 in the table in section 411(a) of title 38, United States Code, is amended by inserting "or Vice Chairman" after "Chairman".

(2) Section 1344(b)(4) of title 31, United States Code, is amended by inserting "the members and Vice Chairman of" before "the Joint Chiefs of Staff".

(3) Footnote 2 of the table entitled "COMMISSIONED OFFICERS" in section 101(b)(1) of the Uniformed Services Pay Act of 1981 (37 U.S.C. 1009 note) is amended by inserting "or Vice Chairman" after "Chairman".

(4) Section 1302(b)(3) of the Department of Defense Authorization Act, 1986 (37 U.S.C. 431 note), is amended by striking out "section 133(d)" and inserting in lieu thereof "section 113(d)".

10 USC 743 note.

(e) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply as if included in the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433).

10 USC 111 note.
37 USC 413 note.

(2) The amendments made by subsections (c)(1), (d)(3), and (d)(4) shall take effect as of October 1, 1986.

TITLE XIV—FOREIGN RELATIONS MATTERS

Maritime affairs.
Iran.

SEC. 1401. COMMENDATION OF ARMED FORCES IN PERSIAN GULF FOR SUCCESS OF CERTAIN OPERATIONS

(a) FINDINGS.—Congress makes the following findings:

(1) The Armed Forces of the United States are currently engaged in operations in the Persian Gulf, including operations to escort United States flag vessels moving through the Gulf, in order to protect national security interests of the United States and the principle of freedom of navigation in international waters.

(2) The government of Iran, through the use of its armed forces and revolutionary guards, is engaging in ongoing activities, including the laying of mines in international waters, to disrupt shipping in the Persian Gulf.

(3) During the night of September 21-22, 1987, Army and Naval forces of the United States detected an Iranian minelaying activity underway in international waters in the Persian Gulf and, in an outstanding instance of joint military operations, tracked and neutralized the boat carrying out the mine laying.

(4) On October 8, 1987, elements of the Armed Forces of the United States, acting jointly, successfully defended themselves against an attack by Iranian forces in the Persian Gulf.

(5) The success of those joint operations (A) serves notice to Iran that the United States will react decisively and effectively to such hostile activities, and (B) may result in reduced risk to United States interests in the Persian Gulf.

(6) There is precedent throughout the history of the United States for Congress to recognize and commend similar operations by the Armed Forces of the United States, including Congressional praise on February 3, 1802, of "the gallant conduct" of certain members of a United States Naval force in the Wars with the Barbary Powers.

(b) CONGRESSIONAL COMMENDATIONS.—The Congress hereby—

(1) declares that those members of the Armed Forces who participated in the joint operations of September 21–22, 1987, and October 8, 1987, in the Persian Gulf acted in the finest military and naval traditions of the United States and displayed exemplary professionalism, skill, and dedication; and

(2) commends those members, and all members of the Armed Forces who acted in support of those operations, for their participation in those important and successful operations.

SEC. 1402. SENSE OF THE SENATE REGARDING JUSTIFICATION FOR SINKING IRANIAN VESSELS

Maritime affairs.

It is the sense of the Senate that the Armed Forces of the United States are fully justified in sinking any Iranian vessel which threatens the safe passage of (1) any warship of the United States, or (2) any other vessel known to have on board any citizen of the United States. This section shall not in itself be construed as legislative authority for any specific military operation.

SEC. 1403. UNITED STATES POLICY TOWARD PANAMA

(a) FINDINGS.—The Congress makes the following findings:

(1) The executive, judicial, and legislative branches of the Government of Panama are now under the influence and control of the Panamanian Defense Forces.

(2) A broad coalition of church, business, labor, civic, and political groups in Panama has called for an objective and thorough investigation of allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces and has insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed. General Noriega.

(3) The Panamanian people continue to be denied the full rights and protections guaranteed by their constitution, as evidenced by continuing censorship and the closure of the independent media, arrests without due process, and instances of the use of excessive force by the Panamanian Defense Forces. Human rights.

(4) Political unrest and social turmoil in Panama can only be resolved if the Government of Panama begins to demonstrate respect for and adherence to all provisions of the Panamanian constitution.

(b) POLICY.—Therefore, it is the sense of Congress that, subject to the condition expressed in subsection (c), the United States should take the following actions:

(1) Cease all economic and military assistance provided to the Government of Panama under the Foreign Assistance Act of 1961 and the Arms Export Control Act, other than assistance to meet immediate humanitarian concerns.

(2) Suspend all shipments of military equipment (including spare parts for military equipment) to the Government of Panama or to any of its agencies or institutions.

Imports.
Sugar, syrup, and molasses.

(3) Reassess whether the United States should terminate the importation into the United States of sugar, syrup, and molasses produced in Panama and reallocate among other foreign countries the quantities of such products that otherwise would be imported from Panama.

(c) CONDITIONS.—It is further the sense of Congress that the United States should take the actions described in subsection (b) unless, within 45 days after the date of the enactment of this Act—

(1) the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

(2) the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a nonmilitary transitional government is in power; and

(4) all constitutional guarantees, including freedom of the press, have been restored to the people of Panama.

SEC. 1404. CONGRESSIONAL STATEMENTS CONCERNING VIETNAMESE OCCUPATION OF CAMBODIA AND JAPANESE TRADE WITH VIETNAM

(a) FINDINGS.—The Congress finds that—

(1) during the nine years since Vietnam invaded Cambodia in late 1978, most Western countries have pledged to maintain an embargo on trade with and developmental aid to Vietnam until Vietnamese troops are withdrawn from Cambodia;

(2) Japan joined in this embargo by freezing approximately $135,000,000 in grants and concessionary loans to Vietnam and reducing trade levels with Vietnam from $220,000,000 in 1978 to $120,000,000 the following year;

(3) despite the fact that 140,000 Vietnamese troops continue to occupy Cambodia, Japan's economic ties with Vietnam have grown steadily since 1982, reaching a current annual trade level of $230,000,000;

(4) this trade has included trade in goods and technology which enhances the productive capacity and the infrastructure base of Vietnam; and

(5) the 65,000,000 people of Vietnam are a tempting lure for investors seeking low wages and for traders seeking new markets.

(b) CONDEMNATION OF VIETNAMESE OCCUPATION OF CAMBODIA.—The Congress hereby—

(1) reaffirms its condemnation of the continued Vietnamese occupation of the sovereign State of Cambodia, an activity which violates all standards of conduct befitting a responsible nation and contravenes all recognized principles of international law; and

(2) reaffirms its call for Vietnam to withdraw from Cambodia as the only way Vietnam can expect to end its self-induced economic isolation.

(c) STATEMENT ON JAPANESE TRADE WITH VIETNAM.—The Congress hereby strongly urges the Government of Japan to—

(1) continue to refrain from granting to Vietnam any official economic assistance;

(2) refrain from granting to Vietnam any form of trade financing, including export credits, trade-related credit insurance, and extended loans for infrastructure development;

(3) continue to discourage its private business sector from exporting to Vietnam goods and technology which enhance the productive capacity and the infrastructure base of Vietnam, including in particular equipment for—

(A) oil exploration and development,

(B) forestry and fishery production,

(C) development of raw materials for light industries, and

(D) the upgrading of export productive capacities; and

(4) strongly discourage the private business sector of Japan from providing financing which in any way facilitates trade with Vietnam.

SEC. 1405. SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

Congress hereby reaffirms the sense of Congress expressed in the first session of the 99th Congress (in section 1451 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 760)), that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Military Construction Authorization Act, 1988 and 1989.

SEC. 2001. SHORT TITLE

This division may be cited as the "Military Construction Authorization Act, 1988 and 1989".

SEC. 2002. EXPLANATION OF ALTERNATIVE LEVELS

In this division the dollar amount authorized for projects at certain military installations and the dollar amount authorized to be appropriated for certain purposes are shown in two different amounts, the second amount being set forth in parentheses immediately after the first. An explanation of the reasons for the two amounts and the rule for determining which dollar amount is to be effective appears in section 3 of this Act.

Subdivision 1—Fiscal Year 1988

TITLE I—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $54,790,000 ($41,990,000).
Fort Campbell, Kentucky, $12,410,000.
Fort Carson, Colorado, $2,050,000.
Fort Devens, Massachusetts, $1,840,000.
Fort Greely, Alaska, $6,400,000.
Fort Hood, Texas, $31,500,000.
Fort Hunter Liggett, California, $1,000,000.
Fort Irwin, California, $4,450,000.
Fort Lewis, Washington, $960,000.
Fort McCoy, Wisconsin, $720,000.
Fort McPherson, Georgia, $1,400,000.
Fort Ord, California, $6,890,000.
Fort Pickett, Virginia, $390,000.
Fort Polk, Louisiana, $490,000.
Fort Riley, Kansas, $4,850,000.
Fort Sam Houston, Texas, $3,300,000.
Fort Stewart, Georgia, $13,570,000.
Fort Wainwright, Alaska, $54,100,000.
Presidio of San Francisco, California, $1,550,000.

UNITED STATES ARMY WESTERN COMMAND

Aliamanu Military Reservation, Hawaii, $5,000,000.
Hawaii Various, $12,300,000.
Schofield Barracks, Hawaii, $38,850,000 ($18,850,000).

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Belvoir, Virginia, $15,610,000.
Fort Benjamin Harrison, Indiana, $6,900,000 ($0)
Fort Benning, Georgia, $11,700,000.
Fort Bliss, Texas, $13,040,000.
Fort Dix, New Jersey, $1,650,000.
Fort Knox, Kentucky, $3,400,000.
Fort Hamilton, New York, $960,000.
Fort Lee, Virginia, $14,350,000.
Fort Leonard Wood, Missouri, $10,000,000.
Fort McClellan, Alabama, $4,700,000.
Fort Rucker, Alabama, $5,700,000.

MILITARY DISTRICT OF WASHINGTON

Cameron Station, Virginia, $400,000.

UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, $7,160,000.
Army Materiel Research Command, Massachusetts, $15,000,000.
Anniston Army Depot, Alabama, $2,100,000.
Corpus Christi Army Depot, Texas, $2,950,000.
Dugway Proving Ground, Utah, $9,200,000 ($5,250,000).
Fort Wingate, New Mexico, $370,000.
Hawthorne Army Ammunition Plant, Nevada, $6,500,000.
Lake City Army Ammunition Plant, Missouri, $21,000,000.
Letterkenny Army Depot, Pennsylvania, $2,000,000.
Lexington-Blue Grass Depot Activity, Kentucky, $570,000.
Navajo Depot Activity, Arizona, $4,000,000.
Pine Bluff Arsenal, Arkansas, $2,000,000.
Pueblo Depot Activity, Colorado, $620,000.
Red River Army Depot, Texas, $7,950,000.
Redstone Arsenal, Alabama, $21,000,000.
Savanna Army Depot, Illinois, $2,550,000.
Seneca Army Depot, New York, $1,250,000.
Sierra Army Depot, California, $2,600,000.
Tooele Army Depot, Utah, $6,700,000.
Umatilla Depot Activity, Oregon, $1,050,000.

UNITED STATES ARMY INFORMATION SYSTEMS COMMAND

Fort Huachuca, Arizona, $1,250,000.
Fort Ritchie, Maryland, $16,500,000.

UNITED STATES MILITARY ACADEMY

United States Military Academy, New York, $26,200,000 ($11,400,000).

UNITED STATES ARMY HEALTH SERVICES COMMAND

Walter Reed Army Medical Center, District of Columbia, $1,300,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Military Ocean Terminal, New Jersey, $2,010,000.
Sunny Point Military Ocean Terminal, North Carolina, $2,190,000.

ASSISTANT CHIEF OF ENGINEERS

Classified, United States, $4,000,000.

(b) Outside the United States.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES ARMY, JAPAN

Japan Various, $11,250,000.

EIGHTH UNITED STATES ARMY

Camp Casey, Korea, $28,000,000.
Camp Castle, Korea, $3,200,000.
Camp Hovey, Korea, $11,800,000.

Camp Howze, Korea, $4,150,000.
Camp Jackson, Korea, $4,350,000.
Camp Kyle, Korea, $2,750,000.
Camp Mercer, Korea, $720,000.
Camp Nimble, Korea, $2,200,000.
Camp Page, Korea, $5,900,000.
Camp Red Cloud, Korea, $8,500,000.
Korea, Various, $4,850,000.
Yongsan, Korea, $3,750,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Kwajalein, $26,560,000.

UNITED STATES ARMY SOUTH

Honduras, $4,150,000.

UNITED STATES ARMY EUROPE AND SEVENTH ARMY

Bad Kreuznach, Germany, $10,200,000.
Baumholder, Germany, $10,800,000.
Einsiedlerhof, Germany, $5,900,000.
Giessen, Germany, $1,250,000.
Grafenwoehr, Germany, $5,700,000.
Hanau, Germany, $1,300,000.
Hohenfels, Germany, $15,500,000.
Mainz, Germany, $1,100,000.
Rheinberg, Germany, $16,950,000.
Stuttgart, Germany, $14,200,000.
Various, Germany, $19,500,000.
Vilseck, Germany, $60,400,000.
Wiesbaden, Germany, $38,900,000.
Wildflecken, Germany, $16,100,000.
Zweibruecken, Germany, $1,900,000.

SEC. 2102. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 2104(a)(6)(A), at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Rucker, Alabama, seven manufactured home spaces, $110,000.

Fort Wainwright, Alaska, fifty-nine units, $10,800,000.

Fort Irwin, California, two hundred and seventy units (two hundred and twenty-five units), $30,000,000 ($24,000,000).

Fort Ord, California, two hundred and eleven units, $19,000,000, of which not more than twenty-four units may be constructed at Fort Hunter Liggett, California.

Bamberg, Germany, one hundred and six units, $11,200,000.

Baumholder, Germany, one hundred and fifty-two units, $12,600,000.

Various Locations, Germany, two hundred and twenty-eight units, funded under section 2103.

Vilseck, Germany, one hundred and eighty-eight units, $17,000,000.

Helemano, Hawaii, two hundred units, $21,000,000.

Pearl City, Hawaii, sixty units, $6,700,000.

Schofield Barracks, Hawaii, one hundred units, $11,200,000.

Saint Louis Support Center, Illinois, one hundred units, $9,700,000.

Fort Polk, Louisiana, three hundred and fifty units, $27,000,000.

Fort Hood, Texas, one hundred and fifty units, $9,400,000.

Fort A.P. Hill, Virginia, twenty-five units, $2,200,000.

Fort Eustis, Virginia, thirty-two manufactured home spaces, $480,000.

(b) Planning and Design.—The Secretary of the Army may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2104(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $21,900,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) In General.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may improve, using amounts appropriated pursuant to section 2104(a)(6)(A), existing military family housing units in an amount not to exceed $108,000,000 ($100,000,000), of which $9,223,000 is available only for energy conservation projects.

(b) Waiver of Maximum Per Unit Cost for Certain Improvement Projects.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Sharpe Army Depot, California, thirty units $1,300,000.

Fort McNair, District of Columbia, four units $220,000.

Fort Riley, Kansas, one hundred and twenty-eight units, $5,100,000.

Fort Leonard Wood, Missouri, fifteen units $600,000.

Fort Belvoir, Virginia, one hundred and ninety-eight units, $8,800,000.

Various locations, Germany, convert unused attic space and upgrade one hundred and two units into three hundred and thirty adequate units, $24,388,000.

(c) Waiver of Space Limitation.—(1) Of the military family housing units to be constructed at the St. Louis Support Center, Illinois, two of those units shall, subject to paragraph (3), be constructed for assignment to general officers who hold positions as commanders or who hold special command positions (as designated by the Secretary of Defense) and, notwithstanding section 2826(a) of title 10, United States Code, each such unit may be constructed with a maximum net floor area of 3,000 square feet.

(2) For purposes of this subsection, the term "net floor area" has the meaning given that term by section 2826(f) of title 10, United State Code.

(3) The provisions of this subsection and of section 2133(c) shall become effective on the date that the report regarding space limitations for senior military officer housing which was requested in the joint statement of the conferees accompanying the conference report filed with respect to the bill S. 2638 of the Ninety-ninth Congress is

received by the Committees on Armed Services of the Senate and House of Representatives.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,609,063,000 ($2,536,613,000) as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $517,240,000 ($458,790,000).

(2) For military construction projects outside the United States authorized by section 2101(b), $341,830,000.

(3) For military construction projects inside the United States at New Cumberland Army Depot, Pennsylvania, authorized by section 101 of the Military Construction Authorization Act, 1986, $30,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,600,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $128,120,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $318,290,000 ($304,290,000);

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,255,183,000, of which not more than $46,498,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $163,842,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,800,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) PLANNING ASSISTANCE.—Of the amount appropriated pursuant to subsection (a)(5), the Secretary of the Army shall use at least $250,000 for community planning assistance for communities located near the newly established Light Infantry Division Post at Fort Drum, New York.

SEC. 2105. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the National Defense Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1988, or the date of enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Barracks with dining facility in the amount of $11,400,000 at Presidio of San Francisco, California.

(2) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(3) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(4) Barracks with dining facility in the amount of $2,350,000 at Elefsis, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 101 and 102 of that Act shall remain in effect until October 1, 1988, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Family housing, new construction, fifty manufactured home spaces in the amount of $712,000 at Fort Carson, Colorado.

(2) Ammunition storage in the amount of $850,000 at Bamberg, Germany.

(3) Tactical equipment shop in the amount of $3,350,000 at Hanau, Germany.

(4) Child care center in the amount of $470,000 at Karlsruhe, Germany.

(5) Modified record fire range in the amount of $2,850,000 at Nuernberg, Germany.

(6) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(7) Multi-purpose training ranges in the amount of $20,000,000 at Wildflecken, Germany.

(8) Air conditioning upgrade in the amount of $5,900,000 at Schofield Barracks, Hawaii.

(9) Child care center in the amount of $1,350,000 at Camp Darby, Italy.

(10) Dining facility modernization in the amount of $4,350,000 at Fort Leavenworth, Kansas.

(11) Family housing, new construction, fifty manufactured home spaces in the amount of $700,000 at Fort Riley, Kansas.

(12) Family housing, new construction, fifty manufactured home spaces in the amount of $689,000 at Fort Campbell, Kentucky.

(13) Water pollution abatement in the amount of $770,000 at Army Materiels and Mechanics Research Center, Massachusetts.

(14) Family housing, new construction, twenty manufactured home spaces in the amount of $317,000 at Fort Devens, Massachusetts.

(15) Family housing, new construction, fifty manufactured home spaces in the amount of $637,000 at Fort Bragg, North Carolina.

(16) Family housing, new construction, twenty-four manufactured home spaces in the amount of $351,000 at Dugway Proving Ground, Utah.

(17) Family housing, new construction, 6 units, in the amount of $596,000 at Fort Myer, Virginia.

(18) Museum site preparation and utilities in the amount of $2,500,000 at Fort Rucker, Alabama.

TITLE II—NAVY

SEC. 2121. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES MARINE CORPS

Marine Corps Logistics Base, Albany, Georgia, $1,530,000.

Marine Corps Logistics Base, Barstow, California, $3,230,000.

Marine Corps Base, Camp Lejeune, North Carolina, $38,705,000.

Marine Corps Air Station, Camp Pendleton, California, $5,810,000.

Marine Corps Base, Camp Pendleton, California, $31,470,000.

Marine Corps Air Station, Cherry Point, North Carolina, $28,500,000.

Marine Corps Air Station, El Toro, California, $3,160,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $24,153,000.

Marine Corps Air Station, New River, North Carolina, $6,530,000.

Marine Corps Development and Education Command, Quantico, Virginia $4,900,000.

Marine Corps Air Station, Tustin, California, $5,110,000.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, $25,900,000.

Marine Corps Air Station, Yuma, Arizona, $9,280,000.

SPACE AND NAVAL WARFARE SYSTEMS COMMAND

Naval Surface Weapons Center, Dahlgren, Virginia, $30,620,000.

Naval Underwater Systems Center, New London, Connecticut, $11,230,000 ($0).

Naval Underwater System Center, Newport, Rhode Island, $750,000.

Naval Coastal Systems Center, Panama City, Florida, $5,400,000.

Naval Air Development Center, Warminster, Pennsylvania, $300,000.

CHIEF OF NAVAL OPERATIONS

Naval Space Surveillance Field Station, Hawkinsville, Georgia, $2,890,000.

Naval Tactical Interoperability Support Activity Detachment Six, Mayport, Florida, $500,000.

Naval Forces Central Command, Pearl Harbor, Hawaii, $2,260,000 ($0).

Naval Air Detachment, Tinker Air Force Base, Oklahoma, $11,800,000.

Commandant, Naval District, Washington, District of Columbia, $21,700,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Galveston, Texas, $28,300,000.

Naval Station, Ingleside, Texas, $88,800,000.

Naval Air Station, Jacksonville, Florida, $4,630,000.
Naval Air Station, Key West, Florida, $15,580,000.
Naval Station, Lake Charles, Louisiana, $15,300,000.
Naval Amphibious Base, Little Creek, Virginia, $23,320,000.
Naval Station, Mayport, Florida, $1,480,000.
Naval Station, Mobile, Alabama, $40,700,000.
Naval Submarine Base, New London, Connecticut, $5,200,000 ($2,900,000).
Naval Station, New York, New York, $16,200,000.
Naval Air Station, Norfolk, Virginia, $4,970,000.
Naval Air Station, Oceana, Virginia, $4,540,000.
Naval Station, Pascagoula, Mississippi, $42,100,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Station, Adak, Alaska, $56,200,000.
Naval Air Station, Alameda, California, $11,400,000.
Trident Refit Facility, Bangor, Washington, $1,080,000.
Naval Amphibious Base, Coronado, California, $2,760,000.
Naval Station, Everett, Washington, $37,500,000.
Naval Air Station, Lemoore, California, $2,560,000.
Naval Station, Long Beach, California, $5,120,000 ($0).
Naval Magazine, Lualualei, Hawaii, $5,310,000.
Naval Air Station, Miramar, California, $6,500,000.
Naval Air Station, North Island, California, $25,270,000.
Commander, Oceanographic System, Pacific, Pearl Harbor, Hawaii, $1,280,000.
Fleet Intelligence Center, Pacific, Pearl Harbor, Hawaii, $13,097,000.
Naval Station, Pearl Harbor, Hawaii, $430,000.
Naval Submarine Base, Pearl Harbor, Hawaii, $7,180,000.
Naval Station, San Diego, California, $36,680,000.
Naval Submarine Base, San Diego, California, $4,120,000.
Naval Station, Treasure Island, San Francisco, California, $4,430,000.
Naval Air Station, Whidbey Island, Washington, $12,650,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Surface Warfare Officers School Command District, Coronado, California, $4,130,000 ($0).
Naval Air Station, Corpus Christi, Texas, $1,180,000.
Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $450,000.
Naval Guided Missiles School, Dam Neck, Virginia, $550,000.
Naval Training Center, Great Lakes, Illinois, $6,910,000.
Naval Air Station, Kingsville, Texas, $10,000,000.
Naval Technical Training Center Detachment, Lackland Air Force Base, Texas, $10,800,000.
Naval Air Station, Memphis, Tennessee, $11,220,000.
Naval Education and Training Center, Newport, Rhode Island, $3,640,000.
Naval Training Center, Orlando, Florida, $3,050,000.
Naval Air Station, Pensacola, Florida, $28,200,000.
Naval Technical Training Center, Pensacola, Florida, $8,170,000.
Fleet Anti-Submarine Warfare Training Center, Pacific, San Diego, California, $5,020,000.

Naval Technical Training Center, San Francisco, California, $10,100,000.

NAVAL MEDICAL COMMAND

Naval Hospital Branch, Adak, Alaska $700,000.

NAVAL OCEANOGRAPHY COMMAND

Naval Oceanography Command, Bay St. Louis, Massachusetts, $1,600,000.

Naval Eastern Oceanography Center, Norfolk, Virginia, $600,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Atlantic, Norfolk, Virginia, $8,400,000.

Naval Communication Station, Stockton, California, $2,800,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $2,860,000.

Naval Security Group Activity, Northwest, Chesapeake, Virginia, $4,530,000.

Naval Security Station, Washington, District of Columbia, $3,000,000.

Naval Security Group Activity, Winter Harbor, Maine, $1,550,000.

NAVAL INTELLIGENCE COMMAND

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, $5,070,000.

NAVAL SUPPLY SYSTEMS COMMAND

Naval Supply Center, Charleston, South Carolina, $8,170,000.

Naval Supply Center, Jacksonville, Florida, $4,720,000.

Navy Clothing and Textile Research Facility, Natick, Massachusetts, $1,870,000.

Naval Supply Center, Norfolk, Virginia, $7,210,000.

Naval Supply Center, Pearl Harbor, Hawaii, $3,280,000.

Naval Supply Center, Pensacola, Florida, $1,000,000.

NAVAL AIR SYSTEMS COMMAND

Naval Air Rework Facility, Alameda, California, $16,000,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $500,000.

Naval Air Rework Facility, Jacksonville, Florida, $5,000,000.

Naval Air Test Center, Patuxent River, Maryland, $6,500,000.

Pacific Missile Test Center, Point Mugu, California, $650,000.

NAVAL FACILITIES ENGINEERING COMMAND

Naval Construction Battalion Center, Gulfport, Mississippi, $10,450,000.

Navy Public Works Center, Norfolk, Virginia, $6,100,000.

Navy Public Works Center, Pearl Harbor, Hawaii, $11,203,000.

Navy Public Works Center, Pensacola, Florida, $4,150,000.

Naval Construction Battalion Center, Port Hueneme, California, $5,870,000.

Navy Public Works Center, San Diego, California, $5,700,000.

Navy Public Works Center, San Francisco, California, $11,700,000.

NAVAL SEA SYSTEMS COMMAND

Charleston Naval Shipyard, Charleston, South Carolina, $1,400,000.

Naval Weapons Station, Charleston, South Carolina, $1,670,000.

Naval Weapons Station, Concord, California, $4,640,000.

Naval Weapons Support Center, Crane, Indiana, $8,290,000.

Naval Weapons Station, Earle, New Jersey, $3,540,000.

Naval Ordnance Station, Indian Head, Maryland, $6,860,000.

Naval Undersea Warfare Engineering Station, Keyport, Washington, $8,170,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $5,800,000.

Naval Weapons Station, Seal Beach, California, $15,970,000.

Mare Island Naval Shipyard, Vallejo, California, $4,040,000.

Naval Weapons Station, Yorktown, Virginia, $30,850,000 ($22,880,000).

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $95,025,000.

VARIOUS LOCATIONS

Land Acquisition, $8,091,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES MARINE CORPS

Marine Corps Air Station, Futenma, Okinawa, Japan, $1,000,000.

Marine Corps Air Station, Iwakuni, Japan, $1,080,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Support Activity, Antigua, West Indies, $3,250,000 ($0).

Naval Facility, Brawdy Wales, United Kingdom, $850,000.

Naval Station, Guantanamo Bay, Cuba, $917,000.

Naval Air Station, Guantanamo Bay, Cuba, $1,770,000.

Naval Air Station, Keflavik, Iceland, $4,870,000.

Atlantic Fleet Weapons Training Facility, Roosevelt Roads, Puerto Rico, $2,020,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Mobile Construction Battalion, Camp Covington, Guam, $14,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, $1,490,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $1,000,000.

Naval Facility, Guam, $650,000.

Naval Magazine, Guam, $10,800,000.

Naval Supply Depot, Guam, $14,160,000.

Naval Ship Repair Facility, Guam, $5,100,000.

COMMANDER IN CHIEF, UNITED STATES NAVAL FORCES EUROPE

Naval Support Office, La Maddalena, Italy, $7,480,000.
Naval Activities, London, United Kingdom, $600,000.
Naval Support Activity, Naples, Italy, $20,150,000.
Naval Air Station, Sigonella, Italy, $2,460,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Mediterranean, Naples, Italy, $5,300,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $4,970,000 ($770,000).
Naval Security Group Activity, Sabana Seca, Puerto Rico, $400,000.
Naval Security Group Activity, Terceira Island, Azores, $700,000.

NAVAL FACILITIES ENGINEERING COMMAND

Navy Public Works Center, Guam, $2,360,000.
Navy Public Works Center, Subic Bay, Republic of the Philippines, $7,680,000.

SEC. 2122. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 2125(a)(8)(A), at the following installations in the number of units shown, and in the amount shown, for each installation:

Navy Public Works Center, San Diego, California, five hundred and eighty units (three hundred units), $52,840,000 ($27,840,000).
Navy Public Works Center, San Francisco, California, four hundred and forty-four units, $38,380,000.
Nuclear Power Training Unit, Ballston Spa, New York, one hundred units, $8,810,000.
Naval Station, New York, New York, two hundred and fifty units, $25,490,000.
Marine Corps Base, Camp Pendleton, California, two hundred and sixty-eight units (two hundred units), $25,760,000 ($17,760,000).
Marine Corps Air Station, El Toro, California, one hundred units, $8,660,000.
Marine Corps Air-Ground Combat Center, Twentynine Palms, California, one hundred units, $11,530,000.
Marine Corps Air Station, Beaufort, South Carolina, thirty-seven mobile home spaces, $540,000.
Marine Corps Recruit Depot, Parris Island, South Carolina, twenty-five mobile home spaces, $370,000.
Marine Corps Development and Education Command, Quantico, Virginia, ten mobile home spaces, $166,000.
Marine Corps Finance Center, Kansas City, Missouri, eight mobile home spaces, $120,000.
Naval Station, Keflavik, Iceland, two hundred fifty units, $20,000,000.

(b) Planning and Design.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2125(a)(8)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $6,248,000.

SEC. 2123. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) In General.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may improve, using amounts appropriated pursuant to section 2125(a)(8)(A), existing military family housing units in the amount of $39,943,000.

(b) Waiver of Maximum Per Unit Cost for Certain Improvement Projects.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown and in the amount shown, for each installation:

Naval Station, Long Beach, California, two hundred forty-five units, $16,237,000.

Naval Air Station, Whidbey Island, Seattle, Washington, seventy-one units, $2,937,700.

Navy Public Works Center, San Francisco, California, thirty-six units, $2,331,600.

Navy Public Works Center, San Francisco, California, twenty-four units, $1,004,700.

Naval Air Station, Brunswick, Maine, two hundred thirty-one units, $9,799,000.

Marine Corps Development and Education Command, Quantico, Virginia, one hundred forty-eight units, $8,079,500.

Navy Public Works Center, Guam, eighty-two units, $6,838,700.

Naval Station, New York, New York, one hundred twenty units, $12,500,000.

SEC. 2124. DEFENSE ACCESS ROADS

The Secretary of the Navy may, using funds appropriated pursuant to section 2125(a)(7), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at the following locations and in the following amounts:

Naval Construction Battalion Center, Hueneme, California, $800,000.

Naval Air Station, Moffett Field, California, $400,000.

Naval Station, San Diego, California, $350,000.

Naval Station, Norfolk, Virginia, $1,200,000.

Naval Submarine Base, Groton, Connecticut, $1,250,000.

Naval Station, Everett, Washington, phase I, $10,000,000.

SEC. 2125. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,217,120,000 ($2,143,660,000) as follows:

(1) For military construction projects inside the United States authorized by section 2121(a), $1,109,364,000 ($1,076,354,000).

(2) For military construction projects outside the United States authorized by section 2121(b), $115,757,000 ($108,307,000).

(3) For military construction projects at Kings Bay, Georgia, authorized by section 201(a) of the Military Construction Authorization Act, 1986, $28,675,000.

(4) For military construction projects at Naval Weapons Station, Earle, New Jersey, authorized by section 2201(a) of the Military Construction Authorization Act, 1987, $19,500,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(6) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $143,655,000.

(7) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $14,000,000.

(8) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $238,857,000 ($205,857,000); and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $530,812,000 of which not more than $14,347,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $22,220,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2121 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2126. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED

(a) PROJECTS.—(1) In addition to the military construction projects authorized under title II of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Navy may acquire real property and may carry out the following military construction projects in the following amounts which have been appropriated for such projects before the date of the enactment of this Act:

Naval Supply Center, Pearl Harbor, Hawaii, Cold Storage Facility, $11,500,000.

Naval Air Station, Memphis, Tennessee, Road Improvements, $1,570,000.

Cubi Point, Republic of the Philippines, Bachelor Officers' Quarters, $5,300,000.

(2) Notwithstanding the provisions of section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of the projects authorized by paragraph (1) may not exceed the total amount authorized for such projects by such paragraph.

(b) FAMILY HOUSING.—In addition to the expenditures for improvements to military family housing authorized by section 2203 of the Military Construction Authorization Act, 1987 (Public Law

99-661), the Secretary of the Navy may make expenditures, out of funds appropriated before the date of the enactment of this Act, to improve existing family housing units, pursuant to section 2825 of title 10, United States Code, in an amount not to exceed $22,000,000.

SEC. 2127. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) Extension of Authorization of Certain Fiscal Year 1984 Projects.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115), authorizations for the following projects authorized in section 201 of that Act, as extended by section 2209(b) of the Military Construction Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1988, or the date of enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Unaccompanied enlisted personnel housing in the amount of $10,000,000 at the Naval Air Station, Jacksonville, Florida.

(2) Electrical distribution lines in the amount of $7,200,000 at the Mare Island Naval Shipyard, Vallejo, California.

(3) Heating, Ventilation and Air Conditioning System, in the amount of $4,540,000 at the Naval Air Station, Alameda, California.

(4) Land acquisition in the amount of $830,000 at the Naval Weapons Station, Concord, California.

(b) Extension of Authorization of Certain Fiscal Year 1986 Projects.—Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in section 201 of that Act shall remain in effect until October 1, 1988, or the date of enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Plating shop modernization in the amount of $12,740,000 at the Naval Ordnance Station, Louisville, Kentucky.

(2) Bachelors enlisted quarters and mess hall in the amount of $4,700,000 at the Naval Magazine, Guam.

(3) Physical fitness center in the amount of $5,380,000 at the Marine Corps Air-Ground Combat Center, Twentynine Palms, California.

(4) Dredging in the amount of $6,570,000 at the Naval Supply Center, Oakland, California.

(5) Dredging in the amount of $8,650,000 at the Naval Air Station, Alameda, California.

(6) Paint and finishing hangar in the amount of $22,000,000 at the Naval Air Rework Facility, Alameda, California.

(7) Combat swimmer trainer facility in the amount of $3,000,000 at the Naval Amphibious Base, Coronado, California.

(8) Communications facilities in the amount of $2,750,000 at the Naval Station, Guantanamo Bay, Cuba.

(9) Seabee material transit facility in the amount of $6,960,000 at the Naval Construction Battalion Center, Port Hueneme, California.

SEC. 2128. NAVAL WEAPONS STATION, EARLE, NEW JERSEY

Section 2201(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661) is amended by striking out "Naval Weapons Station, Earle, New Jersey, $34,760,000" and

100 Stat. 4020.

inserting in lieu thereof "Naval Weapons Station, Earle, New Jersey, $54,760,000".

TITLE III—AIR FORCE

SEC. 2131. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $46,600,000 ($34,100,000).
Kelly Air Force Base, Texas, $30,650,000.
McClellan Air Force Base, California, $24,500,000.
Newark Air Force Base, Ohio, $580,000.
Robins Air Force Base, Georgia, $15,500,000.
Tinker Air Force Base, Oklahoma, $11,500,000.
Wright-Patterson Air Force Base, Ohio, $22,750,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $17,500,000.
Edwards Air Force Base, California, $5,750,000.
Eglin Air Force Base, Florida, $23,050,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $16,900,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $8,350,000.
Columbus Air Force Base, Mississippi, $5,450,000.
Goodfellow Air Force Base, Texas, $5,500,000.
Keesler Air Force Base, Mississippi, $6,300,000.
Lackland Air Force Base, Texas, $13,900,000.
Laughlin Air Force Base, Texas, $1,872,000.
Lowry Air Force Base, Colorado, $7,050,000.
Mather Air Force Base, California, $4,800,000.
Randolph Air Force Base, Texas, $8,100,000 ($5,800,000).
Reese Air Force Base, Texas, $610,000.
Sheppard Air Force Base, Texas, $13,700,000.
Vance Air Force Base, Oklahoma, $3,190,000.
Williams Air Force Base, Arizona, $3,350,000.

AIR UNIVERSITY

Gunter Air Force Station, Alabama, $8,800,000.
Maxwell Air Force Base, Alabama, $24,200,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $10,165,000.
Elmendorf Air Force Base, Alaska, $11,000,000 ($4,300,000).
Shemya Air Force Base, Alaska, $38,350,000.
Various Locations, $15,800,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $14,600,000.
Andrews Air Force Base, Maryland, $20,000,000.
Dover Air Force Base, Delaware, $5,050,000 ($2,300,000).
Kirtland Air Force Base, New Mexico, $53,400,000.
Little Rock Air Force Base, Arkansas, $400,000.
McGuire Air Force Base, New Jersey, $1,640,000.
Pope Air Force Base, North Carolina, $11,000,000.
Scott Air Force Base, Illinois, $7,080,000.
Travis Air Force Base, California, $1,500,000.

PACIFIC AIR FORCES

Bellows Air Force Base, Hawaii, $460,000.
Hickam Air Force Base, Hawaii, $900,000.
Kaena Point, Hawaii, $3,400,000.

SPACE COMMAND

Cape Cod Air Force Station, Massachusetts, $2,150,000.
Cavalier Air Force Station, North Dakota, $3,750,000.
Clear Air Force Base, Alaska, $4,000,000.
Falcon Air Force Station, Colorado, $2,150,000 ($0).
Peterson Air Force Base, Colorado, $12,150,000 ($1,650,000).

SPECIAL PROJECT

Various Locations, CONUS, $19,073,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, $3,700,000.
Beale Air Force Base, California, $7,180,000 ($2,180,000).
Blytheville Air Force Base, Arkansas, $6,500,000.
Carswell Air Force Base, Texas, $5,010,000.
Castle Air Force Base, California, $10,650,000.
Dyess Air Force Base, Texas, $3,600,000.
Ellsworth Air Force Base, South Dakota, $11,550,000.
Fairchild Air Force Base, Washington, $6,000,000.
F.E. Warren Air Force Base, Wyoming, $308,000.
Grand Forks Air Force Base, North Dakota, $1,600,000.
Griffiss Air Force Base, New York, $14,830,000.
Holbrook Radar Bomb Score Site, Arizona, $1,890,000.
K.I. Sawyer Air Force Base, Michigan, $3,030,000.
Loring Air Force Base, Maine, $17,480,000 ($4,380,000).
Malmstrom Air Force Base, Montana, $18,760,000.
McConnell Air Force Base, Kansas, $4,750,000 ($2,550,000).
Minot Air Force Base, North Dakota, $8,600,000.
Offutt Air Force Base, Nebraska, $10,660,000.
Plattsburgh Air Force Base, New York, $2,900,000.
Vandenberg Air Force Base, California, $1,300,000.
Whiteman Air Force Base, Missouri, $89,300,000.
Wilder, Idaho, $2,350,000.
Wurtsmith Air Force Base, Michigan, $13,620,000.

TACTICAL AIR COMMAND

Bangor International Airport, Maine, $1,500,000.

Base 51, $610,000.
Base 52, $600,000.
Bergstrom Air Force Base, Texas, $9,190,000.
Cannon Air Force Base, New Mexico, $7,000,000.
Davis-Monthan Air Force Base, Arizona, $8,000,000 ($1,000,000).
England Air Force Base, Louisiana, $2,300,000.
George Air Force Base, California, $210,000.
Holloman Air Force Base, New Mexico, $7,750,000.
Indian Springs Auxiliary Air Field, Nevada, $4,400,000.
Langley Air Force Base, Virginia, $9,150,000.
Luke Air Force Base, Arizona, $5,400,000 ($2,800,000).
MacDill Air Force Base, Florida, $3,741,000.
Mountain Home Air Force Base, Idaho, $1,900,000.
Nellis Air Force Base, Nevada, $14,050,000.
Seymour-Johnson Air Force Base, North Carolina, $11,950,000.
Shaw Air Force Base, South Carolina, $4,980,000.
Tyndall Air Force Base, Florida, $2,000,000.

UNITED STATES AIR FORCE ACADEMY

Air Force Academy, Colorado, $2,680,000.

VARIOUS LOCATIONS

Classified Location, $1,500,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

MILITARY AIRLIFT COMMAND

Lajes Field, Portugal, $4,600,000.
Rhein-Main Air Base, Germany, $11,450,000.

PACIFIC AIR FORCES

Camp Humphreys, Korea, $5,550,000.
Clark Air Base, Republic of the Philippines, $9,540,000.
Diego Garcia Air Base, Indian Ocean, $18,600,000.
Kadena Air Base, Japan, $5,000,000.
Kunsan Air Base, Korea, $5,750,000.
Osan Air Base, Korea, $16,640,000.
Suwon Air Base, Korea, $3,650,000.

SPACE COMMAND

Thule Air Base, Greenland, $3,000,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $8,700,000 ($5,100,000).

TACTICAL AIR COMMAND

Howard Air Force Base, Panama, $11,000,000 ($310,000).
Masirah, Oman, $3,325,000.
Seeb, Oman, $8,260,000.
Thumrait, Oman, $5,010,000.

UNITED STATES AIR FORCES IN EUROPE

RAF Alconbury, United Kingdom, $2,150,000.
Ankara Air Station, Turkey, $2,250,000.
Aviano Air Base, Italy, $1,450,000.
RAF Bentwaters, United Kingdom, $9,900,000.
Bitburg Air Base, Germany, $4,690,000.
Buchel Air Base, Germany, $2,000,000.
Camp New Amsterdam, The Netherlands, $2,600,000.
RAF Chicksands, United Kingdom, $1,250,000.
RAF Croughton, United Kingdom, $900,000.
RAF Fairford, United Kingdom, $11,550,000.
Hahn Air Base, Germany, $5,770,000.
Incirlik Air Base, Turkey, $6,750,000 ($3,750,000).
RAF Lakenheath, United Kingdom, $3,620,000.
Memmingen Air Base, Germany, $2,000,000.
Pruem Air Station, Germany, $2,000,000.
Ramstein Air Base, Germany, $13,360,000.
San Vito Air Station, Italy, $390,000.
Sembach Air Base, Germany, $1,100,000.
Spangdahlem Air Base, Germany, $5,050,000.
RAF Welford, United Kingdom, $1,200,000.
Wenigerath Storage Site, Germany, $1,750,000.
RAF Wethersfield, United Kingdom, $1,300,000.
Zweibrucken Air Base, Germany, $4,500,000.

VARIOUS LOCATIONS

Base 89, $4,300,000.

SEC. 2132. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section 2135(a)(6)(A), at the following installations in the number of units shown, and in the amount shown, for each installation:

Holbrook, Arizona, thirty-four units, $2,530,000.
Clark Air Base, Philippines, three hundred units, $23,260,000.
RAF Bentwaters, United Kingdom, Family Housing Management Office, $330,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2135(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $7,000,000.

SEC. 2133. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve, using amounts appropriated pursuant to section 2135(a)(6)(A), existing military family housing units in an amount not to exceed $132,800,000 ($110,000,000).

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations, in the number of units shown, and in the amount shown, for each installation:

Maxwell Air Force Base, Alabama, twenty units, $758,000; fifty-six units, $2,710,000.

Elmendorf Air Force Base, Alaska, sixty-four units, $4,669,000.

Lowry Air Force Base, Colorado, one unit, $74,000.

Peterson Air Force Base, Colorado, six units, $363,000.

Eglin Auxiliary Airfield No. 9, Florida, one hundred and sixty-four units, $3,177,000.

MacDill Air Force Base, Florida, seven units, $556,000; one unit, $110,000.

Scott Air Force Base, Illinois, three units, $239,000.

Barksdale Air Force Base, Louisiana, one hundred and fourteen units, $5,342,000.

England Air Force Base, Louisiana, one hundred and six units, $3,465,000.

Andrews Air Force Base, Maryland, five units, $325,000.

Offutt Air Force Base, Nebraska, two hundred units, $8,122,000.

Pease Air Force Base, New Hampshire, two hundred units, $12,361,000.

McGuire Air Force Base, New Jersey, one hundred units, $4,263,000.

Plattsburgh Air Force Base, New York, twenty-nine units, $2,800,000.

Shaw Air Force Base, South Carolina, one hundred and twenty-five units, $4,385,000; one hundred and thirty-one units, $4,702,000.

Carswell Air Force Base, Texas, one hundred and thirty-six units, $7,904,000; one hundred fifty-five units, $9,100,000.

Kelly Air Force Base, Texas, eighteen units, $1,356,000.

Lackland Air Force Base, Texas, one unit, $46,000.

Randolph Air Force Base, Texas, five units, $400,000.

Langley Air Force Base, Virginia, seven units, $540,000.

Fairchild Air Force Base, Washington, two hundred and two units, $10,121,000.

Ramstein Air Base, Germany, eight units, $536,000; two hundred and forty units, $11,202,000; two hundred and eighty units, $16,990,000.

Kadena Air Base, Japan, eighty-two units, $4,143,000; four units, $407,000; one hundred and ninety-nine units, $12,177,000.

Yokota Air Base, Japan, ninety-five units, $5,061,000.

RAF Mildenhall, United Kingdom, two units, $183,000.

(c) WAIVER OF SPACE LIMITATION FOR GENERAL OFFICER'S QUARTERS.—(1) To support the United States Central Command (USCENTCOM), the Tactical Air Command (TAC), and the United States Transportation Command, the Secretary of the Air Force may, subject to the requirement of section 2103(c)(3), carry out family housing improvement projects to add to and alter existing family housing units and (notwithstanding section 2826(a) of title 10, United States Code) increase the net floor area of one family housing unit at Shaw Air Force Base, South Carolina, to not more than 2,600 square feet, and increase the net floor area of one family housing unit at MacDill Air Force Base, Florida, and three converted family housing units at Scott Air Force Base, Illinois, to not more than 3,000 square feet.

(2) For purposes of this subsection the term "net floor area" has the same meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2134. DEFENSE ACCESS ROADS

The Secretary of the Air Force may, using funds appropriated pursuant to section 2135(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Havre Air Force Station, Montana, in an amount not to exceed $4,100,000.

SEC. 2135. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,109,703,000 ($2,002,813,000) as follows:

(1) For military construction projects inside the United States authorized by section 2131(a), $912,949,000 ($846,149,000).

(2) For military construction projects outside the United States authorized by section 2131(b), $198,005,000 ($180,715,000).

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $120,336,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $4,100,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $165,920,000 ($143,120,000); and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $692,393,000 of which not more than $8,818,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $68,024,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2353 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2131 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2136. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED

(a) In General.—In addition to the military construction projects authorized under title III of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of the Air Force may acquire real property and may carry out the following military construction projects in the following amounts which have been appropriated for such projects before the date of the enactment of this Act:

Goodfellow Air Force Base, Texas, Unaccompanied Officer Personnel Housing, $10,000,000.

Clark Air Base, Republic of Philippines, as follows:

(1) Aerospace systems branch, $1,050,000.

(2) Alter unaccompanied enlisted personnel housing, $1,850,000.

(3) Alter unaccompanied enlisted personnel housing, $3,150,000.

(4) Child care center, $2,000,000.

(5) COPE THUNDER operations facility, $4,650,000.

(6) Essential maintenance facility, phase II, $4,650,000.

(7) Fire station, $760,000.

(8) Petroleum operations facility, $1,600,000.

(9) Portomod warehouse, $460,000.

Blytheville Air Force Base, Arkansas, Gymnasium, $2,750,000.

(b) LIMITATION.—Notwithstanding the provisions of section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of the projects authorized by subsection (a) may not exceed the total amount authorized for such projects by such subsection.

SEC. 2137. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 301 and 302 of that Act shall remain in effect until October 1, 1988, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later:

(1) Cold Storage Facility, in the amount of $3,350,000 at Lowry Air Force Base, Colorado.

(2) Portomod Support in the amount of $300,000 at Kunsan Air Base, Korea.

(3) Portomod Support in the amount of $260,000 at Kwang-Ju Air Base, Korea.

(4) Portomod Support in the amount of $860,000 at Osan Air Base, Korea.

(5) TR-1 Ground Station in the amount of $4,500,000 at Base 30, at a location overseas.

(6) Chemical Warfare Protection—Avionics Shop in the amount of $1,450,000 at Camp New Amsterdam, The Netherlands.

(7) GEODSS—Composite Support Facility in the amount of $2,250,000 and a Spacetrack Observation Facility in the amount of $12,400,000 at GEODSS Site 5 in Portugal.

TITLE IV—DEFENSE AGENCIES

SEC. 2141. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATION AGENCY

Naval Station, Anacostia, District of Columbia, $30,170,000 ($5,000,000).

DEFENSE INTELLIGENCE AGENCY

Bolling Air Force Base, District of Columbia, $805,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Key West, Florida, $9,400,000.
Defense Depot, Memphis, Tennessee, $11,361,000.
Defense General Supply Center, Richmond, Virginia, $22,300,000.

DEFENSE MEDICAL FACILITIES OFFICE

Fort Wainwright, Alaska, $9,100,000.
Kings Bay, Georgia, $6,600,000.
Malmstrom Air Force Base, Montana, $16,500,000.
McGuire Air Force Base, New Jersey, $550,000.
Lackland Air Force Base, Texas, $1,350,000.
Langley Air Force Base, Virginia, $1,500,000.
Naval Station, Whidbey Island, Washington, $16,500,000 ($0).

DEFENSE NUCLEAR AGENCY

Field Command, Kirtland Air Force Base, New Mexico, $1,127,000.

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOL

Hanscom Air Force Base, Massachusetts, $4,432,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, $5,000,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $8,450,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Location, $25,386,000.
Classified Location, $43,148,000.

STRATEGIC DEFENSE INITIATIVE

Fort Monmouth, New Jersey, $3,450,000.
White Sands Missile Range, New Mexico, $3,180,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Patch Barracks, Stuttgart, Germany, $1,030,000.
RAF Croughton, United Kingdom, $500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Classified, $6,400,000.
Classified, $7,000,000.
Rheinberg, Germany, $2,250,000.
Iraklion Air Station, Greece, $340,000.
Naval Air Station, Sigonella, Italy, $20,000,000.
San Vito Air Station, Italy, $670,000.
Camp Lester, Japan, $1,400,000.
Misawa Air Base, Japan, $4,700,000.
Woensdrecht, The Netherlands, $360,000.
Subic Bay, Republic of the Philippines, $3,500,000.
Incirlik Air Base, Turkey, $15,260,000.
RAF Fairford, United Kingdom, $7,300,000.
RAF Wethersfield, United Kingdom, $740,000.
RAF Bentwaters, United Kingdom, $1,300,000.

DEFENSE NUCLEAR AGENCY

Johnston Island, $4,100,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Bitberg, Germany, $2,413,000.
Schweinfurt, Germany, $5,320,000.
Sembach, Germany, $2,930,000.
Spangdahlem, Germany, $7,300,000.
Stuttgart, Germany, $3,030,000.
Wuerzburg, Germany, $3,153,000.
San Miguel, Republic of the Philippines, $2,960,000.
Fort Buchanan, Puerto Rico, $1,200,000.
Incirlik Air Base, Turkey, $7,746,000.

NATIONAL SECURITY AGENCY

Classified, $15,000,000.

STRATEGIC DEFENSE INITIATIVE

Pacific Missile Range, Kwajalein, $16,565,000.

SEC. 2142. FAMILY HOUSING

The Secretary of Defense may construct or acquire four family housing units (including land acquisition), using amounts appropriated pursuant to section 2145(a)(10)(A), at classified locations in the total amount of $1,000,000.

SEC. 2143. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may improve, using amounts appropriated pursuant to section 2145(a)(10)(A), existing military family housing units in an amount not to exceed $186,000.

SEC. 2144. DEFENSE ACCESS ROADS

The Secretary of Defense may, using funds appropriated pursuant to section 2145(a)(8), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Brooke Army Medical Center, San Antonio, Texas, in an amount not to exceed $8,600,000.

SEC. 2145. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $577,076,000 ($530,406,000) as follows:

(1) For military construction projects inside the United States authorized by section 2141(a), $220,309,000 ($178,639,000).

(2) For military construction projects outside the United States authorized by section 2141(b), $144,467,000.

(3) For military construction projects at Fort Meade, Maryland, authorized by section 101(a) of the Military Construction Authorization Act, 1986, $15,000,000.

(4) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $86,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $9,200,000 ($6,000,000).

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(7) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $57,800,000 ($56,000,000).

(8) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $8,600,000.

(9) For conforming storage facilities constructed under the authority of section 2404 of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), $5,000,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $1,186,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $19,514,000, of which not more than $15,188,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2141 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) Project.—Of the amount appropriated pursuant to the authorization in subsection (a)(7), at least $2,000,000 shall be used for the planning and design of a bridge for route 32 over the Gladys Spellman Memorial Parkway providing access to the National Security Agency.

SEC. 2146. AUTHORIZATION OF PROJECT FOR WHICH APPROPRIATIONS HAVE BEEN MADE

In addition to the military construction projects authorized under title IV of the Military Construction Authorization Act, 1987 (Public Law 99-661), the Secretary of Defense may acquire real property and may carry out a military construction project for a medical center clinic annex addition/alteration at Vandenberg Air Force Base, California, in the amount of $1,900,000 which has been appropriated for such project before the date of the enactment of this Act.

SEC. 2147. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) Extension of Authorization of a Fiscal Year 1985 Project.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407), authorization for a Conforming Storage Facility in the amount of $1,950,000 at the Defense Property Disposal Office, Pearl Harbor Naval Shipyard, Hawaii, authorized in section 401 of that Act, and extended by section 2406 of the Military Construction Authorization Act, 1987 (Public Law 99-661), shall remain in effect until October 1, 1988, or the date of enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later.

(b) Extension of Authorization of Certain Fiscal Year 1986 Projects.—(1) Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in section 401 of that Act shall remain in effect until October 1, 1988, or the date of enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later:

(A) Conforming Storage Facility in the amount of $1,390,000 at Defense Property Disposal Office, Anchorage, Alaska.

(B) Facility Rehabilitation in the amount of $1,320,000 at Defense Property Disposal Office, Alameda, California.

(C) Conforming Storage Facility in the amount of $825,000 at Defense Property Disposal Office, Barstow, California.

(D) Conforming Storage Facility in the amount of $625,000 at Defense Property Disposal Office, Groton, Connecticut.

(E) Fire Protection in the amount of $1,040,000 at Defense Fuel Support Point, Newington, New Hampshire.

(F) Steam Distribution System in the amount of $510,000 at Defense Depot, Ogden, Utah.

(G) Covered Storage in the amount of $1,020,000 at F.E. Warren Air Force Base, Cheyenne, Wyoming.

(2) Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), the authorization for the Elementary and High School in the amount of $7,080,000 at Florennes, Belgium, authorized in section 402 of such Act shall remain in effect until October 1, 1988, or the date of enactment of a Military Construction Authorization Act for fiscal year 1989, whichever is later.

SEC. 2148. BROOKE ARMY MEDICAL CENTER

(a) Increase in Project Amount.—(1) Section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4034), is amended by striking out "$135,000,000" in the item relating to Fort Sam Houston, Texas under the heading relating to Defense Medical Facilities Office and inserting in lieu thereof "$241,000,000".

(2) The limitation on the total cost of projects carried out under section 2401 of such Act shall be increased by $106,000,000.

(b) Report.—Not later than March 1, 1988, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a report containing—

(1) a cost estimate for the construction of the medical facility at Brooke Army Medical Center, San Antonio, Texas, authorized by section 2401 of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), with space for 450 beds;

(2) a cost estimate for the construction of such medical facility with space for 200 beds and an estimate of the costs likely to be incurred as a result of the transfer of services from Brooke Army Medical Center to Wilford Hall Air Force Hospital; and

(3) a cost estimate of the expansion of such medical facility from 200 to 450 beds.

SEC. 2149. CONFORMING STORAGE FACILITIES

Subsection (a) of section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), is amended to read as follows: 100 Stat. 4037.

"(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987 pursuant to the authorization in section 2405(a) of this Act and not more than $5,000,000 appropriated for fiscal year 1988 pursuant to the authorization in section 2145(a) of the Military Construction Authorization Act, 1988 and 1989, carry out military construction projects not otherwise authorized by law for the construction of conforming storage facilities.".

SEC. 2150. CONSTRUCTION OF A NATIONAL TEST FACILITY FOR THE STRATEGIC DEFENSE INITIATIVE

Of the funds appropriated to the Department of Defense pursuant to section 201 for research, development, test, and evaluation for fiscal year 1988 in connection with the Strategic Defense Initiative program, not more than $70,000,000 may be used for the planning and construction of a National Test Facility for the Strategic Defense Initiative at Falcon Air Force Base, Colorado.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2151. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2152 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2152. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1987, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2151, in the amount of $386,000,000.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2161. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1987, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $177,289,000; and

(B) for the Army Reserve, $88,100,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $68,737,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $141,091,000; and

(B) for the Air Force Reserve, $74,300,000.

TITLE VII—EXPIRATION OF AUTHORIZATIONS

SEC. 2171. EXPIRATION OF AUTHORIZATIONS

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in titles I through V of this subdivision for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1989, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1990, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

Subdivision 2—Fiscal Year 1989

TITLE I—ARMY

SEC. 2201. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects at Fort Wainwright, Alaska, in the amount of $28,100,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects at Vilseck, Germany, in the amount of $13,000,000.

SEC. 2202. FAMILY HOUSING

(a) IN GENERAL.—The Secretary of the Army may construct or acquire one hundred and twenty-eight family housing units (including land acquisition) at Fort Drum, New York, in the amount of $10,000,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2204(a)(5)(A), with respect to the construction or improvement of military family housing units not to exceed $20,000,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may improve, using amounts appropriated pursuant to section 2204(a)(5)(A), existing military family housing units in an amount not to exceed $145,968,000 of which $1,916,000 is available only for energy conservation projects.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Pearl Harbor, Hawaii, eight units, $550,000.

Giessen, Germany, seventy-two units, $3,314,000.

Various Locations, Germany, convert unused attic space and upgrade two hundred forty-two units into six hundred twenty-one adequate units, $44,026,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,733,069,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $28,100,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $13,000,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,200,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $126,710,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $175,968,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,371,091,000, of which not more than $46,498,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $163,842,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,000,000.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE II—NAVY

SEC. 2221. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

CHIEF OF NAVAL OPERATIONS

Commandant, Naval District Washington, District of Columbia, $21,000,000.

Naval Air Detachment, Tinker Air Force Base, Oklahoma, $38,080,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Galveston, Texas, $10,390,000.
Naval Station, Ingleside, Texas, $31,850,000.
Naval Station, Lake Charles, Louisiana, $5,000,000.
Naval Station, Mobile, Alabama, $19,700,000.
Naval Station, New York, New York, $10,480,000.
Naval Station, Pascagoula, Mississippi, $25,700,000.
Naval Air Station, Pensacola, Florida, $14,320,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Station, Adak, Alaska, $20,000,000.
Naval Station, Everett, Washington, $52,950,000.
Naval Station, Long Beach, California, $5,460,000.

NAVAL SEA SYSTEMS COMMAND

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $8,200,000.

Naval Weapons Station, Earle, New Jersey, $18,600,000.

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $57,730,000.

(b) Outside the United States.—The Secretary of the Navy may acquire real property and may carry out military construction projects at the Naval Station, Guam, in an amount not to exceed $2,820,000.

SEC. 2222. FAMILY HOUSING

(a) Construction and Acquisition.—The Secretary of the Navy may construct or acquire 300 family housing units (including land acquisition), using amounts appropriated pursuant to section 2224(a)(5)(A), at the Public Works Center, San Diego, California.

(b) Planning and Design.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2224(a)(5)(A), with respect to the construction or improvement of military family housing units not to exceed $6,315,000.

SEC. 2223. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) In General.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may improve, using amounts appropriated pursuant to section 2224(a)(5)(A), existing military family housing units in the amount of $59,689,000.

(b) Waiver of Maximum Per Unit Cost for Certain Improvement Projects.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown and in the amount shown, for each installation:

Navy Public Works Center, San Diego, California, six units, $284,400.

Navy Public Works Center, Great Lakes, Illinois, three hundred fifty-six units, $14,207,800.

Navy Public Works Center, Great Lakes, Illinois, one hundred two units, $4,725,500.

Naval Air Station, Brunswick, Maine, two hundred twenty-four units, $8,130,500.

Naval Security Group Activity, Winter Harbor, Maine, thirty-two units, $2,251,700.

Naval Security Group Activity, Winter Harbor, Maine, thirty units, $2,920,600.

Naval Security Group Activity, Winter Harbor, Maine, twenty units, $920,000.

Naval Air Station, Fallon, Nevada, one hundred six units, $8,129,300.

Naval Air Engineering Center, Lakehurst, New Jersey, four units, $190,000.

Marine Corps Air Station, Cherry Point, North Carolina, two units, $94,300.

Marine Corps Air Station, Cherry Point, North Carolina, two hundred eighty-two units, $11,957,200.

Naval Ships Part Control Center, Mechanicsburg, Pennsylvania, seventy-five units, $3,398,400.

Naval Air Station, Whidbey Island, Seattle, Washington, eleven units, $632,600.

Navy Public Works Center, Guam, two hundred twelve units, $18,473,800.

SEC. 2224. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,144,984,000 as follows:

(1) For military construction projects inside the United States authorized by section 2221(a), $339,460,000.

(2) For military construction projects outside the United States authorized by section 2221(b), $2,820,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,300,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $147,333,000.

(5) For military housing functions—

(A) for construction and acquisition of military family housing and facilities, $91,004,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $548,067,000 of which not more than $18,434,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam; and not more than $23,982,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2221 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE III—AIR FORCE

SEC. 2231. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $6,500,000.

ALASKAN AIR COMMAND

Elmendorf Air Force Base, Alaska, $18,000,000.

STRATEGIC AIR COMMAND

Base 61, $10,450,000.
Dyess Air Force Base, Texas, $1,410,000.
Ellsworth Air Force Base, South Dakota, $1,300,000.
Fairchild Air Force Base, Washington, $4,700,000.
Grand Forks Air Force Base, North Dakota, $3,400,000.
Malmstrom Air Force Base, Montana, $8,550,000.
McConnell Air Force Base, Kansas, $3,050,000.
Whiteman Air Force Base, Missouri, $106,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

PACIFIC AIR FORCES

Clark Air Base, Philippines, $2,450,000.
Kunsan Air Base, Korea, $3,000,000.

TACTICAL AIR COMMAND

Masirah, Oman, $2,850,000.
Seeb, Oman, $7,300,000.

SEC. 2232. FAMILY HOUSING

The Secretary of the Air Force may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2234(a)(5)(A), with respect to the construction or improvement of military family housing units not to exceed $7,000,000.

SEC. 2233. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may improve, using amounts appropriated pursuant to section 2234(a)(5)(A), existing military family housing units in an amount not to exceed $165,280,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations, in the number of units shown, and in the amount shown, for each installation:

Gunter Air Force Station, Alabama, twenty-three units, $1,111,000.
Maxwell Air Force Base, Alabama, fifty units, $2,475,000.
Elmendorf Air Force Base, Alaska, forty-eight units, $3,624,000.
Davis-Monthan Air Force Base, Arizona, one unit, $60,000.
MacDill Air Force Base, Florida, four units, $279,000.
Barksdale Air Force Base, Louisiana, two units, $170,000; one hundred and seventy-four units, $8,435,000.
Andrews Air Force Base, Maryland, five units, $338,000.
Pease Air Force Base, New Hampshire, one unit, $56,000.
Kirtland Air Force Base, New Mexico, four units, $215,000.
Shaw Air Force Base, South Carolina, one hundred and twenty-five units, $4,710,000.
Dyess Air Force Base, Texas, one unit, $64,000.
Ramstein Air Base, Germany, two hundred and forty units, $11,829,000.
Andersen Air Force Base, Guam, one unit, $167,000.
Misawa Air Base, Japan, one hundred and eighty units, $7,125,000.
Yokota Air Base, Japan, ninety-seven units, $5,200,000.
Clark Air Base, Philippines, eighty-two units, $1,739,000.

SEC. 2234. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,231,213,000 as follows:

(1) For military construction projects inside the United States authorized by section 2231(a), $163,360,000.

(2) For military construction projects outside the United States authorized by section 2231(b), $15,600,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $135,733,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $172,280,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $727,740,000 of which not more than $21,795,100 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $85,747,900 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2858 of title 10, United States Code, or any other cost variations authorized by law, the total cost of all projects carried out under section 2231 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE IV—DEFENSE AGENCIES

SEC. 2241. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may acquire real property and may carry out military construction projects at Kirtland Air Force Base, New Mexico, in the amount of $2,550,000.

SEC. 2242. IMPROVEMENTS TO MILITARY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may improve, using amounts appropriated pursuant to section 2243(a)(5)(A), existing military family housing units in an amount not to exceed $112,000.

SEC. 2243. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $169,250,000 as follows:

(1) For military construction projects inside the United States authorized by section 2241, $2,550,000.

(2) For military construction projects at Fort Sam Houston, Texas, authorized by section 2403(a) of the Military Construction Authorization Act, 1987, $23,000,000.

(3) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $59,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $65,100,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $112,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $19,488,000, of which not more than $14,027,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2858 of title 10, United States Code, or any other cost variations authorized by law, the total cost of all projects carried out under section 2241 may not exceed the total amount authorized to be appropriated under paragraph (1) of subsection (a).

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2251. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2252 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2252. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2251, in the amount of $402,100,000.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2261. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1988, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $168,672,000; and

(B) for the Army Reserve, $100,000,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $52,923,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $134,550,000; and

(B) for the Air Force Reserve, $55,900,000.

TITLE VII—EXPIRATION OF AUTHORIZATIONS AND EFFECTIVE DATE

SEC. 2271. EXPIRATION OF AUTHORIZATIONS OF PROJECTS AND APPROPRIATIONS FOR FISCAL YEARS AFTER FISCAL YEAR 1988

(a) In General.—Authorizations of military construction projects, land acquisition, family housing projects and facilities, contributions to the NATO Infrastructure Program, and Guard and Reserve projects in titles I, II, III, IV, V, and VI of this subdivision (and authorizations of appropriations therefor) shall be effective only to the extent that appropriations are made for such projects, acquisition, facilities, and contributions during the first session of the One Hundredth Congress.

(b) Expiration of Authorizations After Two Years in Certain Cases.—(1) Except as provided in subsection (a) and paragraph (2), authorizations contained in titles I, II, III, IV, and V of this subdivision for military construction projects, land acquisition, family housing projects and facilities, contributions to the NATO Infrastructure Program, and Guard and Reserve projects shall remain in effect (to the extent that appropriations are made for such projects, acquisitions, facilities, and contributions during the first session of the One Hundredth Congress) until October 1, 1990, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1991, whichever is later.

(2) The provisions of paragraph (1) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, contributions to the NATO Infrastructure Program, and Guard and Reserve projects for which appropriated funds have been obligated before October 1, 1990, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1991, whichever is later.

SEC. 2272. EFFECTIVE DATE

This subdivision shall take effect on October 1, 1988, except that the authorizations of appropriations contained therein shall take effect on the date of the enactment of this Act.

Subdivision 3—General Provisions

TITLE I—MILITARY CONSTRUCTION PROGRAM CHANGES

SEC. 2301. TURN-KEY SELECTION PROCEDURES FOR DEFENSE AGENCIES

Section 2862 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "The Secretaries of the military departments, with the approval of the Secretary of Defense," and inserting in lieu thereof "The Secretary concerned", and

(B) by adding at the end the following new sentence: "Such procedures may be used by the Secretary of a military department only with the approval of the Secretary of Defense."; and

(2) in subsection (b), by inserting after "The" the following: "Secretary of Defense, with respect to any Defense Agency, or the".

SEC. 2302. LONG-TERM FACILITIES CONTRACTS

(a) NEW COVERAGE.—Section 2809(a)(1)(B) of title 10, United States Code, is amended—

(1) by redesignating clause (vi) as clause (vii); and

(2) by adding after clause (v) the following new clause:

"(vi) Hospital or medical facilities.".

(b) EXTENSION.—Section 2809(c) of such title is amended by striking out "1987" and inserting in lieu thereof "1989".

(c) REPORT.—Each Secretary who has entered into a contract under section 2809 of title 10, United States Code, shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives by February 15, 1989, containing— 10 USC 2809 note.

(1) the date and duration of, the other party to, and the nature of the activities carried out under each contract entered into by the Secretary under such section; and

(2) recommendations, and the reasons therefor, concerning whether the authority to enter into contracts under such section should be extended.

SEC. 2303. SETTLEMENT OF CONTRACTOR CLAIMS

10 USC 2863.

(a) IN GENERAL.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter III the following new section:

"§ 2863. Payment of contractor claims

"Notwithstanding any other provision of law, the Secretary concerned may pay meritorious contractor claims that arise under military construction contracts or family housing contracts. The Secretary of Defense, with respect to a Defense Agency, or the Secretary of a military department may use for such purpose any unobligated funds appropriated to such department and available for military construction or family housing construction, as the case may be.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item: 10 USC 2233a note.

"2863. Payment of contractor claims.".

SEC. 2304. GUARD AND RESERVE MINOR CONSTRUCTION

(a) IN GENERAL.—Section 2233a(b) of title 10, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "$200,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to projects authorized under section 2233(a) of title 10, United States Code, for which contracts are entered into on or after the date of the enactment of this Act.

SEC. 2305. FAMILY HOUSING IMPROVEMENT THRESHOLD

Section 2825(b)(1) of title 10, United States Code, is amended by striking out "$30,000" and inserting in lieu thereof "$40,000".

SEC. 2306. FAMILY HOUSING LEASING WITHIN THE UNITED STATES

(a) IN GENERAL.—Section 2828(g) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by inserting after "military department" the following: ", or the Secretary of Transportation with respect to the Coast Guard,"; and

(B) by inserting "or rehabilitated to residential use" after "constructed";

(2) in paragraph (7), by inserting after "military department" the following: ", or the Secretary of Transportation with respect to the Coast Guard,"; and

(3) by adding at the end of paragraph (8) the following new subparagraph:

Contracts.

"(C) In addition to the contracts authorized by paragraph (7) and subparagraphs (A) and (B) of this paragraph—

"(i) the Secretary of the Army may enter into one or more contracts under this subsection for not more than a total of 3,500 family housing units;

"(ii) the Secretary of the Navy may enter into one or more contracts under this subsection for not more than a total of 2,000 family housing units;

"(iii) the Secretary of the Air Force may enter into one or more contracts under this subsection for not more than a total of 2,100 family housing units; and

"(iv) the Secretary of Transportation, for the Coast Guard, may enter into one or more contracts under this subsection for not more than a total of 300 family housing units."; and

(4) in paragraph (9), by striking out "September 30, 1988." and inserting in lieu thereof "September 30, 1989.".

(b) CONFORMING AMENDMENT.—Section 2801(d) of such title, as amended by section 632(b)(1) of this Act, is amended by striking out "section" after "other than" and inserting in lieu thereof "sections 2828(g) and".

SEC. 2307. FAMILY HOUSING RENTAL GUARANTEE PROGRAM

Section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) in subsection (a)—

(A) by inserting after " military department," the following: "or the Secretary of Transportation with respect to the Coast Guard,"; and

(B) by inserting after "constructed" the following: "or rehabilitated to residential use";

(2) in subsection (b)(3), by striking out "not";

(3) in subsection (b)(6), by inserting before the semicolon "unless the project is located on government owned land, in which case the renewal period may not exceed the original contract term"; and

(4) in subsection (b)(11), by inserting after "military department concerned," the following: "or the Secretary of Transportation with respect to the Coast Guard,".

SEC. 2308. NO-COST ACQUISITION OF FAMILY HOUSING

Section 2822(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) Housing units acquired without consideration, if—

"(A) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed acquisition; and

"(B) a period of 21 days elapses after the notification is received by those committees.".

SEC. 2309. COST THRESHOLD FOR INDIVIDUAL UNITS AND MAXIMUM NUMBER OF UNITS LEASED IN FOREIGN COUNTRIES

(a) IN GENERAL.—Section 2828(e) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "$16,800" and inserting in lieu thereof "$20,000 per unit per annum"; and

(2) in paragraph (2), by striking out "32,000" and inserting in lieu thereof "36,000".

(b) TECHNICAL AMENDMENTS.—Section 2828(b) of such title is amended—

(1) by inserting "per unit per annum" in paragraph (2) before the period; and

(2) by striking out "$10,000" and "$12,000" in paragraph (3)(A) and inserting in lieu thereof "$10,000 per unit per annum" and "$12,000 per unit per annum", respectively.

SEC. 2310. MINOR CONSTRUCTION OUTSIDE THE UNITED STATES

(a) IN GENERAL.—Section 2805(c) of title 10, United States Code, is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end the following new paragraph:

"(2) The authority provided in paragraph (1) may not be used with respect to any exercise-related unspecified military construction project coordinated or directed by the Joint Chiefs of Staff outside the United States.".

(b) ADDITIONAL LIMITATION.—Section 2805(a) of such title is amended—

(1) by striking out "Within" and inserting in lieu thereof "(1) Except as provided in paragraph (2), within"; and

(2) by adding at the end the following new paragraph:

"(2) A Secretary may not use more than $5,000,000 for exercise-related unspecified minor military construction projects coordinated or directed by the Joint Chiefs of Staff outside the United States during any fiscal year.".

SEC. 2311. COST THRESHOLD FOR MULTIPLE UNITS

Section 2828(f) of title 10, United States Code, is amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

SEC. 2312. COST VARIATIONS

Paragraph (1) of section 2853(a) of title 10, United States Code, is amended by striking out "Except as" and all that follows through "appropriated for the project" and inserting in lieu thereof the following: "Except as provided in paragraph (2), the total cost authorized for military construction projects at an installation (including each project the cost of which is included in such total authorized cost and is less than the minor project ceiling) may be increased by not more than 25 percent of the total amount appropriated for such projects".

SEC. 2313. FAMILY HOUSING IMPROVEMENTS

Section 2853(c) of title 10, United States Code, is amended by striking out "construction" and inserting in lieu thereof "construction, improvement,".

TITLE II—MISCELLANEOUS PROVISIONS

State and local governments.
10 USC 2821 note.

SEC. 2321. PILOT PROGRAM FOR MILITARY FAMILY HOUSING

(a) IN GENERAL.—(1) The Secretary of Defense shall, using $1,000,000 of the funds appropriated pursuant to the authorization in subsection (a)(10)(B) of section 2145, establish and carry out, during fiscal years 1988, 1989, and 1990, a pilot program for the purpose of assisting units of general local government to increase the amount of affordable family housing available to military personnel.

(2) In establishing and carrying out such program, the Secretary shall select at least five units of general local government which are severely impacted by the presence of military bases and personnel and which meet the criteria in subsection (b).

(b) SELECTION CRITERIA.—The Secretary shall select such local governments on the basis of the following criteria:

(1) The extent, or the potential extent, of a joint civilian-military effort to increase, or prevent the decrease of, affordable housing units in the community served by the local government.

(2) The extent of willingness, or potential extent of willingness, of private corporations to contribute or loan money for the purpose of assisting in the effort described in paragraph (1).

(3) A commitment by the local government to assure that a reasonable proportion, taking into consideration the extent of Federal funding, of the housing units provided as a result of the effort described in paragraph (1) will be made available to military personnel.

Grants.

(c) TYPES OF ASSISTANCE.—In carrying out this section, the Secretary may make grants, enter into cooperative agreements, and supplement funds made available under Federal programs administered by agencies other than the Department of Defense in order to assist units of general local government and housing and redevelopment authorities and nonprofit housing corporations authorized by such local governments.

(d) USE OF FUNDING.—To expand the supply or prevent the loss of affordable family housing, funds made available under this section may be used for—

Loans.

(1) funding a revolving housing loan fund established and administered by a government, authority, or corporation described in subsection (c);

(2) funding a housing loan guarantee fund established and administered by such a government, authority, or corporation to ensure repayment of housing loans made by a private lender;

(3) funding feasibility studies of potential housing programs;

(4) funding one-time start-up costs of housing programs;

(5) funding joint community-military technical advisory organizations; and

(6) other similar and related activities.

(e) REPORT.—The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and the House of

Representatives no later than March 15 of 1988, 1989, 1990, and 1991 with respect to activities carried out under this section.

SEC. 2322. RESTRICTIONS ON USE OF CERTAIN FUNDING

(a) NELLIS AIR FORCE BASE, NEVADA.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to deactivate, convert, transfer, or otherwise diminish any part of the 474th Tactical Fighter Wing stationed at Nellis Air Force Base, Nevada.

(b) FORT MONMOUTH, NEW JERSEY.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used, directly or indirectly, to relocate the headquarters element and the elements of the several directorates of the Joint Tactical Command, Control, and Communications Agency at Fort Monmouth, New Jersey.

Washington.

(c) STRATEGIC HOMEPORTING.—(1) Funds appropriated pursuant to the authorizations in section 2208 of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), and in section 2125 of this Act for Naval Station Everett, Washington, may not be obligated or expended for such purpose until—

(A) all Federal, State, and local permits required for the dredging activities to be carried out with respect to homeporting at Everett, Washington, have been issued, including all permits required pursuant to, or otherwise in connection with, the Federal Water Pollution Control Act; and

(B) the State of Washington has appropriated in fiscal year 1987 its share of funds for fiscal years 1988 and 1989 for all projects agreed with by the Department of the Navy for homeporting at Everett, Washington.

(2) The provisions of this subsection shall apply to any activity carried out after November 14, 1986.

California.

(d) PORT CHICAGO HIGHWAY.—None of the funds available for use by the Department of Defense in fiscal year 1988 may be used by the Department of Defense, directly or indirectly, before January 1, 1988, to take, or condemn, or close, any portion of the Port Chicago Highway which lies within the Concord Naval Weapons Station in Concord, California.

Michigan.

(e) AIR DEFENSE RADAR STATIONS.—None of the funds available for use by the Department of Defense in fiscal year 1988 (other than funds made available by the Office of Economic Adjustment) may be used, directly or indirectly, to deactivate, convert, transfer, or otherwise diminish the air defense radar stations located at Calumet Air Force Station, Michigan, or Port Austin Air Force Station, Michigan.

SEC. 2323. PROHIBITION OF FUNDING FOR CERTAIN MILITARY CONSTRUCTION CONTRACTS ON GUAM

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated pursuant to any authorization made by this division may not be expended with respect to any contract for a military construction project on Guam if any work is carried out on such project by any person who is a nonimmigrant described in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

Reports.

(b) EXCEPTION.—In any case in which there is no acceptable bid made in response to a solicitation by the Secretary of a military department for bids on a contract for a military construction project on Guam and the Secretary concerned makes a determination that the prohibition contained in subsection (a) is a significant deterrent to obtaining bids on such contract, the Secretary concerned may make another solicitation for bids on such contract and the prohibition contained in subsection (a) shall not apply to such contract after the end of the 21-day period beginning on the date on which the Secretary concerned transmits a report concerning such contract to the Committees on Armed Services of the Senate and the House of Representatives.

(c) EFFECTIVE DATE.—This section shall apply only to contracts entered into, amended, or otherwise modified on or after the date of the enactment of this Act.

SEC. 2324. COMMUNITY PLANNING ASSISTANCE

The Secretary of Defense may use the following amounts to provide planning assistance to local communities located near the following homeports proposed under the Naval Strategic Dispersal Program if the Secretary determines that the financial resources available to the community (by grant or otherwise) are inadequate:

(1) not more than $250,000 from funds appropriated to the Department of Defense for fiscal year 1988 for local communities located near the homeport at Everett, Washington; and

(2) not more than $300,000 from funds appropriated to the Department of Defense for fiscal year 1988 and not more than $300,000 from funds appropriated to the Department of Defense for fiscal year 1989 pursuant to authorizations contained in this division for local communities located near Gulf Coast homeports.

SEC. 2325. DISPOSITION OF REAL PROPERTY AT AIR FORCE MISSILE SITES

(a) IN GENERAL.—Chapter 949 of title 10, United States Code, is amended by adding at the end the following:

10 USC 9781.

"§ 9781. Disposition of real property at missile sites

"(a)(1) The Secretary of the Air Force shall dispose of the interest of the United States in any tract of real property described in paragraph (2) or in any easement held in connection with any such tract of real property only as provided in this section.

"(2) The real property referred to in paragraph (1) is any tract of land (including improvements thereon) owned by the Air Force that—

"(A) is not required for the needs of the Air Force and the discharge of the responsibilities of the Air Force, as determined by the Secretary of the Air Force;

"(B) does not exceed 25 acres;

"(C) was used by the Air Force as a site for one or more missile launch facilities, missile launch control buildings, or other facilities to support missile launch operations; and

"(D) is surrounded by lands that are adjacent to such tract and that are owned in fee simple by one owner or by more than one owner jointly, in common, or by the entirety.

"(b) The Secretary shall convey, for fair market value, the interest of the United States in any tract of land referred to in subsection (a) or in any easement in connection with any such tract of land to any person or persons who, with respect to such tract of land, own lands referred to in paragraph (2)(D) of such subsection and are ready, willing, and able to purchase such interest for the fair market value of such interest. Whenever such interest of the United States is available for purchase under this section, the Secretary shall transmit a notice of the availability of such interest to each such person.

"(c) The Secretary shall determine the fair market value of the interest of the United States to be conveyed under this section.

"(d) The requirement to determine whether any tract of land described in subsection (a)(2) is excess property or surplus property under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) before disposing of such tract shall not be applicable to the disposition of such tract under this section.

"(e) The disposition of a tract of land under this section to any person shall be subject to (1) any easement retained by the Secretary with respect to such tract, and (2) such additional terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States.

"(f) The exact acreage and legal description of any tract of land to be conveyed under this section shall be determined in any manner that is satisfactory to the Secretary. The cost of any survey conducted for the purpose of this subsection in the case of any tract of land shall be borne by the person or persons to whom the conveyance of such tract of land is made.

"(g) If any real property interest of the United States described in subsection (a) is not purchased under the procedures provided in subsections (a) through (f), such tract may be disposed of only in accordance with the Federal Property and Administrative Services Act of 1949.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 949 of such title is amended by adding at the end the following:

"9781. Disposition of real property at missile sites.".

SEC. 2326. TULALIP TRIBES, WASHINGTON

Indians.
Claims.

(a) In General.—(1) The Secretary of the Navy may pay, as provided in this section, to the Tulalip Indian Tribes of the State of Washington the sum of $3,400,000. Any payment made under this section shall be made out of funds appropriated to or for the use of the Navy pursuant to section 2125(a)(1).

Fish and fishing.

(2) Payment under this section shall be made in accordance with the Memorandum of Agreement dated July 22, 1987, between the United States and the Tulalip Tribes of Washington, and shall be in full settlement of the claims of such tribes for loss of access to and displacement from usual and accustomed fishing grounds and stations resulting from the construction and operation of Navy homeport facilities at Everett, Washington, and to support tribal resource enhancement efforts.

(b) Condition of Settlement.—(1) Payment in final settlement of the tribal claims may not be made until the Secretary of the Navy has obtained from the Tulalip Tribes a release under which the tribes waive all claims against the United States—

(A) for displacement from the homeport site during any period the site is owned by the United States; and

(B) for additional displacement resulting from homeport construction-related activities at Port Gardner, Washington, as provided in the Memorandum of Agreement referred to in subsection (a)(2).

(2) The release referred to in paragraph (1) shall also waive any claims the Tulalip Tribes may have against the United States or any

successor in interest for loss of access resulting from the construction of permanent structures in connection with homeport facilities at Everett, Washington.

Fish and fishing.

(c) PROTECTION OF RESERVED RIGHTS.—Nothing in this section shall be construed to diminish any rights reserved to the Tulalip Tribes in the Memorandum of Understanding referred to in subsection (a)(2) with respect to claims that may arise from Navy-induced damages to fish habitat and other resources.

TITLE III—REAL PROPERTY TRANSACTIONS

Health care facilities.
Diseases.

SEC. 2331. LEASE OF PROPERTY, SAN FRANCISCO, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (d), the Secretary of the Army shall lease, without consideration, the former Public Health Service facility located on the Presidio of San Francisco, California, to the City and County of San Francisco for use as a facility for the care and treatment of persons with acquired immune deficiency syndrome (AIDS) or acquired immune deficiency syndrome related complex (ARC).

(b) TERMS OF LEASE.—In entering into the lease under this section, the Secretary—

(1) shall provide for a term of ten years beginning no later than January 1, 1989;

(2) shall provide that, in the event that the facility described in subsection (a) ceases to be used by the City and County of San Francisco for the purpose described in such subsection, the Secretary shall have the right of immediate reentry and the lease shall be automatically terminated; and

(3) may require other terms and conditions necessary to protect the interests of the United States.

(c) AUTHORIZATION.—The Secretary may use not more than $1,900,000 of funds available to the Department of the Army for operation and maintenance during fiscal year 1988 for the purpose of leasing space and otherwise relocating personnel and equipment related to the activities being carried out at the facility on the date of the enactment of this Act.

(d) REPORTS.—(1) The Secretary shall transmit, by March 1, 1988, to the Committees on Armed Services of the Senate and House of Representatives a report containing—

(A) an analysis of the reasonable options available for the relocation of activities necessary as a result of the lease of the facility under this section, including the impact of each such option on the operations and resources of the Department of the Army; and

(B) a detailed description of the preferred relocation plan, including a resource profile for all associated expenses and, in the case of any construction project associated with such relocation plan, a description of each such project and the anticipated timing of the obligation of funds for each such project.

(2)(A) The City and County of San Francisco is requested to transmit, before March 1, 1988, a report to the committees described in paragraph (1) containing—

(i) projections of the anticipated number of patients with AIDS or ARC who will need nursing care in the City and County of San Francisco over the period of the lease entered into under this section;

(ii) different approaches to meeting this need for nursing care;

(iii) the rationale for using the facility described in subsection (a) to meet this need; and

(iv) its financial plan for renovating and operating such facility.

(B) The Secretary may not enter into a lease under this section before the report described in subparagraph (A) has been received by the committees described in paragraph (1).

SEC. 2332. SALE OF LAND AND REPLACEMENT OF CERTAIN FACILITIES, KAPALAMA MILITARY RESERVATION, HAWAII

(a) In General.—Subject to subsections (b) through (g), the Secretary of the Army may convey approximately 43.72 acres of real property, together with improvements thereon, at Kapalama Military Reservation, Hawaii, and may replace and relocate facilities located on such property.

(b) Consideration.—In consideration for the real property described in subsection (a), the purchasers of such property shall pay the United States—

(1) in a manner determined by the Secretary, for the cost of the design and construction of suitable replacement facilities to be constructed at Fort Shafter, Fort Kamehameha, Tripler Army Medical Center, and Schofield Barracks, Hawaii;

(2) for any cost incurred by the Department of the Army under this section with respect to the relocation of facilities; and

(3) the amount of any difference referred to in subsection (d).

(c) Sale and Replacement Activities.—The Secretary may use any amount received from the purchaser as described in paragraphs (1) and (2) of subsection (b) for the purpose of carrying out this section.

(d) Payment of Excess Into Treasury.—If the fair market value of the real property and improvements described in subsection (a) exceeds the costs described in paragraphs (1) and (2) of subsection (b), as determined by the Secretary, the purchaser shall pay the amount of such difference to the Secretary, and the Secretary shall deposit such amount into the Treasury as miscellaneous receipts.

(e) Competitive Bid Procedures.—The conveyance described in subsection (a) shall be carried out under competitive bid procedures.

(f) Legal Description of Real Property.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(g) Additional Terms.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2333. LAND CONVEYANCE, LAWRENCE TOWNSHIP, INDIANA

(a) Authority To Sell.—Subject to subsections (b) through (e), the Secretary of the Army may sell and convey to Lawrence Township, Marion County, Indiana all right, title, and interest of the United States in and to a parcel of land, consisting of approximately 3.23 acres, comprising a portion of Fort Benjamin Harrison, Indiana.

(b) Conditions of Sale.—(1) In consideration for the sale and conveyance, the Township shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed by the United States under subsection (a).

(2) The Township shall execute and file the deed of conveyance in the appropriate registry.

(c) RECAPTURE RIGHTS.—The Secretary shall include in the deed of conveyance a condition that the United States may reenter and use the property without compensation in the event of a national emergency or declaration of war.

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Township.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2334. LAND TRANSFERS: ROCK ISLAND, ILLINOIS, AND FORT SAM HOUSTON, TEXAS

(a) AUTHORITY TO TRANSFER.—Subject to subsections (b) through (d), the Secretary of the Army may transfer, without consideration, to the administrative jurisdiction of the Administrator of Veterans' Affairs—

(1) two parcels of real property, and improvements thereon, totaling approximately 17.17 acres, comprising a portion of the Rock Island Arsenal, Rock Island, Illinois; and

(2) a parcel of real property, and improvements thereon, totaling approximately 8.5 acres, comprising a portion of Fort Sam Houston, Texas.

Cemeteries.

(b) CONDITIONS ON CONVEYANCE.—The Administrator shall—

(1) use the real property described in subsection (a) for cemeteries which are to be part of the National Cemetery System;

(2) transfer any portion of such property back to the administrative jurisdiction of the Secretary of the Army, if such portion is not used for such a cemetery; and

(3) enter into an agreement with the Secretary to carry out the purposes of this section.

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the Administrator.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2335. PROPERTY TRANSFER, BROOKLYN, NEW YORK

In accordance with the provisions of section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) governing transfers of excess property, the Administrator of General Services shall transfer, without reimbursement, to the Secretary of the Navy the excess six story building and associated land, known as Dayton Manor, located near Fort Hamilton, Brooklyn, New York, for rehabilitation and use as military family housing.

SEC. 2336. LAND EXCHANGE, ORANGE COUNTY, CALIFORNIA

(a) TRANSFER.—Subject to subsections (b) through (e), the Secretary of the Navy may convey to Orange County, California, all right, title, and interest of the United States in and to a parcel of real property, with improvements thereon, consisting of approximately 137 acres located in the center of Mile Square Regional Park, Orange County, California.

(b) CONSIDERATION.—In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States parcels of real property, with improvements thereon, consisting of approximately 41 total acres located adjacent to the Marine Corps Air Station, Tustin, California.

(c) PAYMENT BY COUNTY.—If the fair market value of the real property and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the real property conveyed by Orange County under subsection (b), the county shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(d) OBLIGATIONS OF PARTIES.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by Orange County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2337. TRANSFER OF LAND, JOLIET ARMY AMMUNITION PLANT, ILLINOIS

(a) AUTHORITY TO CONVEY.—Subject to subsections (b) through (d), the Secretary of the Army shall transfer to the Administrator of Veterans' Affairs not less than 200 acres of real property, including improvements thereon, located on the Joliet Army Ammunition Plant, Illinois, and with access to State Route 53.

Cemeteries.

(b) USE OF LAND.—(1) The Administrator shall use the real property transferred under subsection (a) for a national cemetery.

(2) A national cemetery established on such real property shall become part of the National Cemetery System and shall be administered under chapter 24 of title 38, United States Code.

(c) RESTORATION.—(1) The Secretary of the Army shall carry out appropriate environmental restoration activities pursuant to chapter 160 of title 10, United States Code, with respect to such real property before transferring it under this section.

Cemeteries.

(2) The Secretary may not transfer such property under this section unless the Administrator of Veterans' Affairs has determined that contamination that would prevent the property from being used as a national cemetery has been removed and that the land has been restored so that it is appropriate for such use.

(d) LEGAL DESCRIPTION.—The exact acreage and legal descriptions of any property transferred under this section shall be based on surveys that are satisfactory to the Secretary. The Administrator shall bear the cost of such surveys.

SEC. 2338. LEASE OF PROPERTY AT THE NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Navy may lease, at fair market rental value, to the Port of Oakland, California, not more than 195 acres of real property, together with improvements thereon, at the Naval Supply Center, Oakland, California.

(b) TERM OF LEASE.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, with an initial term not to exceed 25 years and an option to extend for a term not to exceed 25 years.

(c) REPLACEMENT AND RELOCATION PAYMENTS.—The Secretary may, under the terms of the lease, require the Port of Oakland to pay the Secretary—

(1) a negotiated amount for the structures on the leased property that require replacement at a new location; and

(2) a negotiated amount for expenses to be incurred by the Navy with respect to vacating the leased property and relocating to other facilities.

(d) USE OF FUNDS.—(1) Funds received by the Secretary under subsection (c) may be used by the Secretary to pay for relocation expenses and constructing new facilities or making modifications to existing facilities which are necessary to replace facilities on the leased premises.

(2)(A) Funds received by the Secretary for the fair market rental value of the real property may be used to pay for relocation and replacement costs incurred by the Navy in excess of the amount received by the Secretary under subsection (c).

(B) Funds received by the Secretary for such fair market rental value in excess of the amount used under subparagraph (A) shall be deposited into the miscellaneous receipts of the Treasury.

(e) AUTHORITY TO DEMOLISH AND CONSTRUCT FACILITIES.—The Secretary may, under the terms of the lease, authorize the Port of Oakland to demolish existing facilities on the leased land and to provide for construction of new facilities on such land for the use of the Port of Oakland.

(f) REPORT.—The Secretary may not enter into a lease under this section until—

(1) the Secretary has transmitted to the Committee on Armed Services of the Senate and of the House of Representatives a report containing an explanation of the terms of the lease, especially with respect to the amount the Secretary is to receive under subsection (c) and the amount that is expected to be used under subsection (d)(2); and

(2) a period of 21 days has expired after the date on which such report is received by such Committees.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the lease authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

Texas.

SEC. 2339. AUTHORITY TO RELEASE CERTAIN RIGHTS

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Army may release, discharge, waive, and quitclaim all right, title, and interest which the United States may have by virtue of the quitclaim deed dated November 22, 1957, in and to approximately 46.1186 acres of real property, with improvements thereon, in Tarrant County, Texas.

(b) CONDITION.—The Secretary may carry out subsection (a) only after obtaining satisfactory assurances that the State of Texas shall obtain, in exchange for the real property referred to in subsection (a), a tract of real property—

(1) which is at least equal in value to the real property referred to in subsection (a); and

(2) which shall be, on the date on which the State obtains it, subject to the same restrictions and covenants with respect to the Federal Government as are applicable on the date of the enactment of this Act to the real property referred to in subsection (a).

(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal descriptions of the real property referred to in subsection (a) shall be based upon surveys that are satisfactory to the Secretary.

SEC. 2340. MINERAL INTERESTS AT WHITE SANDS MISSILE RANGE, NEW MEXICO

(a) AUTHORITY TO GRANT INTEREST.—The Secretary of the Army may grant to the State of New Mexico an interest in the minerals in or on the land described in subsection (d).

(b) INTEREST, TERMS, AND CONDITIONS OF GRANT.—The extent of the interest granted to the State of New Mexico pursuant to subsection (a), and the other terms and conditions of such grant, shall be those prescribed by the Attorney General, after consultation with the Secretary of the Army and the Secretary of the Interior.

(c) SETTLEMENT OF CLAIMS.—The acceptance by the State of New Mexico of any interest in minerals made to such State pursuant to this section shall be in full settlement of the claims of such State against the United States as set forth in the case of Humphries v. United States, United States Claims Court (case number 94-79L).

(d) DESCRIPTION OF LAND.—The land referred to in subsection (a) is land located within the boundaries of the White Sands Missile Range, New Mexico, which was owned by the State of New Mexico and which was found by the Court of Claims to have been taken by the United States by inverse condemnation.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions as the Secretary, in consultation with the Attorney General, considers appropriate to protect the interests of the United States.

SEC. 2341. LAND CONVEYANCE, FORT JACKSON, SOUTH CAROLINA

Subsection (e)(1) of section 840 of the Military Construction Authorization Act, 1986 (Public Law 99-167), is amended— 99 Stat. 997.

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) for a water systems improvement project at Fort Jackson at an estimated cost of $2,300,000, and for family housing improvement projects at Fort Jackson at an estimated cost not to exceed $6,400,000.".

SEC. 2342. LAND EXCHANGE, HAMILTON AIR FORCE BASE, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (d), the Secretary of the Army and the Secretary of the Navy may, jointly or separately, enter into an agreement for the exchange of lands and interest in lands under their respective jurisdictions at Hamilton Air Force Base, California, with the purchaser of other lands at such air force base which, before the date of the enactment of this Act, were declared excess to the needs of the United States.

(b) CONDITIONS ON EXCHANGES.—Exchanges of land and interests in real property under this section shall be made on condition that the United States receive land or interests in real property at least equal in value (as determined by the Secretary of the Army or the Secretary of the Navy, as the case may be) to the land and interests in real property conveyed by the United States.

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the real property to be exchanged under this section shall be determined by surveys that are satisfactory to the Secretary of the Army or the Secretary of the Navy, as the case may be. The cost of such surveys shall be borne by the purchaser referred to in subsection (a).

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army and the Secretary of the Navy may require such additional terms and conditions under this section as each such Secretary considers appropriate to protect the interests of the United States.

SEC. 2343. LAND CONVEYANCE, CHANUTE AIR FORCE BASE, ILLINOIS

(a) AUTHORITY TO SELL.—Subject to subsections (b) through (g), the Secretary of the Air Force may sell all or any portion of that tract of land (together with any improvements thereon) which comprises the Chapman Court Housing Annex, a housing complex near Chanute Air Force Base, Illinois, consisting of 49 acres, more or less.

(b) CONDITIONS OF SALE.—The Secretary shall require the buyer, as a condition of any sale of any of the property referred to in subsection (a), to carry out the following projects at Chanute Air Force Base in accordance with specifications mutually agreed upon by the Secretary and the prospective purchaser:

(1) Widen and extend Heritage Drive.

(2) Construct a new entrance gate (including a gate guardhouse) to serve as the main entrance from U.S. Route 45.

(3) Construct a visitor reception center and parking lot to serve such center.

(4) Construct new streets or alter existing streets in order to effectively reroute automobile traffic (on the Air Force Base) to and from the proposed new gate.

(c) COMPETITIVE BID REQUIREMENT AND MINIMUM SALE PRICE.—(1) The sale of any of the land referred to in subsection (a) shall be carried out under publicly advertised, competitive bid, or competitively negotiated contracting procedures.

(2) In no event may any of the land referred to in subsection (a) be sold for less than its fair market value, as determined by the Secretary.

(d) REPORT REQUIREMENTS.—(1) The Secretary may not enter into any contract for the sale of any or all of the land referred to in subsection (a) unless—

(A) the Secretary has submitted to the Committees on Armed Services of the Senate and House of Representatives a report containing the details of the contract proposed to be entered into by the Secretary under this section; and

(B) a period of 21 days has expired following the date on which the report referred to in clause (A) is received by such committees.

(2) Any report submitted under paragraph (1) shall include—

(A) a description of the price and terms of the proposed sale;

(B) a description of the procedures used in selecting a buyer for the land; and

(C) all pertinent information regarding the base development proposal selected by the Secretary.

(e) USE OF EXCESS FUNDS.—If the fair market value of the property conveyed to a buyer under this section is greater than the fair market value of the facilities constructed by the buyer for the United States, as determined by the Secretary, the buyer shall pay the difference to the United States. Any such amount paid to the Secretary shall be deposited into the general fund of the Treasury.

(f) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of any land conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the buyer.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2344. LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) AUTHORITY TO EXCHANGE.—Subject to subsections (b) through (f), the Secretary of the Air Force may convey certain real property (and improvements thereon) adjacent to Air Force Plant 19 in San Diego, California, to the County of San Diego, California, in exchange for certain real property (and improvements thereon) located in San Diego County, California.

(b) CONDITION.—If the fair market value of the real property and improvements conveyed to the County of San Diego under subsection (a) exceeds the fair market value of the real property and improvements conveyed to the United States by the County of San Diego, the County shall pay to the United States an amount equal to the difference. The Secretary shall deposit any funds received under this subsection as miscellaneous receipts in the Treasury.

(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property exchanged under this section shall be in accordance with surveys that are satisfactory to the Secretary. The costs of such surveys shall be borne by the County.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

(e) REPORT.—Before the Secretary enters into an agreement authorized under subsection (a) for an exchange of real property with the County, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the details of such proposed agreement. The report shall also include an assessment of the impact of the proposed exchange on—

(1) current activities of the Department of Defense at Plant 19;

(2) the potential disposal of Plant 19 to a private concern;

(3) the potential transfer of Plant 19 to another military department; and

(4) the ability of Plant 19 to support potential or programmed future missions of the Department of Defense.

(f) WAITING PERIOD.—An agreement for an exchange authorized by subsection (a) may not be entered into by the Secretary for a period of 30 days after the date on which the report referred to in subsection (e) has been received by the committees named in such subsection.

SEC. 2345. PROPERTY TRANSACTION, BARLING, ARKANSAS

(a) In General.—Subject to subsections (b) through (e), the Secretary of the Army shall lease to the City of Barling, Arkansas, for use by that city in the treatment of sewage, the following tracts of land at Fort Chaffee, Arkansas:

(1) A tract consisting of 320 acres and more particularly described as the NE¼ and the NW¼ of section 34, Township 8 North, Range 31 West.

(2) A tract 40 feet wide running from the northern boundary of the tract described in paragraph (1) to the Arkansas River, as may be agreed upon by the Secretary and the city of Barling.

(b) Lease Requirements.—(1) The lease entered into under subsection (a) shall authorize the City to construct and maintain a wastewater treatment facility on the land leased under subsection (a). Upon termination of the lease, the United States shall have all right, title, and interest in and to any improvements on the land.

(2) The lease shall be for such period, not less than 55 years, as may be agreed upon by the Secretary and the City.

(3) The lease shall require the City to pay rent for the use of the land in an amount to be agreed upon by the Secretary and the City, but not exceeding $1,600 per year.

(c) Alternative Lease.—(1) In lieu of leasing to the City of Barling the lands described in subsection (a), the Secretary may lease to the City other lands under the jurisdiction of the Secretary adjacent to existing lagoons at Fort Chaffee, Arkansas, for use by the City in the treatment of sewage.

(2) Land leased to the city pursuant to paragraph (1) shall be leased at an annual rate of not more than $5 per acre.

(3) Any lease entered into pursuant to paragraph (1) shall be subject to paragraphs (1) and (2) of subsection (b).

(4) If a lease is entered into under this subsection, the Secretary may permit the City to use the sewage treatment facilities of Fort Chaffee under an agreement which would require the City to pay a reasonable cost for the use of such facilities and any reasonable costs incurred by the Army in increasing the capacity of the sewage treatment facilities at Fort Chaffee to accommodate the use of such facilities by the City.

(d) Legal Description of Lands.—The exact acreage and legal description of any land to be leased under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the City.

(e) Additional Terms and Conditions.—Any lease or other agreement entered into under this section shall be subject to such other terms and conditions as the Secretary of the Army determines necessary or appropriate to protect the interests of the United States.

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1988.

SEC. 3101. SHORT TITLE

This title may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1988".

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 3111. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,483,225,000, to be allocated as follows:

(A) For research and development, $769,019,000.

(B) For weapons testing, $396,550,000.

(C) For production and surveillance, $1,853,830,000.

(D) For nuclear directed energy weapons research, development, and testing, $240,000,000.

(E) For the defense inertial confinement fusion program, $149,000,000.

(F) For program direction, $74,826,000.

(2) For defense nuclear materials production, $1,419,521,000 to be allocated as follows:

(A) For uranium enrichment for naval reactors, $141,500,000.

(B) For other uranium enrichment, $11,500,000.

(C) For production reactor operations, $550,035,000.

(D) For processing of defense nuclear materials, including naval reactors fuel, $470,700,000, of which $65,000,000 shall be used for special isotope separation.

(E) For supporting services, $221,747,000.

(F) For program direction, $24,039,000.

(3) For environmental restoration and management of defense waste and transportation, $578,519,000, to be allocated as follows:

(A) For environmental restoration, $97,798,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $411,597,000.

(C) For waste research and development, $51,082,000.

(D) For hazardous waste process planning, $7,112,000.

(E) For transportation management, $8,400,000.

(F) For program direction, $2,530,000.

(4) For verification and control technology, $120,500,000.

(5) For nuclear materials safeguards and security technology development program, $73,200,000.

(6) For security investigations, $32,000,000.

(7) For naval reactors development, $544,100,000.

SEC. 3112. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1988 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 88-D-101, general plant projects, various locations, $30,200,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88-D-103, seismic upgrade, Building 111, Lawrence Livermore National Laboratory, Livermore, California, $1,100,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,500,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $10,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $28,962,000.

Project 88-D-121, general plant projects, various locations, $33,000,000.

Project 88-D-122, facilities capability assurance program, various locations, $19,200,000.

Project 88-D-123, security enhancement, Pantex Plant, Amarillo, Texas, $5,700,000.

Project 88-D-124, fire protection upgrade, various locations, $1,700,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $2,700,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $1,000,000.

Project 88-D-129, small intercontinental ballistic missile (SICBM) warhead production facilities, various locations, $20,000,000.

Project 87-D-104, safeguards and security enhancements, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $7,000,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $37,016,000, subject to section 3113(c).

Project 87-D-123, protective clothing decontamination facility, Rocky Flats Plant, Golden, Colorado, $4,608,000.

Project 87-D-127, environmental, safety, and health upgrade, Mound Plant, Miamisburg, Ohio, $1,737,000.

Project 87-D-130, receiving and shipping facility, Pinellas Plant, St. Petersburg, Florida, $2,400,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $12,000,000.

Project 86-D-104, strategic defenses facility, Sandia National Laboratories, Albuquerque, New Mexico, $15,000,000.

Project 86-D-105, instrumentation systems laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $8,000,000.

Project 86-D-106, laboratory data communications center, Los Alamos National Laboratory, Los Alamos, New Mexico, $12,200,000.

Project 86-D-122, structural upgrade of existing plutonium facilities, Rocky Flats Plant, Golden, Colorado, $221,000.

Project 86-D-123, environmental hazards elimination, various locations, $13,289,000.

Project 86-D-125, safeguards and site security upgrade, Phase II, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $46,773,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $33,500,000.

Project 85-D-103, safeguards and security enhancements, Lawrence Livermore National Laboratory and Sandia National Laboratories, Livermore, California, $9,200,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Las Vegas, Nevada, $28,000,000.

Project 85-D-106, hardened engineering test building, Lawrence Livermore National Laboratory, Livermore, California, $100,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $12,544,000.

Project 85-D-113, power plant and steam distribution system, Pantex Plant, Amarillo, Texas, $2,000,000.

Project 85-D-115, renovate plutonium building utility systems, Rocky Flats Plant, Golden, Colorado, $1,060,000.

Project 85-D-121, air and water pollution control facilities, Y-12 Plant, Oak Ridge, Tennessee, $998,000.

Project 84-D-107, nuclear testing facilities revitalization, various locations, $5,458,000.

Project 84-D-112, Trident II warhead production facilities, various locations, $3,300,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $5,878,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $18,253,000.

Project 82-D-107, utilities and equipment restoration, replacement, and upgrade, Phase III, various locations, $96,129,000.

(2) For materials production:

New production reactor, location to be determined, $10,000,000.

Project 88-D-146, general plant projects, various locations, $39,030,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $2,900,000.

Project 87-D-150, radioactive liquid effluent treatment facility, Richland, Washington, $5,000,000.

Project 87-D-152, environmental protection, plantwide, Savannah River, South Carolina, $2,800,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I and II, Feed Materials Production Center, Fernald, Ohio, $35,000,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $20,000,000.

Project 86-D-149, productivity retention program, Phases I, II, and III, various locations, $68,860,000.

Project 86-D-151, PUREX electrical system upgrade, Richland, Washington, $1,900,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $4,500,000.

Project 86-D-154, effluent treatment facility, Savannah River, South Carolina, $19,175,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $13,000,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $28,000,000.

Project 85-D-140, productivity and radiological improvements, Feed Materials Production Center, Fernald, Ohio, $7,831,000.

Project 85-D-145, fuel production facility, Savannah River, South Carolina, $21,100,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $9,685,000.

Project 83-D-148, non-radioactive hazardous waste management, $4,200,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $13,200,000.

(3) For defense waste and transportation management:

Project 88-D-171, general plant projects, various locations, $25,636,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $7,500,000.

Project 87-D-172, WESF K-3 filter upgrade, Richland, Washington, $2,800,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $7,200,000.

Project 87-D-174, 241-AQ tank farm, Richland, Washington, $22,300,000.

Project 87-D-175, steam system rehabilitation, Phase I, Richland, Washington, $12,600,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $3,900,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $8,200,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $6,800,000.

Project 86-D-174, low-level waste processing and shipping system, Feed Materials Production Center, Fernald, Ohio, $4,628,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho National Engineering Laboratory, Idaho, $742,000.

Project 85-D-157, seventh calcined solids storage facility, Idaho National Engineering Laboratory, Idaho, $2,181,000.

Project 85-D-158, central warehouse upgrade, Richland, Washington, $56,000.

Project 85-D-159, new waste transfer facilities, H-area, Savannah River, South Carolina, $13,682,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $120,000,000.

Project 77-13-f, waste isolation pilot plant, Delaware Basin, Southeast New Mexico, $35,901,000.

(4) For naval reactors development:

Project 88-N-101, general plant projects, various locations, $6,000,000.

Project 88-N-102, expanded core facility receiving station, Naval Reactors Facility, Idaho, $2,100,000.

Project 88-N-103, material handling and storage modifications, Knolls Atomic Power Laboratory, Niskayuna, New York, $400,000.

Project 88-N-104, prototype availability facilities, Kesselring site, Knolls Atomic Power Laboratory, West Milton, New York, $1,000,000.

Project 87-N-102, Kesselring site facilities upgrade, Knolls Atomic Power Laboratory, West Milton, New York, $8,400,000.

(5) For capital equipment not related to construction:

(A) For weapons activities, $266,230,000, of which $17,000,000 shall be allocated for nuclear directed energy weapons and $10,000,000 shall be allocated for the defense inertial confinement fusion program.

(B) For materials production, $91,285,000.

(C) For defense waste and transportation management, $43,687,000.

(D) For verification and control technology, $5,100,000.

(E) For nuclear safeguards and security, $4,600,000.

(F) For naval reactors development, $45,000,000.

SEC. 3113. FUNDING LIMITATIONS

(a) PROGRAMS, PROJECTS, AND ACTIVITIES OF THE DEPARTMENT OF ENERGY RELATING TO THE STRATEGIC DEFENSE INITIATIVE.—Of the funds appropriated to the Department of Energy for fiscal year 1988 for operating expenses and plant and capital equipment, not more than $279,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds appropriated to the Department of Energy for fiscal year 1988 for operating expenses and plant and capital equipment, not less than $159,000,000 shall be used for the defense inertial confinement fusion program.

(c) SRAM II.—Funds appropriated to the Department of Energy for fiscal year 1988 for facilities for production of the warhead for the short-range attack missile II (SRAM II) (project 87-D-122) may be obligated only—

(1) for facilities which are suitable for production of a warhead compatible with both the SRAM-A and the SRAM II; and

(2) after the Nuclear Weapons Council certifies that the design of the warhead is compatible with both the SRAM-A and the SRAM II.

SEC. 3114. UNDISTRIBUTED REDUCTIONS

(a) TOTAL AUTHORIZATION.—Notwithstanding sections 3111 and 3112, the total amount authorized to be appropriated to the Department of Energy in this title for fiscal year 1988 for national security programs is $7,826,900,000.

(b) REQUIREMENT FOR PROJECT REDUCTIONS.—The Secretary of Energy shall reduce the amounts authorized for the projects listed in sections 3111 and 3112 in such amounts as he determines appropriate to achieve a total reduction of $15,000,000.

PART B—RECURRING GENERAL PROVISIONS

SEC. 3121. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—(1) Except as provided in paragraph (3), construction on a construction project described in paragraph (2) may not be started, and additional obligations may not be incurred in connection with the project, above the total estimated cost of the construction project whenever the current estimated cost of the project exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to the Congress.

(2) Paragraph (1) applies to any construction project which is authorized by section 3112 of this title or which is in support of national security programs of the Department of Energy and was authorized by any previous Act.

(3) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY

(a) IN GENERAL.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government, but only for the performance of the work for which the funds were authorized and appropriated. Funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) SPECIFIC TRANSFER.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1988 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research, development, and testing for nuclear directed energy weapons, including plant and capital equipment related thereto;

(2) shall be merged with the appropriations of the Department of Energy; and

(3) may not be included in calculating the amount of funds obligated or expended for purposes of the funding limitation in section 3113(a).

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Commit-

tees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) Specific Authority Required.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 3112, the Secretary may perform planning and design using available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for operating expenses and plant and capital equipment are available for use, when necessary, in connection with all national security programs of the Department of Energy.

Government organization and employees.

SEC. 3128. ADJUSTMENTS FOR PAY INCREASES

Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 3129. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated pursuant to this title for operating expenses or for plant and capital equipment may remain available until expended.

Part C—Miscellaneous Provisions

SEC. 3131. ALLOWABLE COSTS TO INCLUDE CERTAIN INFORMATION PROVIDED TO CONGRESS AND STATE LEGISLATURES

Contracts.

(a) Allowable Costs.—Section 1534(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (title XV of Public Law 99-145; 42 U.S.C. 7256a(b)) is amended—

(1) by inserting "(1)" before "Not later than"; and

(2) by adding at the end the following new paragraph:

"(2) In any regulations implementing subsection (a)(2), the Secretary may not treat as not allowable (by reason of such subsection) the following costs of a contractor:

"(A) Costs of providing to Congress or a State legislature, in response to a request from Congress or a State legislature, information of a factual, technical, or scientific nature, or advice of experts, with respect to topics directly related to the performance of the contract.

"(B) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.".

(b) EFFECTIVE DATE.—Regulations to implement paragraph (2) of section 1534(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (as added by subsection (a)) shall be prescribed not later than 90 days after the date of the enactment of this Act. Such regulations shall apply as if included in the original regulations prescribed under such section.

Regulations.
42 USC 7256a note.

SEC. 3132. MODERNIZATION OF NUCLEAR WEAPONS COMPLEX

President of U.S.

(a) STUDY.—The President shall conduct a study, in consultation with experts in both the Federal Government and the private sector, on the nuclear weapons complex for the purpose of determining the overall size and productive capacity necessary to support national security objectives.

(b) PLAN.—The President shall formulate a plan, based on the study conducted under subsection (a), to modernize the nuclear weapons complex by achieving the necessary size and capacity determined under the study. Such plan shall include—

(1) actions necessary to ensure operation of facilities in the nuclear weapons complex in a safe and environmentally acceptable manner;

(2) a schedule for implementation of the plan; and

(3) the estimated costs of implementation of the plan.

(c) REPORT.—The President shall submit a report to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives containing recommendations resulting from the study required by subsection (a) and a description of the plan required by subsection (b). The report shall be submitted by December 15, 1988.

(d) NUCLEAR WEAPONS COMPLEX DEFINITION.—In this section, the term "nuclear weapons complex" includes facilities for nuclear weapons research, development, and testing, nuclear materials production, nuclear weapons components manufacture, and assembly of nuclear weapons.

SEC. 3133. REQUIREMENTS TO ENSURE SAFE OPERATION OF N REACTOR

Washington.

(a) REPORT BY NATIONAL ACADEMY OF SCIENCES.—The Secretary of Energy shall request the National Academy of Sciences to submit by December 1, 1987, a report summarizing its findings, conclusions, and recommendations relating to the safety of operation of the N Reactor at the Hanford Reservation, Washington (hereafter in this section referred to as the "N Reactor"). Such report shall be prepared from the Academy's current assessment of safety and technical issues at Department of Energy class A reactors being conducted pursuant to section 3136 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 (division C of Public Law 99-661; 100 Stat. 4064). The report may include a review of the reports and recommendations of the so-called Roddis panel and shall be in addition to any other report submitted by the Academy on the N Reactor to the Department of Energy. The report shall be submitted to—

(1) the Secretary of Energy; and

(2) the Committee on Armed Services and the Committee on Energy and Commerce of the House of Representatives and the Committee on Armed Services of the Senate.

(b) RESTRICTION ON OPERATION OF N REACTOR.—The Secretary of Energy—

(1) may not operate the N Reactor before January 1, 1988; and

(2) may not operate the N Reactor until the Secretary submits to the Committees specified in subsection (a) a certification that the N Reactor is safe to operate.

(c) EFFECT ON ENVIRONMENTAL IMPACT STATEMENT.—No requirement or restriction in this section (including the delay in operation of the N Reactor until at least December 31, 1987) shall affect or be considered in the application or interpretation of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) to the N Reactor.

(d) OPERATION DEFINED.—For purposes of this section, the term "operation" with respect to the N Reactor means any activity carried out for the purpose of producing special nuclear materials by achieving a state of criticality.

SEC. 3134. INTERIM OVERSIGHT OF SAFETY OF THE NUCLEAR WEAPONS COMPLEX

(a) REQUIREMENT FOR REVIEW AND REPORT.—(1) The Secretary of Energy shall request the National Academy of Sciences to conduct two reviews on the status of the nuclear weapons complex and submit a report on each review. Each such report shall include—

(A) a consideration of safety and technical issues at current facilities and a discussion of steps that would enhance the safety of operation of those facilities;

(B) a consideration of the environmental impact of the operation of those facilities;

(C) an estimation of the approximate useful lifetime of existing reactors; and

(D) findings and recommendations.

(2) The reports shall be submitted concurrently to the Committees on Armed Services of the Senate and House of Representatives and the Secretary not later than December 1, 1988, and December 1, 1989.

Reports.

(b) REVIEW AND COMMENT BY SECRETARY.—(1) The Secretary shall review the findings and recommendations contained in each report under subsection (a) and shall separately provide to the Committees on Armed Services of the Senate and House of Representatives a report containing—

(A) the Secretary's comments on such findings and recommendations; and

(B) a description (including cost assessments) of plans of the Secretary to correct any technical problems described in the report or to carry out recommendations set forth in the report.

(2) The Secretary shall submit the report required by paragraph (1) no later than 30 days after receipt of each report required by subsection (a).

SEC. 3135. TIMELY DETERMINATION OF PROPERTY RIGHTS IN INVENTIONS AND DISCOVERIES

(a) DEADLINE FOR WAIVER DECISION.—Section 3131(a) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 (title I of division C of Public Law 99-661; 100 Stat. 4061) is amended—

42 USC 7261a.

(1) by inserting "(1)" before "Whenever any contractor";

(2) by striking out the last sentence; and

(3) by adding at the end the following new paragraphs:

Contracts.

"(2) Such decision shall be made within 150 days after the date on which a complete request for waiver of such rights has been submitted to the Secretary by the contractor. For purposes of this paragraph, a complete request includes such information, in such detail and form, as the Secretary by regulation prescribes as necessary to allow the Secretary to take into consideration the matters described in subsection (b) in making the decision.

Reports.

"(3) If the Secretary fails to make the decision within such 150-day period, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate, within 10 days after the end of the 150-day period, a report on the reasons for such failure. The submission of such report shall not relieve the Secretary of the requirement to make the decision under this section. The Secretary shall, at the end of each 30-day period after submission of the first report during which the Secretary continues to fail to make the decision required by this section, submit another report on the reasons for such failure to the committees listed in this paragraph.".

42 USC 7261a note.

(b) EFFECTIVE DATE.—Paragraphs (2) and (3) of section 3131(a) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987 (as added by subsection (a)) shall apply with respect to waiver requests submitted by contractors under that section after March 1, 1988.

SEC. 3136. PRODUCTION REACTOR ACQUISITION STRATEGY

(a) REPORT.—The Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the strategy of the Secretary for acquiring new reactor capacity for the production of nuclear materials. The report shall include the following:

(1) An evaluation, including a discussion of all safety features considered, of the alternative sites and technologies for acquiring new reactor capacity for the production of nuclear materials.

(2) The associated costs and schedules of such alternative sites and technologies, including annual funding requirements.

(3) The recommendations of the Secretary of Energy with respect to—

(A) the preferred sites and technologies for acquiring new reactor capacity for the production of nuclear materials; and

(B) an acquisition strategy for eventual procurement, either in a phased approach or concurrently, of two reactors with different technologies in different locations.

(b) DEADLINE.—The report required by subsection (a) shall be submitted as soon as possible after the date of the enactment of this Act, but no later than February 1, 1988.

PART D—DEPARTMENT OF ENERGY SEMICONDUCTOR TECHNOLOGY RESEARCH EXCELLENCE INITIATIVE

Business and industry.

SEC. 3141. FINDINGS

15 USC 4621.

Congress makes the following findings:

(1) Semiconductors and related microelectronic devices are key components in computers, telecommunications equipment, advanced defense systems, and other equipment.

(2) Aggregate sales of such equipment, in excess of $230,000,000,000 annually, comprise a significant portion of the gross national product of the United States.

(3) The leadership position of the United States in advanced technology is threatened by (A) competition from foreign businesses which is promoted and facilitated by the increasingly active involvement of foreign governments, and (B) other changes in the nature of foreign competition.

(4) The principal cause of the relative shift in strength of the United States and its semiconductor competitors is the establishment of a long-term goal by a major foreign competitor to achieve world superiority in semiconductor research and manufacturing technology and the pursuit of such goal by that competitor by effectively marshalling all of the government, industry, and academic resources needed to achieve that goal.

(5) Although the United States semiconductor industry leads all other principal United States industries in terms of its reinvestment in research and development, that has been insufficient by worldwide standards.

(6) Electronic equipment is essential to protect the national security of the United States, as is evidenced by the allocation of approximately 35 percent of the total research, development, and procurement budgets of the Department of Defense to electronics research.

(7) The Armed Forces of the United States will eventually depend extensively on foreign semiconductor technology unless significant steps are taken, and taken at an early date, to retain United States leadership in semiconductor technology research.

(8) It is in the interests of the national security and national economy of the United States for the United States to regain its traditional world leadership in the field of semiconductors.

(9) The most effective means of regaining that leadership is through a joint research effort of the Federal Government and private industry of the United States to improve semiconductor manufacturing technology and to develop practical uses for such technology.

(10) In order to meet the national defense needs of the United States and to insure the continued vitality of a commercial manufacturing base in the United States, it is essential that priority be given to the development, demonstration, and advancement of the semiconductor technology base in the United States.

(11) The national laboratories of the Department of Energy are a major national research resource, and the extensive involvement of such laboratories in the semiconductor research initiatives of the Federal Government and private industry would be an effective use of such laboratories and would help insure the success of such initiatives.

15 USC 4622.

SEC. 3142. ESTABLISHMENT OF THE SEMICONDUCTOR MANUFACTURING TECHNOLOGY RESEARCH INITIATIVE

The Secretary of Energy shall initiate and carry out a program (hereinafter in this subtitle referred to as the "Initiative") of research on semiconductor manufacturing technology and on the practical applications of such technology. The Secretary may carry out the Initiative in a way that complements the activities of a consortium of United States semiconductor manufacturers, materials manufacturers, and equipment manufacturers, established for the purpose of conducting research concerning advanced semiconductor manufacturing techniques and developing techniques to adopt manufacturing expertise to a variety of semiconductor products.

SEC. 3143. PARTICIPATION OF NATIONAL LABORATORIES OF THE DEPARTMENT OF ENERGY

Schools and colleges.
15 USC 4623.

(a) Mission of National Laboratories.—Each national laboratory of the Department of Energy may participate in research and development projects under the Initiative in conjunction with the Department of Defense or with any consortium, college, or university carrying out any project for or in cooperation with any consortium referred to in section 3142, to the extent that such participation is consistent with the missions of the national laboratory.

(b) Agreements.—The Secretary of Energy may enter into such agreements with the Secretary of Defense, with any consortium referred to in section 3142, and with any college or university as may be necessary to provide for the active participation of the national laboratories of the Department of Energy in the Initiative.

(c) Research and Development.—One or more national laboratories of the Department of Energy shall participate in the Initiative by conducting research and development activities relating to research on the development of semiconductor manufacturing technologies. Such activities may include research and development relating to materials fabrication, materials characterization, design and modeling of devices, and new processing equipment.

SEC. 3144. PERSONNEL EXCHANGES

15 USC 4624.

The Secretary of Energy may authorize temporary exchanges of personnel between the national laboratories of the Department of Energy and any domestic firm or any consortium referred to in section 3142 that is participating in the Initiative. The exchange of personnel shall be subject to such restrictions, limitations, terms, and conditions that the Secretary of Energy considers necessary in the interest of national security.

SEC. 3145. OTHER DEPARTMENT OF ENERGY RESOURCES

15 USC 4625.

(a) Availability of Resources.—Subject to subsection (b), the Secretary of Energy may make available to the Department of Defense, to any other department or agency of the Federal Government, and to any consortium that has entered into an agreement in furtherance of the Initiative any facilities, personnel, equipment, services, and other resources of the Department of Energy for the purpose of conducting research and development projects under the Initiative consistent with section 3143(a).

(b) Reimbursement.—The Secretary may make facilities available under this section only to the extent that the cost of the use of such facilities is reimbursed by the user.

SEC. 3146. BUDGETING FOR SEMICONDUCTOR MANUFACTURING TECHNOLOGY RESEARCH

15 USC 4626.

(a) Budget Submission.—To the extent the Secretary considers appropriate and necessary, the Secretary of Energy, in preparing the research and development budget of the Department of Energy to be included in the annual budget submitted to the Congress by the President under section 1105(a) of title 31, United States Code, shall provide for programs, projects, and activities that encourage the development of new technology in the field of semiconductors.

(b) Budget Categories.—The programs, projects, and activities described in subsection (a) shall be included in the budget for general science and research activities of the Department of Energy, except that any programs, projects, and activities that directly support and directly benefit the defense activities of the Department shall be included in the budget for atomic energy defense activities of the Department of Energy.

Contracts.
15 USC 4627.

SEC. 3147. COST-SHARING AGREEMENTS

(a) Permitted Provisions.—The director of each national laboratory of the Department of Energy that is participating in the Initiative or the contractor operating any such national laboratory, in carrying out programs under a contract with the Department of Energy, may include in any research and development agreement entered into with a domestic firm in connection with such Initiative a cooperative provision for the domestic firm to pay a portion of the cost of the research and development activities.

(b) Limitations.—(1) Not more than an amount equal to 1 percent of any national laboratory's annual budget shall be received from nonappropriated funds derived from contracts entered into under the Initiative in any fiscal year, except to the extent approved in advance by the Secretary of Energy.

(2) No Department of Energy national laboratory may receive more than $10,000,000 of nonappropriated funds under any cooperative research and development agreement entered into under this subsection in connection with the Initiative, except to the extent approved in advance by the Secretary of Energy.

15 USC 4628.

SEC. 3148. DEPARTMENT OF ENERGY OVERSIGHT OF COOPERATIVE AGREEMENTS RELATING TO THE INITIATIVE

(a) Provisions Relating to Disapproval and Modification of Agreements.—If the Secretary of Energy desires an opportunity to disapprove or require the modification of any agreement under section 3147, the agreement shall provide a 90-day period within which such action may be taken, beginning on the date the agreement is submitted to the Secretary.

(b) Record of Agreements.—Each national laboratory shall maintain a record of all agreements entered into under this section.

15 USC 4629.

SEC. 3149. AVOIDANCE OF DUPLICATION

In carrying out the Initiative, the Secretary of Energy shall ensure that unnecessary duplicative research is not performed at the research facilities (including the national laboratories of the Department of Energy) that are participating in the Initiative.

15 USC 4630.

SEC. 3150. AUTHORIZATION OF APPROPRIATIONS

There is authorized to be appropriated to the Department of Energy for fiscal year 1988 the sum of $25,000,000 for general science and research activities of the Department of Energy under the Initiative.

15 USC 4631.

SEC. 3151. TECHNOLOGY TRANSFER

(a) In General.—The Secretary of Energy shall adopt procedures to provide for timely and efficient transfer of semiconductor technology developed under the Initiative pursuant to applicable laws, Executive orders, and regulations.

(b) Plan for Commercialization Enhancement.—(1) Not later than one year after the date on which funds are first appropriated to conduct the Initiative, the Secretary of Energy shall transmit to the committees of Congress named in paragraph (2) a plan for the transfer of semiconductor technology and information generated by the Initiative.

(2) The committees of Congress referred to in paragraph (1) are the Committees on Armed Services of the Senate and House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committee on Science and Technology of the House of Representatives.

TITLE II—NATIONAL DEFENSE STOCKPILE

National Defense Stockpile Amendments of 1987. 50 USC 98 note.

SEC. 3201. SHORT TITLE

This title may be cited as the "National Defense Stockpile Amendments of 1987".

SEC. 3202. STOCKPILE REQUIREMENTS

(a) PROCEDURE FOR REVISIONS OF STOCKPILE REQUIREMENTS.—Section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b) is amended—

(1) in subsection (a), by striking out "The" in the first sentence and inserting in lieu thereof "Subject to subsection (c), the";

(2) in subsection (b), by striking out "the following principles" and all that follows and inserting in lieu thereof "the principles stated in section 2(c)."; and

(3) by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) The quantity of any material to be stockpiled under this Act, as in effect on September 30, 1987, may be changed only as provided in this subsection or as otherwise provided by law enacted after the date of the enactment of the National Defense Stockpile Amendments of 1987.

President of U.S.

"(2) If the President proposes to change the quantity of any material to be stockpiled under this Act, the President shall include a full explanation and justification for the change in the next annual material plan submitted to Congress under section 11(b).

President of U.S.

"(3) If the proposed change in the case of any material would result in a new requirement for the quantity of such material different from the requirement for that material in effect on September 30, 1987, by less than 10 percent, the change may be made by the President effective on or after the first day of the first fiscal year beginning after the explanation and justification for the proposed change is submitted pursuant to paragraph (2).

"(4) In the case of a proposed change not covered by paragraph (3), the proposed change may be made only to the extent expressly authorized by law.

"(5) If in any year the reports required by sections 11(b) and 14 are not submitted to Congress as required by law (including the time for such submission), then during the next fiscal year no change under paragraph (3) may be made in the quantity of any material to be stockpiled under this Act.".

(b) PURPOSE OF STOCKPILE.—Section 2 of such Act (50 U.S.C. 98a) is amended by adding at the end the following new subsection:

"(c) In providing for the National Defense Stockpile under this Act, Congress establishes the following principles:

"(1) The purpose of the National Defense Stockpile is to serve the interest of national defense only. The National Defense Stockpile is not to be used for economic or budgetary purposes.

"(2) The quantities of materials stockpiled under this Act should be sufficient to sustain the United States for a period of not less than three years during a national emergency situation that would necessitate total mobilization of the economy of the United States for a sustained conventional global war of indefinite duration.".

(c) ANNUAL RECOMMENDATION OF STOCKPILE REQUIREMENTS BY SECRETARY OF DEFENSE.—The Strategic and Critical Materials Stock Piling Act is amended by adding at the end the following new section:

"ANNUAL REPORT ON STOCKPILE REQUIREMENTS

50 USC 98h-5.

"SEC. 14. (a) The Secretary of Defense shall submit to Congress an annual report on stockpile requirements. Each such report shall be submitted with the annual report submitted under section 11(b) and shall include—

"(1) the Secretary's recommendations with respect to stockpile requirements; and

"(2) the matters required under subsection (b).

"(b) Each report under this section shall set forth the national emergency planning assumptions used in determining the stockpile requirements recommended by the Secretary, based upon total mobilization of the economy of the United States for a sustained conventional global war for a period of not less than three years. Assumptions to be set forth include assumptions relating to each of the following:

"(1) Length and intensity of the assumed emergency.

"(2) The military force structure to be mobilized.

"(3) Losses from enemy action.

"(4) Military, industrial, and essential civilian requirements to support the national emergency.

"(5) Budget authority necessary to meet the requirements of total mobilization for the military, industrial, and essential civilian sectors.

"(6) The availability of supplies of strategic and critical materials from foreign sources, taking into consideration possible shipping losses.

"(7) Domestic production of strategic and critical materials.

"(8) Civilian austerity measures.

President of U.S.

"(c) The President shall submit with each report under this section a statement of the plans of the President for meeting the recommendations of the Secretary set forth in the report.".

SEC. 3203. STOCKPILE MANAGER

(a) CLARIFICATION OF CHARTER OF STOCKPILE MANAGER.—Section 6A of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e-1) is amended to read as follows:

"NATIONAL DEFENSE STOCKPILE MANAGER

President of U.S.

"SEC. 6A. (a) The President shall designate a single Federal office to have responsibility for performing the functions of the President under this Act, other than under sections 7, 8, and 13. The office designated shall be one to which appointment is made by the President, by and with the advice and consent of the Senate.

"(b) The individual holding the office designated by the President under subsection (a) shall be known for purposes of functions under this Act as the 'National Defense Stockpile Manager'.

"(c) The President may delegate functions of the President under this Act (other than under sections 7, 8, and 13) only to the National Defense Stockpile Manager. Any such delegation made by the President shall remain in effect until specifically revoked by law or Executive order.

President of U.S.

"(d) During any period during which there is no officer appointed by the President, by and with the advice and consent of the Senate, serving in the position designated by the President under subsection (a) or during which the authority of the President under this Act (other than under sections 7, 8, and 13) has not been delegated to that position, no action may be taken under section 6(b) or 6(d).".

(b) REVOCATION OF EXISTING DELEGATION.—Effective 30 days after the date of the enactment of this Act, Executive Order 12155 is revoked and shall be of no further force and effect.

50 USC 98 note.

(c) SAVINGS PROVISION.—Unless otherwise directed by the President under section 6A of the Strategic and Critical Materials Stock Piling Act, as amended by subsection (a), the designation of a National Defense Stockpile Manager in effect on the day before the date of the enactment of this Act shall remain in effect until the individual so designated ceases to hold the office held by the individual at the time of the designation.

50 USC 98e-1 note.

SEC. 3204. AUTHORIZED USES OF STOCKPILE TRANSACTION FUND

Section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)) is amended by striking out subparagraph (F).

SEC. 3205. DEADLINE FOR ANNUAL MATERIALS PLAN

Section 11(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-2(b)) is amended—

(1) by striking out "The President" and inserting in lieu thereof "Not later than February 15 of each year, the President"; and

(2) by striking out "each year, at the time that the Budget is submitted to Congress pursuant to section 1105 of title 31, United States Code, for the next fiscal year,".

SEC. 3206. TECHNICAL AMENDMENTS

(a) CONGRESSIONAL COMMITTEE ACTION.—Section 5(a)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(a)(2)) is amended by striking out "or until" in the first sentence and all that follows through "proposed transaction".

(b) SECTION HEADING.—Such Act is amended by inserting before section 13 (50 U.S.C. 98h-4) the following:

"IMPORTATION OF STRATEGIC AND CRITICAL MATERIALS".

(c) SURPLUS WORDS.—Section 13 of such Act is amended by striking out "Notwithstanding any other provision of law, on and after January 1, 1972, the" and inserting in lieu thereof "The".

TITLE III—CIVIL DEFENSE

SEC. 3301. AUTHORIZATION OF APPROPRIATION

There is hereby authorized to be appropriated $134,806,000 for fiscal year 1988 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

SEC. 3302. WITHHOLDING OF FUNDS FOR FAILURE OR REFUSAL TO PARTICIPATE IN SIMULATED NUCLEAR ATTACK EXERCISE

Funds available to the Federal Emergency Management Agency for fiscal years 1987 and 1988 for obligation under the Federal Civil Defense Act of 1950 may not be withheld or withdrawn on or after the date of the enactment of this Act from any State or any other entity on the basis of the failure or refusal of such State or other entity to participate in a simulated nuclear attack exercise. Any such funds withheld from payment to a State or other entity before the date of the enactment of this Act on such basis shall be paid to such State or other entity, as the case may be, at the earliest practicable date after the date of the enactment of this Act.

Approved December 4, 1987.

LEGISLATIVE HISTORY—H.R. 1748 (S. 1174):

HOUSE REPORTS: No. 100-58 (Comm. on Armed Services).
SENATE REPORTS: No. 100-57 accompanying S. 1174 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  May 4-8, 11-13, 18-20, considered and passed House.
  Sept. 11, 15-18, 22-26, 28-30, Oct. 1, 2, S. 1174 considered in Senate; H.R. 1748, amended, passed in lieu.
  Nov. 18, House agreed to conference report.
  Nov. 19, Senate agreed to conference report.

○

Public Law 100-181
100th Congress

An Act

To extend and amend the authorization of appropriations for the Securities and Exchange Commission, and for other purposes.

Dec. 4, 1987
[S. 1452]

Be it enacted by the Senate and House of Respresentatives of the United States of America in Congress assembled,

Securities and Exchange Commission Authorization Act of 1987.
15 USC 78a note.

SECTION 1. This Act may be cited as the "Securities and Exchange Commission Authorization Act of 1987".

TITLE I—AUTHORIZATION

SEC. 101. Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 35. (a) There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission—

"(1) $158,600,000 for fiscal year 1988; and

"(2) $172,200,000 for fiscal year 1989.

"(b) Of the amounts authorized by subsection (a), the amount which may, subject to section 35A, be obligated or expended by the Commission for the purpose of funding a contract for the establishment and operation of the electronic data gathering, analysis, and retrieval ('EDGAR') system shall not exceed—

"(1) $15,000,000 for fiscal year 1988; and

"(2) $20,000,000 for fiscal year 1989.".

SEC. 102. The Securities Exchange Act of 1934 is amended by inserting after section 35 the following new section:

Contracts.

"REQUIREMENTS FOR THE EDGAR SYSTEM

15 USC 78*ll*.

"SEC. 35A. (a)(1) Of the funds appropriated to the Commission pursuant to section 35 of this title for fiscal year 1988 which are available pursuant to section 35(b) for establishment or operation of the electronic data gathering, analysis, and retrieval ('EDGAR') system, the Commission may not obligate or expend more than $5,000,000 for the establishment or operation of the EDGAR system unless the Commission has made the certification required by subsection (c) of this section.

"(2) Notwithstanding section 35(b), no funds appropriated for fiscal year 1989 may be obligated or expended for the establishment or operation of the EDGAR system, unless the Commission has—

Reports.

"(A) filed each report required during fiscal year 1988 by subsection (b) of this section; and

"(B) made the certification required by subsection (c) of this section.

"(3) Amounts which are available to the Commission under section 35(b) for the EDGAR contract shall be the exclusive source of funds for the procurement and operation of the systems created under that contract by or on behalf of the Securities and Exchange Commission—

"(A) for the receipt of filings under Federal securities laws, and

"(B) for the automated acceptance and review of the filings and information derived from such filings.

Reports.

"(b) The Commission shall submit a report to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives on the status of EDGAR development, implementation, and progress at six-month intervals beginning December 31, 1987, and ending at the close of 1990 (unless otherwise extended by the Congress). Such report shall include the following:

"(1) The overall progress and status of the project, including achievement of significant milestones and current project schedule.

"(2) The results of Commission efforts to test new or revised technical solutions for key EDGAR functions. In particular, the following functions shall be addressed and the indicated information provided:

"(A) Automating receipt and acceptance processing, including—

"(i) development and testing progress and results;

"(ii) actual versus estimated development cost; and

"(iii) actual effect of this function on Commission staff needs to assist filers.

"(B) Data tagging (identifying financial data for analysis by EDGAR), including—

"(i) description of the approach selected, identifying the types of financial data to be tagged and the calculations to be performed;

"(ii) comments by the filer population on the approach selected;

"(iii) the results of testing this approach, including information on the number of filers taking part in the test and their representativeness of the overall filer population;

"(iv) actual versus estimated development cost; and

"(v) effect of implementing this function on EDGAR benefits.

"(C) Searching text for keywords, including—

"(i) the technical approach adopted for this function;

"(ii) development and testing progress and results;

"(iii) data storage requirements and search response times as compared to EDGAR pilot system experience;

"(iv) actual versus estimated development cost; and

"(v) effect of implementing this function on EDGAR benefits.

"(3) An update of cost information for the receipt, acceptance and review, and dissemination portions of the system including a comparison of actual costs with original estimated costs and revised estimates of total system cost and total funding needs for the contract.

"(4) The status of Commission efforts to obtain and maintain staff with the proper contractual, managerial, and technical expertise to oversee the EDGAR project.

"(5) The fees, revenues, costs, and profits obtained or incurred by the contractor as a result of the required dissemination of information from the system to the public under the EDGAR contract, except that the information required under this paragraph (A) need be obtained from the contractor no more frequently than once each year, and (B) may be submitted to the Congress as a separate confidential document.

"(6) Such other information or recommendations as the Commission considers appropriate.

"(c) On or before the date the Commission enters into the contract for the EDGAR system, the Commission shall submit to the Committees on Banking, Housing, and Urban Affairs and Governmental Affairs of the Senate and the Committees on Energy and Commerce and Government Operations of the House of Representatives a certification by the Commission—

"(1) of the total contract costs to the Federal Government of the EDGAR system for each of the 3 succeeding fiscal years;

"(2) that the Commission has analyzed the quantitative and qualitative benefits to be obtained by the establishment and operation of the system and has determined that such benefits justify the costs certified pursuant to paragraph (1);

"(3) that (A) the contract requires the contractor to establish a schedule for the implementation of the system; (B) the Commission has reviewed and approved that schedule; and (C) the contract contains adequate assurances of contractor compliance with that schedule;

"(4) of the capabilities which the system is intended to provide and of the competence of the contractor and of Commission personnel to implement those capabilities; and

"(5) that mandatory filings from a significant test group of registrants will be received and reviewed by the Commission for a period of at least six months before the adoption of any rule requiring mandatory filing by all registrants.

"(d) The Commission, by rule or regulation—

"(1) shall provide that any information in the EDGAR system that is required to be disseminated by the contractor—

"(A) may be sold or disseminated by the contractor only pursuant to a uniform schedule of fees prescribed by the Commission;

"(B) may be obtained by a purchaser by direct interconnection with the EDGAR system;

"(C) shall be equally available on equal terms to all persons; and

"(D) may be used, resold, or redisseminated by any person who has lawfully obtained such information without restriction and without payment of additional fees or royalties; and

"(2) shall require that persons, or classes of persons, required to make filings with the Commission submit such filings in a form and manner suitable for entry into the EDGAR system and shall specify the date that such requirement is effective with respect to that person or class; except that the Commission may exempt persons or classes of persons, or filings or classes of filings, from such rules or regulations in order to prevent hardships or to avoid imposing unreasonable burdens or as otherwise may be necessary or appropriate; and

"(3) shall require all persons who make any filing with the Commission, in addition to complying with such other rules concerning the form and manner of filing as the Commission may prescribe, to submit such filings in written or printed form—

"(A) for a period of at least one year after the effective date specified for such person or class under paragraph (2); or

"(B) for a shorter period if the Commission determines that the EDGAR system (i) is reliable, (ii) provides a suitable alternative to such written and printed filings, and (iii) assures that the provision of information through the EDGAR system is as effective and efficient for filers, users, and disseminators as provision of such information in written or printed form.

"(e) For the purposes of carrying out its responsibilities under subsection (d)(3) of this section, the Commission shall consult with representatives of persons filing, disseminating, and using information contained in filings with the Commission.".

TITLE II—AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 201. Section 2(5) of the Securities Act of 1933 (15 U.S.C. 77b(5)) is amended by striking out "Federal Trade Commission" and inserting in lieu thereof "Securities and Exchange Commission".

SEC. 202. Section 2(6) of the Securities Act of 1933 (15 U.S.C. 77b(6)) is amended by striking out "Canal Zone,".

SEC. 203. Section 3(a)(1) of the Securities Act of 1933 (15 U.S.C. 77c(a)(1)) is amended by striking all that appears therein and inserting in lieu thereof "(1) Reserved.".

SEC. 204. Section 3(a)(5)(A) of the Securities Act of 1933 (15 U.S.C. 77c(a)(5)(A)) is amended by striking out ", except that the foregoing exemption shall not apply with respect to any such security where the issuer takes from the total amount paid or deposited by the purchaser, by way of any fee, cash value or other device whatsoever, either upon termination of the investment at maturity or before maturity, an aggregate amount in excess of 3 per centum of the face value of such security".

SEC. 205. Section 6(e) of the Securities Act of 1933 (15 U.S.C. 77f(e)) is repealed.

Courts.

SEC. 206. Section 9(a) of the Securities Act of 1933 (15 U.S.C. 77i(a)) is amended—

(1) by striking out "Circuit Court of Appeals" and inserting in lieu thereof "court of appeals";

(2) by striking out "Court of Appeals of the District of Columbia, by filing in such court" and inserting in lieu thereof "United States Court of Appeals for the District of Columbia, by filing in such Court"; and

(3) by striking out "sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347)" and inserting in lieu thereof "section 1254 of title 28, United States Code".

SEC. 207. Section 19(c) of the Securities Act of 1933 (15 U.S.C. 77s(c)) is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of law, neither the Commission nor any other person shall be required to establish any procedures not specifically required by the securities laws, as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, or by chapter 5 of title 5, United States Code, in connection with cooperation, coordination, or consultation with—

"(A) any association referred to in paragraph (1) or (3) or any conference or meeting referred to in paragraph (4), while such association, conference, or meeting is carrying out activities in furtherance of the provisions of this subsection; or

"(B) any forum, agency, or organization, or group referred to in section 503 of the Small Business Investment Incentive Act of 1980, while such forum, agency, organization, or group is carrying out activities in furtherance of the provisions of such section 503.

As used in this paragraph, the terms 'association', 'conference', 'meeting', 'forum', 'agency', 'organization', and 'group' include any committee, subgroup, or representative of such entities.".

SEC. 208. (a) Section 20(b) of the Securities Act of 1933 (15 U.S.C. 77t(b)) is amended by striking out the first sentence and inserting in lieu thereof the following: "Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this title, or of any rule or regulation prescribed under authority thereof, the Commission may, in its discretion, bring an action in any district court of the United States, or United States court of any Territory, to enjoin such acts or practices, and upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.".

(b) Section 20(c) of such Act (15 U.S.C. 77t(c)) is amended to read as follows:

"(c) Upon application of the Commission, the district courts of the United States and the United States courts of any Territory shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this title or any order of the Commission made in pursuance thereof.". Courts.

SEC. 209. Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(1) by striking out "United States, the" in the first sentence and inserting in lieu thereof "United States and";

(2) by striking out ", and the United States District Court for the District of Columbia"; and

(3) by striking out "sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347)" and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code".

TITLE III—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 301. Section 3(a)(6)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)(C)) is amended by striking out "under section 11(k) of the Federal Reserve Act, as amended" and inserting in lieu thereof "under the authority of the Comptroller of the Currency pursuant to the first section of Public Law 87-722 (12 U.S.C. 92a)".

SEC. 302. Section 3(a)(16) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(16)) is amended by striking out "the Canal Zone,".

SEC. 303. Section 3(a)(22)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(22)(B)) is amended—

(1) by striking out "association or any" and inserting in lieu thereof "association, or any"; and

(2) by striking out "own behalf in" and inserting in lieu thereof "own behalf, in".

SEC. 304. Section 3(a)(34)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)(C)) is amended by striking out "state" each place it appears and inserting in lieu thereof "State".

SEC. 305. Section 3(a)(39)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(39)(B)) is amended—

(1) by striking out "months, revoking" and inserting in lieu thereof "months, or revoking"; and

(2) by striking out "barring his" and inserting in lieu thereof "barring or suspending for a period not exceeding 12 months his".

SEC. 306. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) by inserting after paragraph (46) the following:

"(47) The term 'securities laws' means the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.)."; and

(2) by adding at the end thereof the following:

"(49) The term 'person associated with a transfer agent' and 'associated person of a transfer agent' mean any person (except an employee whose functions are solely clerical or ministerial) directly engaged in the management, direction, supervision, or performance of any of the transfer agent's activities with respect to transfer agent functions, and any person directly or indirectly controlling such activities or controlled by the transfer agent in connection with such activities.".

SEC. 307. Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of law, whenever any fee is required to be paid to the Commission pursuant to any provision of the securities laws or any other law, the Commission may provide by rule that such fee shall be paid in a manner other than in cash.".

SEC. 308. (a) The Securities Exchange Act of 1934 is amended by inserting after section 4 (15 U.S.C. 78d) the following new sections:

"DELEGATION OF FUNCTIONS BY COMMISSION

15 USC 78d-1.

"SEC. 4A. (a) In addition to its existing authority, the Securities and Exchange Commission shall have the authority to delegate, by published order or rule, any of its functions to a division of the Commission, an individual Commissioner, an administrative law judge, or an employee or employee board, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter. Nothing in this section shall be deemed to supersede the provisions of section 556(b) of title 5, or to authorize the delegation of the function of rulemaking as defined in subchapter II of chapter 5 of title 5, United States Code, with reference to general rules as distinguished from rules of particular applicability, or of the making of any rule pursuant to section 19(c) of this title.

"(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this section, the Commission shall retain a discretionary right to review the action of any such division of the Commission, individual Commissioner, administrative law judge, employee, or employee board, upon its own initiative or upon petition of a party to or intervenor in such action, within such time and in such manner as the Commission by rule shall prescribe. The vote of one member of the Commission shall be sufficient to bring any such action before the Commission for review. A person or party shall be entitled to review by the Commission if he or it is adversely affected by action at a delegated level which (1) denies any request for action pursuant to section 8(a) or section 8(c) of the Securities Act of 1933 or the first sentence of section 12(d) of this title; (2) suspends trading in a security pursuant to section 12(k) of this title; or (3) is pursuant to any provision of this title in a case of adjudication, as defined in section 551 of title 5, United States Code, not required by this title to be determined on the record after notice and opportunity for hearing (except to the extent there is involved a matter described in section 554(a) (1) through (6) of such title 5).

"(c) If the right to exercise such review is declined, or if no such review is sought within the time stated in the rules promulgated by the Commission, then the action of any such division of the Commission, individual Commissioner, administrative law judge, employee, or employee board, shall, for all purposes, including appeal or review thereof, be deemed the action of the Commission.

"TRANSFER OF FUNCTIONS WITH RESPECT TO ASSIGNMENT OF PERSONNEL TO CHAIRMAN

"SEC. 4B. In addition to the functions transferred by the provisions of Reorganization Plan Numbered 10 of 1950 (64 Stat. 1265), there are hereby transferred from the Commission to the Chairman of the Commission the functions of the Commission with respect to the assignment of Commission personnel, including Commissioners, to perform such functions as may have been delegated by the Commission to the Commission personnel, including Commissioners, pursuant to section 4A of this title.". 15 USC 78d-2.

(b) The Act of August 20, 1962 (Public Law 87-592; 76 Stat. 394) is hereby repealed. 15 USC 78d-1, 78d-2.

SEC. 309. The first sentence of section 6(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)(2)) is amended by striking out "protection shall" and inserting in lieu thereof "protection of investors shall".

SEC. 310. Section 6(c)(3)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)(3)(A)) is amended by striking out "association" and inserting in lieu thereof "associated".

SEC. 311. Section 6(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(c)(4)) is amended by striking out "may (A) limit" and inserting in lieu thereof "may limit (A)".

SEC. 312. Section 6(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(e)) is amended—

(1) by striking out "paragraph (4) of this section" in paragraph (1) and inserting in lieu thereof "paragraph (3) of this subsection";

(2) by striking out paragraph (3) thereof and by redesignating paragraph (4) as paragraph (3); and

(3) in paragraph (3)(E) (as so redesignated)—

(A) by striking out "fixes" and inserting in lieu thereof "fixing";

(B) by striking out "paragraph (4)(A)" and inserting in lieu thereof "subparagraph (A) of this paragraph"; and

(C) by striking out "paragraph (4)(B)" and inserting in lieu thereof "subparagraph (B) of this paragraph".

SEC. 313. Section 11A of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1) is amended—

(1) by striking out "transaction" in paragraph (2) of subsection (b) and inserting in lieu thereof "transactions"; and

(2) by striking out everything after the first sentence in paragraph (4) of subsection (c).

SEC. 314. Sections 11A(e) and 12(m) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(e) and 78l(m)) are repealed.

SEC. 315. Section 13(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(c)) is amended by striking out "thereof of" and inserting in lieu thereof "thereof".

SEC. 316. Section 13(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(h)) is repealed.

SEC. 317. Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended—

(1) by striking out "fiduciary, or any" in clause (ii) of subparagraph (B) of paragraph (4) and inserting in lieu thereof "fiduciary, transfer agent, or";

(2) by striking out subparagraph (C) of paragraph (4) and inserting in lieu thereof the following:

"(C) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.";

(3) by striking out "or seeking to become associated," in the first sentence of paragraph (6) and inserting in lieu thereof "seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated"; and

(4) by striking out "17A(b)(4)(B)" in paragraph (10) and inserting in lieu thereof "17A(b)(4)(A)".

SEC. 318. Section 15B(b)(2)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)(2)(C)) is amended—

(1) by striking out "security" and inserting in lieu thereof "securities";

(2) by striking out "or the securities"; and

(3) by striking out "burden or competition" and inserting in lieu thereof "burden on competition".

SEC. 319. Section 15B(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(4)) is amended by striking out the first sentence and inserting in lieu thereof the following: "The Commission, by order, shall censure or place limitations on the activities or functions of any person associated, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated with a municipal securities dealer, or suspend for a period not exceeding twelve months or bar any such person from being associated with a municipal securities dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted by any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).".

SEC. 320. Section 15B(c)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(6)(A)) is amended by striking out "board" and inserting in lieu thereof "Board".

SEC. 321. Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by striking out subsection (c)(2) and inserting in lieu thereof the following:

"(2) The appropriate regulatory agency for a clearing agency, transfer agent, or municipal securities dealer for which the Commission is not the appropriate regulatory agency shall file with the Commission notice of the commencement of any proceeding and a copy of any order entered by such appropriate regulatory agency against any clearing agency, transfer agent, municipal securities dealer, or person associated with a transfer agent or municipal securities dealer, and the Commission shall file with such appropriate regulatory agency, if any, notice of the commencement of any proceeding and a copy of any order entered by the Commission against the clearing agency, transfer agent, or municipal securities dealer, or against any person associated with a transfer agent or municipal securities dealer for which the agency is the appropriate regulatory agency.";

(2) by adding at the end of subsection (f)(2) the following: "Notwithstanding any other provision of law, in providing identification and processing functions, the Attorney General shall provide the Commission and self-regulatory organizations designated by the Commission with access to all criminal history record information."; and

(3) by striking out "paragraphs (1) and (2)" in subsection (f)(3)(A) and inserting in lieu thereof "paragraph (1)".

SEC. 322. Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended—

(1) by inserting after "concerning such transfer agent" in subsection (c)(2) "and any persons associated with the transfer agent";

(2) by striking out "thirty" in subsection (c)(2) and inserting in lieu thereof "45";

(3) by redesignating subparagraphs (B) and (C) of subsection (c)(3) as subparagraphs (A) and (B), respectively, of new subsection (c)(4);

(4) by striking out subsection (c)(3)(A) and inserting in lieu thereof:

"(3) The appropriate regulatory agency for a transfer agent, by order, shall deny registration to, censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of such transfer agent, if such appropriate regulatory agency finds, on the record after notice and opportunity for hearing, that such denial, censure, placing of limitations, suspension, or revocation is in the public interest and that such transfer agent, whether prior or subsequent to becoming such, or any person associated with such transfer agent, whether prior or subsequent to becoming so associated—

"(A) has committed or omitted any act enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4); or

"(B) is subject to an order entered pursuant to subparagraph (C) of paragraph (4) of this subsection barring or suspending the right of such person to be associated with a transfer agent.";

(5) by inserting after subsection (c)(4)(B) (as redesignated) the following new subparagraph:

"(C) The appropriate regulatory agency for a transfer agent, by order, shall censure or place limitations on the activities or functions of any person associated, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated with the transfer agent, or suspend for a period not exceeding twelve months or bar any such person from being associated with the transfer agent, if the appropriate regulatory agency finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed or omitted any act enumerated in subparagraph (A), (D), or (E) or paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4). It shall be unlawful for any person as to whom such an order suspending or barring him from being associated with a transfer agent is in effect willfully to become, or to be, associated with a transfer agent without the consent of the appropriate regulatory agency that entered the order and the appropriate regulatory agency for that transfer agent. It shall be unlawful for any transfer agent to permit such a person to become, or remain, a person associated with it without the consent of such appropriate regulatory agencies, if the transfer agent knew, or in the exercise of reasonable care should have known, of such order. The Commission may establish, by rule, procedures by which a transfer agent reasonably can determine whether a person associated or seeking to become associated with it is subject to any such order, and may require, by rule, that any transfer agent comply with such procedures.";

(6) by striking out "clearing agency or transfer agent" in subsection (d)(3)(B) and inserting in lieu thereof "clearing agency, transfer agent, or person associated with a transfer agent"; and

(7) by striking out "or transfer agent" in subsection (d)(4), and inserting in lieu thereof ", transfer agent, or person associated with a transfer agent,".

SEC. 323. Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended—

(1) by striking out "Wherever" in subsection (d) and inserting in lieu thereof "Whenever";

(2) by striking out ", the United States District Court for the District of Columbia," in subsection (e); and

(3) by striking out the second sentence of subsection (g).

SEC. 324. Section 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(a)) is amended—

(1) by inserting "or" before "any self-regulatory organization" in the last sentence of paragraph (1); and

(2) by inserting "shall" after "section 19(b) of this title," in paragraph (3).

SEC. 325. Section 23(b)(4)(F) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(b)(4)(F)) is amended by striking out "The" and inserting in lieu thereof "the".

SEC. 326. Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. 78aa) is amended—

(1) by striking out ", the United States District Court for the District of Columbia,"; and

(2) by striking out "sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347)" and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code".

SEC. 327. Section 28(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(c)) is amended by striking out "self-regulatory organization or a member thereof" and inserting in lieu thereof "self-regulatory organization on a member thereof".

SEC. 328. Section 28(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(d)) is amended by striking out "change is beneficial" and inserting in lieu thereof "change in beneficial".

SEC. 329. Section 28(e)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(e)(1)) is amended by striking out "Amendments in 1975" and inserting in lieu thereof "Amendments of 1975".

SEC. 330. Section 211 of the Securities Exchange Act of 1934 (15 U.S.C. 78jj) is hereby repealed.

TITLE IV—AMENDMENTS TO THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

SEC. 401. Section 8 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79h) is amended by striking out "otherwise, —" and inserting in lieu thereof "otherwise—".

SEC. 402. Section 18 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79r) is amended—

(1) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively; and

(2) in subsections (e) and (f) (as so redesignated), by striking out ", the district court of the United States for the District of Columbia,".

15 USC 79x.

SEC. 403. Section 24 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 78x) is amended by striking out "sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347)" and inserting in lieu thereof "section 1254 of title 28, United States Code".

SEC. 404. Section 25 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79y) is amended—

(1) by striking out ", the district court of the United States for the District of Columbia,"; and

(2) by striking out "sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347), and section 7, as amended, of the Act entitled 'An Act to establish a court of appeals for the District of Columbia', approved February 9, 1893 (D.C. Code, title 18, sec. 26)" and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code".

SEC. 405. Section 30 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-4) is amended by striking out the last sentence thereof.

TITLE V—AMENDMENTS TO THE TRUST INDENTURE ACT OF 1939

SEC. 501. Section 303(4) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(4)) is amended by striking out "undertakng" and inserting in lieu thereof "undertaking".

SEC. 502. Section 303(12) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(12)) is amended by inserting "(including a guarantor)" after "person" each place it appears.

TITLE VI—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

SEC. 601. Section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)) is amended by inserting "completed" before "fiscal years" each place it appears.

SEC. 602. Section 2(a)(39) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(39)) is amended by striking out "the Canal Zone,".

SEC. 603. Section 2(a)(48)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(48)(B)) is amended by striking out "sections 55(a)(1) through (3)" and inserting in lieu thereof "paragraphs (1) through (3) of section 55(a)".

SEC. 604. Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(3)) is amended—

(1) by inserting "or" after "therefor;"; and

(2) by inserting a period after "guardian" and striking out all that follows through "principal to another or others.".

SEC. 605. Section 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(7)) is amended to read as follows:

"(7) Reserved.".

SEC. 606. Section 3(c)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(11)) is amended—

(1) by striking out "Code of 1954" each place it appears and inserting in lieu thereof "Code of 1986";

(2) by striking out "or which holds only assets of governmental plans" and inserting in lieu thereof "; or any governmental plan"; and

(3) by striking out "trusts;" and inserting in lieu thereof "trusts or governmental plans, or both;".

SEC. 607. Section 5(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-5(a)(2)) is amended by striking out "Close-end" and inserting in lieu thereof "Closed-end".

SEC. 608. Section 6(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-6(a)) is amended—

(1) by striking out "the Canal Zone," in paragraph (1); and

(2) by striking out paragraph (2) and redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

SEC. 609. Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended by striking out paragraphs (1) and (2) in subsection (a) and inserting in lieu thereof the following:

"(1) any person who within 10 years has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act;

"(2) any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an underwriter, broker, dealer, investment adviser, municipal securities dealer, government securities broker, government securities dealer, transfer agent, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank, insurance company, or entity or person required to be registered under the Commodity Exchange Act, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security; or".

SEC. 610. Section 12 of the Investment Company Act of 1940 (15 U.S.C. 80a-12) is amended—

(1) by striking out "Treasury" in subsection (d)(1)(A)(iii) and inserting in lieu thereof "treasury";

(2) by striking out "it reasonably possible" in subsection (d)(1)(G) and inserting in lieu thereof "is reasonably possible"; and

(3) by striking out "only thereof" in subsection (f) and inserting in lieu thereof "thereof only".

SEC. 611. Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a-15) is amended—

(1) by striking out "(40)" in subsection (d) and inserting in lieu thereof "(42)"; and

(2) by striking out the period at the end of subparagraph (B) of paragraph (3) of subsection (f) and inserting in lieu thereof a comma.

SEC. 612. Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a-17) is amended by striking out the second sentence of each of subsections (h) and (i).

SEC. 613. Section 18(e) of the Investment Company Act of 1940 (15 U.S.C. 80a-18(e)) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

SEC. 614. Section 20 of the Investment Company Act of 1940 (15 U.S.C. 80a-20) is amended—

(1) by striking out the second sentence of subsection (b);

(2) by striking out the first sentence of subsection (d); and

(3) by striking out "at any time after the effective date of this title" in subsection (d).

SEC. 615. Section 21(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-21(b)) is amended by striking out "to the extension or renewal of any such loan made prior to March 15, 1940, or".

SEC. 616. Section 22 of the Investment Company Act of 1940 (15 U.S.C. 80a-22) is amended—

(1) by striking out "subsection (b)(8)" in paragraph (1) of subsection (b) and inserting in lieu thereof "subsection (b)(6)";

(2) by striking out paragraph (2) of subsection (b) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(3) by striking out "section 15A(k)(2)" in subsection (b)(2) (as so redesignated) and inserting in lieu thereof "section 19(c)";

(4) by inserting in the first sentence of subsection (e) a comma after the word "redemption" where it first appears and where it appears for the third time; and

(5) by striking out the last sentence of subsection (e).

SEC. 617. Section 24(d) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(d)) is amended by inserting a period immediately after "is the issuer" in the second sentence thereof and by striking out all that follows in such sentence.

SEC. 618. Section 26(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(b)) is amended by striking out "intend" and inserting in lieu thereof "intended".

SEC. 619. Section 26(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(c)) is amended by striking out "contract of agreement" and inserting in lieu thereof "contract or agreement".

SEC. 620. Section 28(a)(2)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a-28(a)(2)(B)) is amended by striking out "subsection" and inserting in lieu thereof "paragraph".

SEC. 621. Section 28(d)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-28(d)(2)) is amended by inserting "of" immediately before "subsection (a)".

SEC. 622. Section 36 of the Investment Company Act of 1940 (15 U.S.C. 80a-35) is amended—

(1) by striking out "loans" in paragraph (4) of subsection (b) and inserting in lieu thereof "loads";

(2) by redesignating subsection (d) as subsection (c); and

(3) in subsection (c) (as so redesignated), by striking out "through (c)" and inserting in lieu thereof "and (b)".

SEC. 623. Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) is amended by redesignating subsection (e) as subsection (d).

SEC. 624. Section 53 of the Investment Company Act of 1940 (15 U.S.C. 80a-52) is amended by inserting a period in the first sentence thereof immediately after "1941" and by striking out everything that follows in such sentence.

SEC. 625. Section 54(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-53(a)) is amended by striking out "defined in sections" and inserting in lieu thereof "defined in section".

SEC. 626. Section 55(a)(1)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a-54(a)(1)(B)) is amended by striking out "described in sections" and inserting in lieu thereof "described in section".

SEC. 627. Section 57(i) of the Investment Company Act of 1940 (15 U.S.C. 80a-56(i)) is amended by striking out "sections 17 (a) and (d)" each place it appears and inserting in lieu thereof "subsections (a) and (d) of section 17".

TITLE VII—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

SEC. 701. Section 202(a)(19) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(19)) is amended by striking out "the Canal Zone,".

SEC. 702. Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended—

(1) by inserting "transfer agent," after "fiduciary," in subsection (e)(2)(B);

(2) by inserting "transfer agent," after "government securities dealer," in subsection (e)(3);

(3) by striking out "or seeking to become associated" in the first sentence of subsection (f) and inserting in lieu thereof ", seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated"; and

(4) by striking out "subsection (d)" in subsection (g) and inserting in lieu thereof "subsection (c) or subsection (e)".

SEC. 703. Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5) is amended to read as follows:

"INVESTMENT ADVISORY CONTRACTS

"SEC. 205. (a) No investment adviser, unless exempt from registration pursuant to section 203(b), shall make use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to enter into, extend, or renew any investment advisory contract, or in any way to perform any investment advisory contract entered into, extended, or renewed on or after the effective date of this title, if such contract—

"(1) provides for compensation to the investment adviser on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

"(2) fails to provide, in substance, that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract; or

"(3) fails to provide, in substance, that the investment adviser, if a partnership, will notify the other party to the contract of any change in the membership of such partnership within a reasonable time after such change.

"(b) Paragraph (1) of subsection (a) shall not—

"(1) be construed to prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates, or taken as of a definite date;

"(2) apply to an investment advisory contract with—

"(A) an investment company registered under title I of this Act, or

"(B) any other person (except a trust, governmental plan, collective trust fund, or separate account referred to in section 3(c)(11) of title I of this Act), provided that the contract relates to the investment of assets in excess of $1 million,

if the contract provides for compensation based on the asset value of the company or fund under management averaged over a specified period and increasing and decreasing proportionately with the investment performance of the company or fund over a specified period in relation to the investment record of an appropriate index of securities prices or such other measure of investment performance as the Commission by rule, regulation, or order may specify; or

"(3) apply with respect to any investment advisory contract between an investment adviser and a business development company, as defined in this title, if (A) the compensation provided for in such contract does not exceed 20 per centum of the realized capital gains upon the funds of the business development company over a specified period or as of definite dates, computed net of all realized capital losses and unrealized capital depreciation, and the condition of section 61(a)(3)(B)(iii) of title I of this Act is satisfied, and (B) the business development company does not have outstanding any option, warrant, or right issued pursuant to section 61(a)(3)(B) of title I of this Act and does not have a profit-sharing plan described in section 57(n) of title I of this Act.

"(c) For purposes of paragraph (2) of subsection (b), the point from which increases and decreases in compensation are measured shall be the fee which is paid or earned when the investment performance of such company or fund is equivalent to that of the index or other measure of performance, and an index of securities prices shall be deemed appropriate unless the Commission by order shall determine otherwise.

"(d) As used in paragraphs (2) and (3) of subsection (a), 'investment advisory contract' means any contract or agreement whereby a person agrees to act as investment adviser to or to manage any investment or trading account of another person other than an investment company registered under title I of this Act.".

SEC. 704. Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by redesignating subsection (e) as subsection (d).

SEC. 705. Section 211(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-11(b)) is amended by striking out "the Federal Register Act" and inserting in lieu thereof "chapter 15 of title 44, United States Code,".

SEC. 706. Section 213(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-13(a)) is amended by striking out "sections 239 and 240 of the Judicial Code, as amended" and inserting in lieu thereof "section 1254 of title 28, United States Code".

SEC. 707. Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended by striking out "sections 128 and 240 of the Judicial Code, as amended, and section 7, as amended, of the Act entitled, 'An Act to establish a court of appeals for the District of Columbia', approved February 9, 1893", and inserting in lieu thereof "sections 1254, 1291, 1292, and 1294 of title 28, United States Code".

TITLE VIII—AMENDMENTS RELATING TO GOVERNMENT SECURITIES ACT OF 1986

SEC. 801. (a) Section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(a)(1)(B)(i)) is amended by striking out "When" and inserting "When such". 15 USC 78*o*-5.

(b) Section 17(f)(1)(A) of such Act (15 U.S.C. 78q(f)(1)(A)) is amended by striking out "government securities," and inserting "securities issued pursuant to chapter 31 of title 31, United States Code,".

SEC. 802. Section 16(12) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78111(12)) is amended by inserting before the period at the end thereof the following: "other than a government securities broker or government securities dealer registered under section 15C(a)(1)(A) of the 1934 Act". 15 USC 78*lll*.

Approved December 4, 1987.

LEGISLATIVE HISTORY—S. 1452 (H.R. 2600):

HOUSE REPORTS: No. 100-296 accompanying H.R. 2600 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-105 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 10, considered and passed Senate.
Sept. 10, H.R. 2600 considered and passed House; proceedings vacated and S. 1452, amended, passed in lieu.
Oct. 30, Senate concurred in House amendments with an amendment.
Nov. 20, House concurred in Senate amendment.

○

PUBLIC LAW 100–182—DEC. 7, 1987

SENTENCING ACT OF 1987

19–139 O - 87 (182)

Public Law 100-182
100th Congress

An Act

Dec. 7, 1987
[S. 1822]

To amend title 18, United States Code, and other provisions of law relating to sentencing for criminal offenses.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sentencing Act of 1987.
Penalties.
Prisoners.
18 USC 3551 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sentencing Act of 1987".

18 USC 3551 note.

SEC. 2. PROSPECTIVE APPLICATION OF SENTENCING REFORM ACT.

(a) APPLICATION.—Section 235(a)(1) of the Comprehensive Crime Control Act of 1984 is amended by inserting after "date of enactment" the first place it appears the following: "and shall apply only to offenses committed after the taking effect of this chapter".

(b) CONFORMING AMENDMENTS.—(1) Section 235(b)(1) of the Comprehensive Crime Control Act of 1984 is amended by striking out "convicted of an offense or adjudicated to be a juvenile delinquent" and inserting in lieu thereof "who committed an offense or an act of juvenile delinquency".

(2) Section 235(b)(3) of the Comprehensive Crime Control Act of 1984 is amended by striking out "that is within the range that applies to the prisoner under the applicable parole guideline" and inserting in lieu thereof "pursuant to section 4206 of title 18, United States Code".

SEC. 3. STANDARD FOR DEPARTURE.

Section 3553(b) of title 18, United States Code, is amended—

(1) by striking out "an aggravating or mitigating circumstance exists that was" and inserting in lieu thereof "there exists an aggravating or mitigating circumstance of a kind, or to a degree,";

(2) by striking out "guidelines and" and inserting in lieu thereof "guidelines"; and

(3) by inserting after the first sentence the following: "In determining whether a circumstance was adequately taken into consideration, the court shall consider only the sentencing guidelines, policy statements, and official commentary of the Sentencing Commission.".

Courts, U.S.

SEC. 4. PROCEDURE FOR APPEALING SENTENCE IMPOSED BY A MAGISTRATE.

Section 3742 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) APPLICATION TO A SENTENCE BY A MAGISTRATE.—An appeal of an otherwise final sentence imposed by a United States magistrate may be taken to a judge of the district court, and this section shall apply as though the appeal were to a court of appeals from a sentence imposed by a district court.".

SEC. 5. REVIEW OF A SENTENCE FOR WHICH THERE IS NO APPLICABLE GUIDELINE.

Section 3742 of title 18, United States Code, is further amended—

(1) in subsection (a)(4), by inserting "plainly unreasonable or" before "greater than" and by striking out ", if any,";

(2) in subsection (b)(4), by inserting "plainly unreasonable or" before "less than" and by striking out ", if any,";

(3) in subsection (d)—

(A) by striking out "or" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) was imposed for an offense for which there is no applicable sentencing guideline and is plainly unreasonable.";

(4) in subsection (e)(2), by inserting "or was imposed for an offense for which there is no applicable sentencing guideline and is plainly unreasonable" after "is outside the range of the applicable sentencing guideline and is unreasonable"; and

(5) in subsections (e)(2)(A) and (e)(2)(B), by striking out "the court shall" and inserting in lieu thereof "and".

SEC. 6. CLARIFICATION OF BASIS FOR AFFIRMING AN APPEAL.

Section 3742(e)(3) of title 18, United States Code, is amended to read as follows:

"(3) is not described in paragraph (1) or (2), it shall affirm the sentence.".

SEC. 7. CORRECTION OF PROBATION EXCLUSION FOR ORGANIZATIONS CONVICTED OF SERIOUS OFFENSES.

Section 3561(a)(1) of title 18, United States Code, is amended by inserting after "Class B felony" the following: "and the defendant is an individual".

SEC. 8. EXTENSION OF MAXIMUM TERMS OF SUPERVISED RELEASE.

Section 3583(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "three years" and inserting in lieu thereof "five years";

(2) in paragraph (2), by striking out "two years" and inserting in lieu thereof "three years"; and

(3) in paragraph (3), by inserting after "misdemeanor" the following: "(other than a petty offense)".

SEC. 9. INCLUSION OF PROTECTION OF PUBLIC AS FACTOR IN DECIDING WHETHER TO IMPOSE SUPERVISED RELEASE.

Section 3583(c) of title 18, United States Code, is amended by inserting "(a)(2)(C)," after "(a)(2)(B),".

SEC. 10. CLARIFICATION OF PROCEDURE FOR MODIFYING CONDITIONS OF PROBATION.

Section 3563(c) of title 18, United States Code, is amended—

(1) by striking out "revocation or modification of probation" and inserting in lieu thereof "the modification of probation and"; and

(2) by striking out the comma after "may".

SEC. 11. CLARIFICATION OF PROCEDURE FOR EARLY TERMINATION OF PROBATION.

Section 3564(c) of title 18, United States Code, is amended by inserting after "may" the following: ", pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation,".

SEC. 12. CLARIFICATION OF PROCEDURE FOR EARLY TERMINATION OF SUPERVISED RELEASE.

Section 3583(e) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting "pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation," after "one year of supervised release,"; and

(2) in paragraph (2)—

(A) by striking out "after a hearing,"; and

(B) by inserting "the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation and" after "pursuant to".

SEC. 13. REMEDIES FOR FAILURE TO PAY RESTITUTION.

Section 3663(g) of title 18, United States Code, is amended in each of the second and third sentences by inserting "or a term of supervised release" after "probation" and by inserting "probation or" after "conditions of".

SEC. 14. DETERMINATION OF GUIDELINE SENTENCE FOR PRISONERS TRANSFERRED PURSUANT TO TREATY FROM FOREIGN COUNTRIES.

Section 4106 of title 18, United States Code, is amended to read as follows:

"§ 4106. Transfer of offenders on parole; parole of offenders transferred

"(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

"(b) The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with reference to an offender transferred to the United States to serve a sentence of imprisonment or who at the time of transfer is on parole as they have with reference to an offender convicted in a court of the United States except as otherwise provided in this chapter or in the pertinent treaty. Sections 4201 through 4204; 4205 (d), (e), and (h); 4206 through 4216; and 4218 of this title shall be applicable.

"(c) An offender transferred to the United States to serve a sentence of imprisonment may be released on parole at such time as the Parole Commission may determine.

"(d) This section shall apply only to offenses committed before November 1, 1987, and the Parole Commission's performance of its responsibilities under this section shall be subject to section 235 of the Comprehensive Crime Control Act of 1984.".

SEC. 15. PROCEDURE FOR RELIEF OF LABOR DISABILITIES FOLLOWING CONVICTION.

(a) LMRDA AMENDMENT.—Section 504(a) of the Labor Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504(a)) is amended—

(1) by striking out "the United States Parole Commission" and inserting in lieu thereof "if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, the United States district court for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements under section 994(a) of title 28, United States Code,";

(2) by striking out "Commission" and "Commission's" and inserting in lieu thereof "court" and "court's", respectively; and

(3) by striking out "an administrative hearing" and inserting in lieu thereof "a hearing".

(b) ERISA AMENDMENT.—Section 411(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(a)) is amended—

(1) by striking out "the United States Parole Commission" and inserting in lieu thereof "if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, the United States district court for the district in which the offense was committed, pursuant to sentencing guidelines and policy statements under section 994(a) of title 28, United States Code,";

(2) by striking out "Commission shall" and inserting in lieu thereof "court shall";

(3) by striking out "Commission's" and inserting in lieu thereof "court's";

(4) by striking out "such Parole Commission" and inserting in lieu thereof "such court"; and

(5) by striking out "an administrative hearing" and inserting in lieu thereof "a hearing".

SEC. 16. PETTY OFFENSE.

(a) SENTENCE TO BE IMPOSED IN THE ABSENCE OF AN APPLICABLE SENTENCING GUIDELINE.—Section 3553(b) of title 18, United States Code, is amended by striking out the last sentence and inserting in lieu thereof the following: "In the absence of an applicable sentencing guideline, the court shall impose an appropriate sentence, having due regard for the purposes set forth in subsection (a)(2). In the absence of an applicable sentencing guideline in the case of an offense other than a petty offense, the court shall also have due regard for the relationship of the sentence imposed to sentences prescribed by guidelines applicable to similar offenses and offenders, and to the applicable policy statements of the Sentencing Commission.".

(b) CONFORMING AMENDMENT.—Section 994(w) of title 28, United States Code, is amended by inserting after "each sentence imposed" the following: "(other than a sentence imposed for a petty offense, as defined in title 18, for which there is no applicable sentencing guideline)".

SEC. 17. MODIFICATION OF REQUIREMENT OF STATING REASONS FOR CHOOSING A POINT WITH THE PRESCRIBED SENTENCING RANGE.

Section 3553(c)(1) of title 18, United States Code, is amended by inserting after "in subsection (a)(4)," the following: "and that range exceeds 24 months,".

SEC. 18. CLARIFICATION OF AUTHORITY OF BUREAU OF PRISONS TO ACCEPT COMMITMENTS TO ITS COMMUNITY CORRECTIONS FACILITY AS CONDITION OF PROBATION OR SUPERVISED RELEASE.

Section 3563(b)(12) of title 18, United States Code, is amended by inserting after "community corrections facility" the following: "(including a facility maintained or under contract to the Bureau of Prisons)".

SEC. 19. APPOINTMENT OF COUNSEL IN RELATION TO SUPERVISED RELEASE.

Section 3006A(a)(1) of title 18, United States Code, is amended—

(1) by redesignating subparagraphs (E) through (H) as subparagraphs (F) through (I), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) is charged with a violation of supervised release or faces modification, reduction, or enlargement of a condition, or extension or revocation of a term of supervised release;".

SEC. 20. AUTHORITY OF DIRECTOR OF ADMINISTRATIVE OFFICE OF UNITED STATES COURTS TO CONTRACT FOR PSYCHIATRIC AFTERCARE.

Section 3672 of title 18, United States Code, is amended—

(1) by amending the seventh undesignated paragraph to read as follows:

Alcohol and alcoholic beverages.
Drugs and drug abuse.
Health and medical care.

"He shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person, an addict or a drug-dependent person, or a person suffering from a psychiatric disorder within the meaning of section 2 of the Public Health Service Act. This authority shall include the authority to provide equipment and supplies; testing; medical, educational, social, psychological and vocational services; corrective and preventative guidance and training; and other rehabilitative services designed to protect the public and benefit the alcohol-dependent person, addict or drug-dependent person, or a person suffering from a psychiatric disorder by eliminating his dependence on alcohol or addicting drugs, by controlling his dependence and his susceptibility to addiction, or by treating his psychiatric disorder. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes of the United States."; and

(2) by adding at the end the following new undesignated paragraph:

"Whenever the court finds that funds are available for payment by or on behalf of a person furnished such services, training, or guidance, the court may direct that such funds be paid to the Director. Any moneys collected under this paragraph shall be used to reimburse the appropriations obligated and disbursed in payment for such services, training, or guidance.".

SEC. 21. EMERGENCY GUIDELINES PROMULGATION AUTHORITY.

28 USC 994 note.

(a) IN GENERAL.—In the case of—

(1) an invalidated sentencing guideline;

(2) the creation of a new offense or amendment of an existing offense; or

(3) any other reason relating to the application of a previously established sentencing guideline, and determined by the United States Sentencing Commission to be urgent and compelling;

the Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of title 28 and title 18, United States Code, shall promulgate and distribute to all courts of the United States and to the United States Probation System a temporary guideline or amendment to an existing guideline, to remain in effect until and during the pendency of the next report to Congress under section 994(p) of title 28, United States Code.

(b) EXPIRATION OF AUTHORITY.—The authority of the Commission under paragraphs (1) and (2) of subsection (a) shall expire on November 1, 1989. The authority of the Commission to promulgate and distribute guidelines under paragraph (3) of subsection (a) shall expire on May 1, 1988.

SEC. 22. APPLICATION OF RULE 35(b) TO CONDUCT OCCURRING BEFORE EFFECTIVE DATE OF SENTENCING GUIDELINES.

18 USC app.

The amendment to rule 35(b) of the Federal Rules of Criminal Procedure made by the order of the Supreme Court on April 29, 1985, shall apply with respect to all offenses committed before the taking effect of section 215(b) of the Comprehensive Crime Control Act of 1984.

SEC. 23. GRADING OF OFFENSES AND DEFENDANT PETITIONS.

(a) POSTPONEMENT OF DEADLINE FOR COMMISSION REPORT MAKING RECOMMENDATIONS ON THE GRADING AND PENALTIES FOR OFFENSES.—Section 994(r) of title 28, United States Code, is amended by striking out "one year" and inserting in lieu thereof "two years".

(b) ELIMINATION OF REQUIREMENT THAT SENTENCING COMMISSION RESPOND TO DEFENDANT PETITIONS FOR GUIDELINES MODIFICATIONS.—Section 994(s) of title 28, United States Code, is amended by striking out the last three sentences.

SEC. 24. AUTHORITY TO LOWER A SENTENCE BELOW A STATUTORY MINIMUM FOR OLD OFFENSES.

18 USC 3553 note.

Notwithstanding section 235 of the Comprehensive Crime Control Act of 1984—

(1) section 3553(e) of title 18, United States Code;

(2) rule 35(b) of the Federal Rules of Criminal Procedure as amended by section 215(b) of such Act; and

(3) rule 35(b) as in effect before the taking effect of the initial set of guidelines promulgated by the United States Sentencing Commission pursuant to chapter 58 of title 28, United States Code,

shall apply in the case of an offense committed before the taking effect of such guidelines.

SEC. 25. LIMITATION ON TERM TO BE SERVED FOR VIOLATION OF CONDITIONS OF SUPERVISED RELEASE.

Section 3583(e)(4) of title 18, United States Code, is amended by striking out "Commission." and inserting in lieu thereof "Commission, except that a person whose term is revoked under this paragraph may not be required to serve more than 3 years in prison if the offense for which the person was convicted was a Class B felony, or more than 2 years in prison if the offense was a Class C or D felony.".

18 USC 3006A note.

SEC. 26. GENERAL EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to offenses committed after the enactment of this Act.

Approved December 7, 1987.

LEGISLATIVE HISTORY—S. 1822:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 28, considered and passed Senate.
Nov. 16, considered and passed House, amended.
Nov. 20, Senate concurred in House amendments.

○

Public Law 100-183
100th Congress

Joint Resolution

To designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

Dec. 7, 1987
[S.J. Res. 105]

Whereas on the morning of December 7, 1941, the Imperial Japanese Navy and Air Force launched an unprovoked surprise attack upon units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii;

Whereas over two thousand four hundred citizens of the United States were killed in action and one thousand one hundred and seventy-eight were wounded in this attack;

Whereas President Franklin Delano Roosevelt referred to the date of the attack as "a date that will live in infamy";

Whereas the attack on Pearl Harbor marked the entry of this Nation into World War II;

Whereas the people of the United States owe a tremendous debt of gratitude to all members of our Armed Forces who served at Pearl Harbor, in the Pacific Theater of World War II, and in all other theaters of action of that war; and

Whereas the veterans of World War II and all other people of the United States will commemorate December 7, 1987, in remembrance of this tragic attack on Pearl Harbor: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 7, 1987, the anniversary of the attack on Pearl Harbor, is designated as "National Pearl Harbor Remembrance Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States—

(1) to observe this solemn occasion with appropriate ceremonies and activities; and

(2) to pledge eternal vigilance and strong resolve to defend this Nation and its allies from all future aggression.

Approved December 7, 1987.

LEGISLATIVE HISTORY—S.J. Res. 105:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 30, considered and passed Senate.
Dec. 2, considered and passed House.

○

PUBLIC LAW 100-184—DEC. 8, 1987

MICHIGAN WILDERNESS ACT OF 1987

19-139 O - 87 (184)

Public Law 100-184
100th Congress

An Act

Dec. 8, 1987
[H.R. 148]

To designate certain public lands in the State of Michigan as wilderness, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Michigan Wilderness Act of 1987. National Wilderness Preservation System. Forests and forest products.

SHORT TITLE

SECTION 1. This Act may be cited as the "Michigan Wilderness Act of 1987".

FINDINGS

SEC. 2. In designating wilderness areas pursuant to this Act, the Congress—

(1) finds, as provided in the Wilderness Act, that such areas—

(A) generally appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable;

(B) have outstanding opportunities for solitude or a primitive and unconfined type of recreation; and

(C) contain ecological, geological, and other features of scientific, educational, and scenic value; and

Pollution.

(2) considers significant the assurances of the Governor of Michigan that he has no intention of seeking more stringent air quality standards which would impinge on development of lands surrounding wilderness areas designated by this Act.

DESIGNATION OF WILDERNESS AREAS

16 USC 1132 note.

SEC. 3. In furtherance of the purposes of the Wilderness Act of 1964 (16 U.S.C. 1131), the following lands in the State of Michigan are hereby designated as wilderness, and therefore as components of the National Wilderness Preservation System—

(a) subject to valid existing rights and reasonable access to exercise such rights certain lands in the Manistee National Forest, comprising approximately three thousand four hundred and fifty acres as generally depicted on a map entitled "Nordhouse Dunes Wilderness—Proposed", dated November 1987, and which shall be known as the Nordhouse Dunes Wilderness;

(b) certain lands in the Ottawa National Forest, comprising approximately eighteen thousand three hundred and twenty seven acres as generally depicted on a map entitled "Sylvania Wilderness—Proposed", dated November 1987, and which shall be known as the Sylvania Wilderness;

(c) certain lands in the Ottawa National Forest, comprising approximately fourteen thousand five hundred acres as generally depicted on a map entitled "Sturgeon River Gorge

Wilderness—Proposed", dated November 1987, and which shall be known as the Sturgeon River Gorge Wilderness;

(d) certain lands in the Hiawatha National Forest, comprising approximately four thousand six hundred and forty acres as generally depicted on a map entitled "Rock River Canyon Wilderness—Proposed", dated November 1987, and which shall be known as the Rock River Canyon Wilderness;

(e) certain lands in the Hiawatha National Forest, comprising approximately five thousand five hundred acres as generally depicted on a map entitled "Big Island Lake Wilderness—Proposed", dated November 1987, and which shall be known as the Big Island Lake Wilderness;

(f) certain lands in the Hiawatha National Forest, comprising approximately twelve thousand two hundred and thirty acres as generally depicted on a map entitled "Mackinac Wilderness—Proposed", dated November 1987, and which shall be known as the Mackinac Wilderness;

(g) certain lands in the Hiawatha National Forest, comprising approximately three thousand seven hundred and ninety acres as generally depicted on a map entitled "Horseshoe Bay Wilderness—Proposed", dated November 1987, and shall be known as the Horseshoe Bay Wilderness;

(h) certain lands in the Hiawatha National Forest, comprising approximately three hundred and seventy eight acres as generally depicted on a map entitled "Round Island Wilderness—Proposed", dated November 1987, and which shall be known as the Round Island Wilderness;

(i) certain lands in the Ottawa National Forest, comprising approximately sixteen thousand eight hundred and fifty acres as generally depicted on a map entitled "McCormick Wilderness—Proposed", dated November 1987, and which shall be known as the McCormick Wilderness; and

(j) certain lands in the Hiawatha National Forest, comprising approximately eleven thousand eight hundred and seventy acres as generally depicted on a map entitled "Delirium Wilderness—Proposed", dated November 1987, and which shall be known as the Delirium Wilderness.

DESCRIPTION AND MAPS

SEC. 4. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by this title with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

Public information.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 5. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas except that with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

RARE II REVIEW

SEC. 6. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

Environmental protection.

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Michigan and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in the State of Michigan; such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Michigan;

(2) with respect to the National Forest System lands in the State of Michigan which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Michigan reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided,* That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Michigan are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for

wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Michigan for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Michigan which are less than five thousand acres in size.

NONWILDERNESS ACTIVITIES

SEC. 7. Congress does not intend that designation of wilderness areas in the State of Michigan lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness.

HUNTING, FISHING, AND TRAPPING

SEC. 8. As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Michigan with respect to wildlife and fish in the national forests in Michigan.

INHOLDERS RIGHTS

SEC. 9. As provided in section 5 of the Wilderness Act—

(1) owners of private lands within any area designated by this Act shall be assured the right of adequate access; and

(2) no privately owned lands within any area designated by this Act may be acquired without concurrence of the owner of such lands.

FIRE, INSECTS, AND DISEASE CONTROL

SEC. 10. As provided in section 4(d)(1) of the Wilderness Act, the Secretary may take such measures as may be necessary to control fire, insects, and diseases within any area designated by this Act.

Approved December 8, 1987.

LEGISLATIVE HISTORY—H.R. 148:

HOUSE REPORTS: No. 100-29, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).
SENATE REPORTS: No. 100-206 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Apr. 7, considered and passed House.
  Nov. 19, considered and passed Senate, amended.
  Nov. 20, House concurred in Senate amendment.

○

Public Law 100-185
100th Congress

An Act

To amend title 18, United States Code, to improve certain provisions relating to imposition and collection of criminal fines, and for other purposes.

Dec. 11, 1987
[H.R. 3483]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Criminal Fine Improvements Act of 1987.
18 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Fine Improvements Act of 1987".

SEC. 2. DUTIES OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS IN RELATION TO FINES.

Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating paragraph (17) as paragraph (18); and

(2) by inserting after paragraph (16) the following new paragraph:

"(17) Establish procedures and mechanisms within the judicial branch for processing fines, restitution, forfeitures of bail bonds or collateral, and assessments;".

SEC. 3. SPECIAL ASSESSMENTS.

Section 3013 of title 18, United States Code, is amended by adding at the end the following:

"(c) The obligation to pay an assessment ceases five years after the date of the judgment.

"(d) For the purposes of this section, an offense under section 13 of this title is an offense against the United States.".

SEC. 4. DEFINITION OF PETTY OFFENSE.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 19. Petty offense defined

18 USC 19.

"As used in this title, the term 'petty offense' means a Class B misdemeanor, a Class C misdemeanor, or an infraction.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"19. Petty offense defined.".

18 USC 18.
100 Stat. 3599.

(c) CLARIFYING AMENDMENT TO EARLIER TECHNICAL PROVISION.—Section 38(a) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking out "section 23" and inserting in lieu thereof "section 34(a)".

SEC. 5. ELIMINATION OF OBSOLETE PROVISION.

Subsection (b) of section 3559 of title 18, United States Code, is amended by striking out "except that:" and all that follows through the end of the subsection and inserting in lieu thereof ", except that the maximum term of imprisonment is the term authorized by the law describing the offense.".

SEC. 6. AUTHORIZED FINES.

Section 3571 of title 18, United States Code, is amended to read as follows:

"§ 3571. Sentence of fine

"(a) IN GENERAL.—A defendant who has been found guilty of an offense may be sentenced to pay a fine.

"(b) FINES FOR INDIVIDUALS.—Except as provided in subsection (e) of this section, an individual who has been found guilty of an offense may be fined not more than the greatest of—

"(1) the amount specified in the law setting forth the offense;

"(2) the applicable amount under subsection (d) of this section;

"(3) for a felony, not more than $250,000;

"(4) for a misdemeanor resulting in death, not more than $250,000;

"(5) for a Class A misdemeanor that does not result in death, not more than $100,000;

"(6) for a Class B or C misdemeanor that does not result in death, not more than $5,000; or

"(7) for an infraction, not more than $5,000.

"(c) FINES FOR ORGANIZATIONS.—Except as provided in subsection (e) of this section, an organization that has been found guilty of an offense may be fined not more than the greatest of—

"(1) the amount specified in the law setting forth the offense;

"(2) the applicable amount under subsection (d) of this section;

"(3) for a felony, not more than $500,000;

"(4) for a misdemeanor resulting in death, not more than $500,000;

"(5) for a Class A misdemeanor that does not result in death, not more than $200,000;

"(6) for a Class B or C misdemeanor that does not result in death, not more than $10,000; and

"(7) for an infraction, not more than $10,000.

"(d) ALTERNATIVE FINE BASED ON GAIN OR LOSS.—If any person derives pecuniary gain from the offense, or if the offense results in pecuniary loss to a person other than the defendant, the defendant may be fined not more than the greater of twice the gross gain or twice the gross loss, unless imposition of a fine under this subsection would unduly complicate or prolong the sentencing process.

"(e) SPECIAL RULE FOR LOWER FINE SPECIFIED IN SUBSTANTIVE PROVISION.—If a law setting forth an offense specifies no fine or a fine that is lower than the fine otherwise applicable under this section and such law, by specific reference, exempts the offense from the applicability of the fine otherwise applicable under this section, the defendant may not be fined more than the amount specified in the law setting forth the offense.".

SEC. 7. IMPOSITION OF A SENTENCE OF FINE AND RELATED MATTERS.

Section 3572 of title 18, United States Code, is amended to read as follows:

"§ 3572. Imposition of a sentence of fine and related matters

"(a) FACTORS TO BE CONSIDERED.—In determining whether to impose a fine, and the amount, time for payment, and method of payment of a fine, the court shall consider, in addition to the factors set forth in section 3553(a)—

"(1) the defendant's income, earning capacity, and financial resources;

"(2) the burden that the fine will impose upon the defendant, any person who is financially dependent on the defendant, or any other person (including a government) that would be responsible for the welfare of any person financially dependent on the defendant, relative to the burden that alternative punishments would impose;

"(3) any pecuniary loss inflicted upon others as a result of the offense;

"(4) whether restitution is ordered or made and the amount of such restitution;

"(5) the need to deprive the defendant of illegally obtained gains from the offense;

"(6) whether the defendant can pass on to consumers or other persons the expense of the fine; and

"(7) if the defendant is an organization, the size of the organization and any measure taken by the organization to discipline any officer, director, employee, or agent of the organization responsible for the offense and to prevent a recurrence of such an offense.

"(b) Fine Not to Impair Ability to Make Restitution.—If, as a result of a conviction, the defendant has the obligation to make restitution to a victim of the offense, the court shall impose a fine or other monetary penalty only to the extent that such fine or penalty will not impair the ability of the defendant to make restitution.

"(c) Effect of Finality of Judgment.—Notwithstanding the fact that a sentence to pay a fine can subsequently be—

"(1) modified or remitted under section 3573;

"(2) corrected under rule 35 and section 3742; or

"(3) appealed and modified under section 3742;

a judgment that includes such a sentence is a final judgment for all other purposes.

"(d) Time, Method of Payment, and Related Items.—A person sentenced to pay a fine or other monetary penalty shall make such payment immediately, unless, in the interest of justice, the court provides for payment on a date certain or in installments. If the court provides for payment in installments, the installments shall be in equal monthly payments over the period provided by the court, unless the court establishes another schedule. If the judgment permits other than immediate payment, the period provided for shall not exceed five years, excluding any period served by the defendant as imprisonment for the offense.

"(e) Alternative Sentence Precluded.—At the time a defendant is sentenced to pay a fine, the court may not impose an alternative sentence to be carried out if the fine is not paid.

"(f) Responsibility for Payment of Monetary Obligation Relating to Organization.—If a sentence includes a fine, special assessment, or other monetary obligation (including interest) with respect to an organization, each individual authorized to make disbursements for the organization has a duty to pay the obligation from assets of the organization. If such an obligation is imposed on a director, officer, shareholder, employee, or agent of an organization, payments may not be made, directly or indirectly, from assets of the

State and local governments.

organization, unless the court finds that such payment is expressly permissible under applicable State law.

"(g) SECURITY FOR STAYED FINE.—If a sentence imposing a fine is stayed, the court shall, absent exceptional circumstances (as determined by the court)—

"(1) require the defendant to deposit, in the registry of the district court, any amount of the fine that is due;

"(2) require the defendant to provide a bond or other security to ensure payment of the fine; or

"(3) restrain the defendant from transferring or dissipating assets.

"(h) DELINQUENCY.—A fine is delinquent if a payment is more than 30 days late.

"(i) DEFAULT.—A fine is in default if a payment is delinquent for more than 90 days. When a fine is in default, the entire amount of the fine is due within 30 days after notification of the default, notwithstanding any installment schedule.".

SEC. 8. REVISION OF MODIFICATION OR REMISSION PROVISION.

(a) OFFENSE.—Section 3573 of title 18, United States Code, is amended to read as follows:

"§ 3573. Petition of the Government for modification or remission

"Upon petition of the Government showing that reasonable efforts to collect a fine or assessment are not likely to be effective, the court may, in the interest of justice—

"(1) remit all or part of the unpaid portion of the fine or special assessment, including interest and penalties;

"(2) defer payment of the fine or special assessment to a date certain or pursuant to an installment schedule; or

"(3) extend a date certain or an installment schedule previously ordered.

A petition under this subsection shall be filed in the court in which sentence was originally imposed, unless the court transfers jurisdiction to another court.".

(b) TECHNICAL AMENDMENT.—The table of sections for subchapter C of chapter 227 of title 18, United States Code, is amended by striking out the item for section 3573 and insert in lieu thereof the following:

"3573. Petition of the Government for modification or revision.".

18 USC 3611 note.

SEC. 9. RECEIPT OF FINES—INTERIM PROVISIONS.

(a) NOVEMBER 1, 1987, TO APRIL 30, 1988.—Notwithstanding section 3611 of title 18, United States Code, a person who, during the period beginning on November 1, 1987, and ending on April 30, 1988, is sentenced to pay a fine or assessment shall pay the fine or assessment (including any interest or penalty) to the clerk of the court, with respect to an offense committed on or before December 31, 1984, and to the Attorney General, with respect to an offense committed after December 31, 1984.

(b) MAY 1, 1988, TO OCTOBER 31, 1988.—(1) Notwithstanding section 3611 of title 18, United States Code, a person who during the period beginning on May 1, 1988, and ending on October 31, 1988, is sentenced to pay a fine or assessment shall pay the fine or assessment in accordance with this subsection.

(2) In a case initiated by citation or violation notice, such person shall pay the fine or assessment (including any interest or penalty),

as specified by the Director of the Administrative Office of the United States Courts. Such Director may specify that such payment be made to the clerk of the court or in the manner provided for under section 604(a)(17) of title 28, United States Code.

(3) In any other case, such person shall pay the fine or assessment (including any interest or penalty) to the clerk of the court, with respect to an offense committed on or before December 31, 1984, and to the Attorney General, with respect to an offense committed after December 31, 1984.

SEC. 10. RECEIPT OF FINES—PERMANENT PROVISION.

(a) In General.—Section 3611 of title 18, United States Code, is amended to read as follows:

"§ 3611. Payment of a fine

"A person who is sentenced to pay a fine or assessment shall pay the fine or assessment (including any interest or penalty), as specified by the Director of the Administrative Office of the United States Courts. Such Director may specify that such payment be made to the clerk of the court or in the manner provided for under section 604(a)(17) of title 28, United States Code.".

(b) Effective Date.—The amendment made by this section shall apply with respect to any fine imposed after October 31, 1988. Such amendment shall also apply with respect to any fine imposed on or before October 31, 1988, if the fine remains uncollected as of February 1, 1989, unless the Director of the Administrative Office of the United States Courts determines further delay is necessary. If the Director so determines, the amendment made by this section shall apply with respect to any such fine imposed on or before October 31, 1988, if the fine remains uncollected as of May 1, 1989.

18 USC 3611 note.

SEC. 11. COLLECTION AMENDMENTS.

(a) Notification of Receipt and Related Matters.—Section 3612(a) of title 18, United States Code, is amended to read as follows:

"(a) Notification of Receipt and Related Matters.—The clerk or the person designated under section 604(a)(17) of title 28 shall notify the Attorney General of each receipt of a payment with respect to which a certification is made under subsection (b), together with other appropriate information relating to such payment. The notification shall be provided—

"(1) in such manner as may be agreed upon by the Attorney General and the Director of the Administrative Office of the United States Courts; and

"(2) within 15 days after the receipt or at such other time as may be determined jointly by the Attorney General and the Director of the Administrative Office of the United States Courts.

If the fifteenth day under paragraph (2) is a Saturday, Sunday, or legal public holiday, the clerk, or the person designated under section 604(a)(17) of title 28, shall provide notification not later than the next day that is not a Saturday, Sunday, or legal public holiday.".

(b) **Information to be Included in Judgment.**—Section 3612(b) of title 18, United States Code, is amended to read as follows:

"(b) **Information to be Included in Judgment; Judgment to be Transmitted to Attorney General.**—(1) A judgment or order imposing, modifying, or remitting a fine of more than $100 shall include—

"(A) the name, social security account number, mailing address, and residence address of the defendant;

"(B) the docket number of the case;

"(C) the original amount of the fine and the amount that is due and unpaid;

"(D) the schedule of payments (if other than immediate payment is permitted under section 3572(d));

"(E) a description of any modification or remission; and

"(F) if other than immediate payment is permitted, a requirement that, until the fine is paid in full, the defendant notify the Attorney General of any change in the mailing address or residence address of the defendant not later than thirty days after the change occurs.

"(2) Not later than ten days after entry of the judgment or order, the court shall transmit a certified copy of the judgment or order to the Attorney General.".

(c) Technical Amendments.—

(1) Section 3612(d) of title 18, United States Code, is amended by striking out "section 3572(i)" and inserting in lieu thereof "section 3572(h)".

(2) Section 3612(e) of title 18, United States Code, is amended by striking out "section 3572(j)" and inserting in lieu thereof "section 3572(i)".

(d) Interest on Fines.—Section 3612(f) of title 18, United States Code, is amended to read as follows:

"(f) Interest on Fines.—

"(1) In general.—The defendant shall pay interest on any fine of more than $2,500, unless the fine is paid in full before the fifteenth day after the date of the judgment. If that day is a Saturday, Sunday, or legal public holiday, the defendant shall be liable for interest beginning with the next day that is not a Saturday, Sunday, or legal public holiday.

"(2) Computation.—Interest on a fine shall be computed—

"(A) daily (from the first day on which the defendant is liable for interest under paragraph (1)); and

"(B) at a rate equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled before the first day on which the defendant is liable for interest under paragraph (1).

"(3) Modification of interest by court.—If the court determines that the defendant does not have the ability to pay interest under this subsection, the court may—

"(A) waive the requirement for interest;

"(B) limit the total of interest payable to a specific dollar amount; or

"(C) limit the length of the period during which interest accrues.".

(e) Penalty for Delinquent Fine; Waiver of Interest or Fine by Attorney General.—Section 3612 of title 18, United States Code, is amended by adding at the end the following new subsections:

"(g) Penalty for Delinquent Fine.—If a fine becomes delinquent, the defendant shall pay, as a penalty, an amount equal to 10 percent of the principal amount that is delinquent. If a fine becomes in default, the defendant shall pay, as a penalty, an additional amount equal to 15 percent of the principal amount that is in default.

"(h) WAIVER OF INTEREST OR PENALTY BY ATTORNEY GENERAL.—The Attorney General may waive all or part of any interest or penalty under this section if, as determined by the Attorney General, reasonable efforts to collect the interest or penalty are not likely to be effective.

"(i) APPLICATION OF PAYMENTS.—Payments relating to fines shall be applied in the following order: (1) to principal; (2) to costs; (3) to interest; and (4) to penalties.".

SEC. 12. RECEIPT OF RESTITUTION PAYMENTS BY COURTS.

Section 3663(f)(4) of title 18, United States Code, is amended by inserting "or the person designated under section 604(a)(17) of title 28" after "Attorney General".

Approved December 11, 1987.

LEGISLATIVE HISTORY—H.R. 3483:

HOUSE REPORTS: No. 100-390 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 133 (1987):
- Oct. 27, considered and passed House.
- Oct. 30, considered and passed Senate, amended.
- Nov. 16, House concurred in Senate amendments with amendment.
- Nov. 20, Senate concurred in House amendment with amendments.
- Dec. 2, House concurred in certain Senate amendments, in another with an amendment, and disagreed to another.
- Dec. 3, Senate concurred in House amendment and receded from another.

○

Public Law 100-186
100th Congress

An Act

Dec. 11, 1987
[S. 860]

To designate "The Stars and Stripes Forever" as the national march of the United States of America.

36 USC 188.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the composition by John Philip Sousa entitled "The Stars and Stripes Forever" is hereby designated as the national march of the United States of America.

Approved December 11, 1987.

LEGISLATIVE HISTORY—S. 860:

CONGRESSIONAL RECORD, Vol. 133 (1987):
  Nov. 6, considered and passed Senate.
  Dec. 1, considered and passed House, amended.
  Dec. 2, Senate concurred in House amendments.

○

Public Law 100-187
100th Congress

An Act

To amend the National Trails System Act to provide for a study of the De Soto Trail, and for other purposes.

Dec. 11, 1987
[S. 1297]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

De Soto National Trail Study Act of 1987.
16 USC 1241 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "De Soto National Trail Study Act of 1987".

SEC. 2. FINDINGS.

The Congress finds that—

(1) Hernando de Soto landed in the vicinity of Tampa Bay on May 30, 1539;

(2) de Soto then led his expedition of approximately 600 through the States of Florida, Georgia, South Carolina, North Carolina, Tennessee, Alabama, Mississippi, and Arkansas;

(3) de Soto died on the banks of the Mississippi River in 1542;

(4) the survivors of de Soto's expedition went on to Texas, then back through Arkansas, and into Louisiana in search of a route to Mexico;

(5) the de Soto expedition represented the first large group of Europeans to explore so deeply into the Southeastern region;

(6) archeologists have recently uncovered, in Tallahassee, Florida, what may have been de Soto's first winter camp;

(7) the State of Florida has completed identification and marking of close to three-fourths of de Soto's trail in that State; and

(8) several other States are in the process of identifying and marking de Soto's trail within their borders.

SEC. 3. DESIGNATION OF TRAIL.

Section 5(c) of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1244(c)) is amended by adding the following new paragraph at the end thereof:

Southeastern States.

"(31) De Soto Trail, the approximate route taken by the expedition of the Spanish explorer Hernando de Soto in 1539, extending through portions of the States of Florida, Georgia, South Carolina, North Carolina, Tennessee, Alabama, Mississippi, to the area of Little Rock, Arkansas, on to Texas and Louisiana, and any other States which may have been crossed

19-139 O - 87 (187)

by the expedition. The study under this paragraph shall be prepared in accordance with subsection (b) of this section, except that it shall be completed and submitted to the Congress with recommendations as to the trail's suitability for designation not later than one calendar year after the date of enactment of this paragraph.".

Approved December 11, 1987.

LEGISLATIVE HISTORY—S. 1297:

HOUSE REPORTS: No. 100-462 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-177 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
    Oct. 1, considered and passed Senate.
    Dec. 1, considered and passed House.

○

Public Law 100-188
100th Congress

Joint Resolution

To designate the week of December 13, 1987, through December 19, 1987, as "National Drunk and Drugged Driving Awareness Week".

Dec. 11, 1987
[S.J. Res. 136]

Whereas traffic accidents cause more violent deaths in the United States than any other cause, approximately forty-six thousand in 1986;

Whereas traffic accidents cause thousands of serious injuries in the United States each year;

Whereas about 54 per centum of drivers killed in single vehicle collisions and 39 per centum of all drivers fatally injured in 1986 had blood alcohol concentrations of .10 or above;

Whereas the United States Surgeon General has reported that life expectancy has risen for every age group over the past seventy-five years except for Americans fifteen to twenty-four years old, whose death rate, the leading cause of which is drunk driving, is higher now than it was twenty years ago;

Whereas the total societal cost of drunk driving has been estimated at more than $26,000,000,000 per year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;

Whereas driving after the use of therapeutic drugs, either alone or in combination with alcohol, contrary to the advice of physician, pharmacist, or manufacturer, may create a safety hazard on the roads;

Whereas more research is needed on the effect of drugs either alone or in combination with alcohol, on driving ability and the incidence of traffic accidents;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increasing necessary research on the effect of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups, is demanding a solution to the problem of drunk and drugged driving;

Whereas the Presidential Commission on Drunk Driving, appointed to heighten public awareness and stimulate the pursuit of solutions, provided vital recommendations for remedies for the problem of drunk driving;

Whereas the National Commission Against Drunk Driving was established to assist State and local governments and the private sector to implement these recommendations;

Whereas most States have appointed task forces to examine existing drunk driving programs and make recommendations for a renewed, comprehensive approach, and in many cases their recommendations are leading to enactment of new laws, along with stricter enforcement;

Whereas the best defense against the drunk or drugged driver is the use of safety belts and consistent safety belt usage by all drivers and passengers would save as many as ten thousand lives each year;

Whereas an increase in the public awarness of the problem of drunk and drugged driving may contribute to a change in society's attitude toward the drunk or drugged driver and help to sustain current efforts to develop comprehensive solutions at the State and local levels;

Whereas the Christmas and New Year holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem;

Whereas designation of National Drunk and Drugged Driving Awarness Week in each of the last five years stimulated many activities and programs by groups in both the private and public sectors aimed at curbing drunk and drugged driving in the high-risk Christmas and New Year holiday period and thereafter;

Whereas the activities and programs during National Drunk and Drugged Driving Awareness Week have heightened the awareness of the American public to the danger of drunk and drugged driving: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 13, 1987, through December 19, 1987, is designated as "National Drunk and Drugged Driving Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Approved December 11, 1987.

LEGISLATIVE HISTORY—S.J. Res. 136:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 30, considered and passed Senate.
Dec. 2, considered and passed House.

○

Public Law 100-189
100th Congress

Joint Resolution

Designating January 8, 1988, as "National Skiing Day".

Dec. 11, 1987
[S.J. Res. 146]

Whereas commercial alpine and nordic skiing operations are among the fastest growing commercial uses of the national forests;

Whereas skiing increases the recreational value of the national forests by providing a winter recreational use for such forests;

Whereas skiing is a healthful activity that promotes physical well-being, contributes to the enrichment of the human spirit, and fosters an appreciation of the outdoor environment;

Whereas skiing provides enjoyment to millions of people each winter;

Whereas skiing improves employment opportunities in, and contributes to the economic stability of, a number of States;

Whereas the people of many rural communities in the United States rely primarily on skiing for winter employment and income; and

Whereas people throughout the world can become aware of the environmental grandeur and recreational resources of the United States by skiing in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 8, 1988, is designated as "National Skiing Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Approved December 11, 1987.

LEGISLATIVE HISTORY S.J. Res. 146:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 30, considered and passed Senate.
Dec. 2, considered and passed House.

○

Public Law 100-190
100th Congress

Joint Resolution

Dec. 14, 1987
[S.J. Res. 35]

Relating to the commemoration of January 28, 1988, as a "National Day of Excellence".

Whereas, on January 28, 1986, the seven crew members of the space shuttle Challenger, Commander Francis R. Scobee, Pilot Michael J. Smith, Mission Specialist Ellison S. Onizuka, Mission Specialist Ronald E. McNair, Mission Specialist Judith Resnick, Payload Specialist Gregory B. Jarvis, Teacher-Observer S. Christa McAuliffe, were killed in a tragic explosion shortly after liftoff;

Whereas each of the crew members of the Challenger was a true American hero who represented the best and the brightest that our Nation has to offer;

Whereas the crew of the Challenger gave their lives while striving for an excellence of technology, of goal, and of personal achievement which fills all Americans with a sense of pride in their fellow human beings and countrymen;

Whereas the most appropriate tribute we could pay the crew of the Challenger is a national day when Americans would rededicate themselves in all their endeavors to the pursuit of excellence which makes our country great;

Whereas the American spirit is most responsive to a living tribute in which all citizens can participate and be enriched by such participation; and

Whereas this is a day for which our national character cries out: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 28, 1988, is designated as a "National Day of Excellence". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe such a day—

(1) by resolving that in the course of their regular activities they will pursue the spirit of excellence represented by the crew of the space shuttle Challenger; and

(2) with appropriate ceremonies and activities.

Approved December 14, 1987.

LEGISLATIVE HISTORY—S.J. Res. 35:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 30, considered and passed Senate.
Dec. 2, considered and passed House.

○

Public Law 100-191
100th Congress

An Act

To amend title 28, United States Code, with respect to the appointment of independent counsel.

Dec. 15, 1987
[H.R. 2939]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Independent Counsel Reauthorization Act of 1987.
Government organization and employees.
Law enforcement and crime.
28 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Counsel Reauthorization Act of 1987".

SEC. 2. AMENDMENTS RELATING TO INDEPENDENT COUNSEL.

Chapter 40 of title 28, United States Code, is amended to read as follows:

"CHAPTER 40—INDEPENDENT COUNSEL

"Sec.
"591. Applicability of provisions of this chapter.
"592. Preliminary investigation and application for appointment of an independent counsel.
"593. Duties of the division of the court.
"594. Authority and duties of an independent counsel.
"595. Congressional oversight.
"596. Removal of an independent counsel; termination of office.
"597. Relationship with Department of Justice.
"598. Severability.
"599. Termination of effect of chapter.

"§ 591. Applicability of provisions of this chapter

28 USC 591.

"(a) PRELIMINARY INVESTIGATION WITH RESPECT TO CERTAIN COVERED PERSONS.—The Attorney General shall conduct a preliminary investigation in accordance with section 592 whenever the Attorney General receives information sufficient to constitute grounds to investigate whether any person described in subsection (b) may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

President of U.S.
Vice President of U.S.

"(b) PERSONS TO WHOM SUBSECTION (a) APPLIES.—The persons referred to in subsection (a) are—

"(1) the President and Vice President;

"(2) any individual serving in a position listed in section 5312 of title 5;

"(3) any individual working in the Executive Office of the President who is compensated at a rate of pay at or above level II of the Executive Schedule under section 5313 of title 5;

"(4) any Assistant Attorney General and any individual working in the Department of Justice who is compensated at a rate of pay at or above level III of the Executive Schedule under section 5314 of title 5;

"(5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

"(6) any individual who leaves any office or position described in any of paragraphs (1) through (5) of this subsection, during the incumbency of the President under whom such individual served in the office or position plus one year after such incumbency, but in no event longer than a period of three years after the individual leaves the office or position;

"(7) any individual who held an office or position described in any of paragraphs (1) through (5) of this subsection during the incumbency of one President and who continued to hold the office or position for not more than 90 days into the term of the next President, during the 1-year period after the individual leaves the office or position; and

"(8) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of that committee exercising authority at the national level, during the incumbency of the President.

"(c) PRELIMINARY INVESTIGATION WITH RESPECT TO PERSONS NOT LISTED IN SUBSECTION (b).—The Attorney General may conduct a preliminary investigation in accordance with section 592 if—

"(1) the Attorney General receives information sufficient to constitute grounds to investigate whether any person other than a person described in subsection (b) may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction; and

"(2) the Attorney General determines that an investigation or prosecution of the person, with respect to the information received, by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest.

"(d) EXAMINATION OF INFORMATION TO DETERMINE NEED FOR PRELIMINARY INVESTIGATION.—

"(1) FACTORS TO BE CONSIDERED.—In determining under subsection (a) or (c) (or section 592(c)(2)) whether grounds to investigate exist, the Attorney General shall consider only—

"(A) the specificity of the information received; and

"(B) the credibility of the source of the information.

"(2) TIME PERIOD FOR MAKING DETERMINATION.—The Attorney General shall determine whether grounds to investigate exist not later than 15 days after the information is first received. If within that 15-day period the Attorney General determines that the information is not specific or is not from a credible source, then the Attorney General shall close the matter. If within that 15-day period the Attorney General determines that the information is specific and from a credible source, the Attorney General shall, upon making that determination, commence a preliminary investigation with respect to that information. If the Attorney General is unable to determine, within that 15-day period, whether the information is specific and from a credible source, the Attorney General shall, at the end of that 15-day period, commence a preliminary investigation with respect to that information.

"(e) RECUSAL OF ATTORNEY GENERAL.—

"(1) WHEN RECUSAL IS REQUIRED.—If information received under this chapter involves the Attorney General or a person with whom the Attorney General has a current or recent personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior officer in the Department of Justice whom that information does not involve and who does not have a current or recent personal or financial relationship with such person to perform the duties assigned under this chapter to the Attorney General with respect to that information.

"(2) REQUIREMENTS FOR RECUSAL DETERMINATION.—The Attorney General shall, before personally making any other determination under this chapter with respect to information received under this chapter, determine under paragraph (1) whether to recuse himself or herself with respect to that information. A determination to recuse shall be in writing, shall identify the facts considered by the Attorney General, and shall set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division of the court under this chapter with respect to the information involved.

"§ 592. Preliminary investigation and application for appointment of an independent counsel

28 USC 592.

"(a) CONDUCT OF PRELIMINARY INVESTIGATION.—

"(1) IN GENERAL.—A preliminary investigation conducted under this chapter shall be of such matters as the Attorney General considers appropriate in order to make a determination, under subsection (b) or (c), on whether further investigation is warranted, with respect to each potential violation, or allegation of a violation, of criminal law. The Attorney General shall make such determination not later than 90 days after the preliminary investigation is commenced, except that, in the case of a preliminary investigation commenced after a congressional request under subsection (g), the Attorney General shall make such determination not later than 90 days after the request is received. The Attorney General shall promptly notify the division of the court specified in section 593(a) of the commencement of such preliminary investigation and the date of such commencement.

"(2) LIMITED AUTHORITY OF ATTORNEY GENERAL.—(A) In conducting preliminary investigations under this chapter, the Attorney General shall have no authority to convene grand juries, plea bargain, grant immunity, or issue subpoenas.

"(B)(i) The Attorney General shall not base a determination under this chapter that information with respect to a violation of criminal law by a person is not specific and from a credible source upon a determination that such person lacked the state of mind required for the violation of criminal law.

"(ii) The Attorney General shall not base a determination under this chapter that there are no reasonable grounds to believe that further investigation is warranted, upon a determination that such person lacked the state of mind required for the violation of criminal law involved, unless there is clear and convincing evidence that the person lacked such state of mind.

"(3) EXTENSION OF TIME FOR PRELIMINARY INVESTIGATION.—The Attorney General may apply to the division of the court for a single extension, for a period of not more than 60 days, of the 90-day period referred to in paragraph (1). The division of the court may, upon a showing of good cause, grant such extension.

"(b) DETERMINATION THAT FURTHER INVESTIGATION NOT WARRANTED.—

"(1) NOTIFICATION OF DIVISION OF THE COURT.—If the Attorney General, upon completion of a preliminary investigation under this chapter, determines that there are no reasonable grounds to believe that further investigation is warranted, the Attorney General shall promptly so notify the division of the court, and the division of the court shall have no power to appoint an independent counsel with respect to the matters involved.

"(2) FORM OF NOTIFICATION.—Such notification shall contain a summary of the information received and a summary of the results of the preliminary investigation.

"(c) DETERMINATION THAT FURTHER INVESTIGATION IS WARRANTED.—

"(1) APPLICATION FOR APPOINTMENT OF INDEPENDENT COUNSEL.—The Attorney General shall apply to the division of the court for the appointment of an independent counsel if—

"(A) the Attorney General, upon completion of a preliminary investigation under this chapter, determines that there are reasonable grounds to believe that further investigation is warranted; or

"(B) the 90-day period referred to in subsection (a)(1), and any extension granted under subsection (a)(3), have elapsed and the Attorney General has not filed a notification with the division of the court under subsection (b)(1).

In determining under this chapter whether reasonable grounds exist to warrant further investigation, the Attorney General shall comply with the written or other established policies of the Department of Justice with respect to the conduct of criminal investigations.

"(2) RECEIPT OF ADDITIONAL INFORMATION.—If, after submitting a notification under subsection (b)(1), the Attorney General receives additional information sufficient to constitute grounds to investigate the matters to which such notification related, the Attorney General shall—

"(A) conduct such additional preliminary investigation as the Attorney General considers appropriate for a period of not more than 90 days after the date on which such additional information is received; and

"(B) otherwise comply with the provisions of this section with respect to such additional preliminary investigation to the same extent as any other preliminary investigation under this section.

"(d) CONTENTS OF APPLICATION.—Any application for the appointment of an independent counsel under this chapter shall contain sufficient information to assist the division of the court in selecting an independent counsel and in defining that independent counsel's prosecutorial jurisdiction so that the independent counsel has adequate authority to fully investigate and prosecute the subject matter and all matters related to that subject matter.

"(e) DISCLOSURE OF INFORMATION.—Except as otherwise provided in this chapter, no officer or employee of the Department of Justice or an office of independent counsel may, without leave of the division of the court, disclose to any individual outside the Department of Justice or such office any notification, application, or any other document, materials, or memorandum supplied to the division of the court under this chapter. Nothing in this chapter shall be construed as authorizing the withholding of information from the Congress.

"(f) LIMITATION ON JUDICIAL REVIEW.—The Attorney General's determination under this chapter to apply to the division of the court for the appointment of an independent counsel shall not be reviewable in any court.

"(g) CONGRESSIONAL REQUEST.—

"(1) BY JUDICIARY COMMITTEE OR MEMBERS THEREOF.—The Committee on the Judiciary of either House of the Congress, or a majority of majority party members or a majority of all nonmajority party members of either such committee, may request in writing that the Attorney General apply for the appointment of an independent counsel.

"(2) REPORT BY ATTORNEY GENERAL PURSUANT TO REQUEST.—Not later than 30 days after the receipt of a request under paragraph (1), the Attorney General shall submit, to the committee making the request, or to the committee on which the persons making the request serve, a report on whether the Attorney General has begun or will begin a preliminary investigation under this chapter of the matters with respect to which the request is made, in accordance with subsection (a) or (c) of section 591, as the case may be. The report shall set forth the reasons for the Attorney General's decision regarding such preliminary investigation as it relates to each of the matters with respect to which the congressional request is made. If there is such a preliminary investigation, the report shall include the date on which the preliminary investigation began or will begin.

"(3) SUBMISSION OF INFORMATION IN RESPONSE TO CONGRESSIONAL REQUEST.—At the same time as any notification, application, or any other document, material, or memorandum is supplied to the division of the court pursuant to this section with respect to a preliminary investigation of any matter with respect to which a request is made under paragraph (1), such notification, application, or other document, material, or memorandum shall be supplied to the committee making the request, or to the committee on which the persons making the request serve. If no application for the appointment of an independent counsel is made to the division of the court under this section pursuant to such a preliminary investigation, the Attorney General shall submit a report to that committee stating the reasons why such application was not made, addressing each matter with respect to which the congressional request was made.

Reports.

"(4) DISCLOSURE OF INFORMATION.—Any report, notification, application, or other document, material, or memorandum supplied to a committee under this subsection shall not be revealed to any third party, except that the committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of such report, notification, application, document, material, or memorandum as will not in the committee's judgment prejudice the rights of any individual.

"§ 593. Duties of the division of the court

28 USC 593.

"(a) REFERENCE TO DIVISION OF THE COURT.—The division of the court to which this chapter refers is the division established under section 49 of this title.

"(b) APPOINTMENT AND JURISDICTION OF INDEPENDENT COUNSEL.—

"(1) AUTHORITY.—Upon receipt of an application under section 592(c), the division of the court shall appoint an appropriate independent counsel and shall define that independent counsel's prosecutorial jurisdiction.

"(2) QUALIFICATIONS OF INDEPENDENT COUNSEL.—The division of the court shall appoint as independent counsel an individual who has appropriate experience and who will conduct the investigation and any prosecution in a prompt, responsible, and cost-effective manner. The division of the court shall seek to appoint as independent counsel an individual who will serve to the extent necessary to complete the investigation and any prosecution without undue delay. The division of the court may not appoint as an independent counsel any person who holds any office of profit or trust under the United States.

"(3) SCOPE OF PROSECUTORIAL JURISDICTION.—In defining the independent counsel's prosecutorial jurisdiction, the division of the court shall assure that the independent counsel has adequate authority to fully investigate and prosecute the subject matter with respect to which the Attorney General has requested the appointment of the independent counsel, and all matters related to that subject matter. Such jurisdiction shall also include the authority to investigate and prosecute Federal crimes, other than those classified as Class B or C misdemeanors or infractions, that may arise out of the investigation or prosecution of the matter with respect to which the Attorney General's request was made, including perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses.

"(4) DISCLOSURE OF IDENTITY AND PROSECUTORIAL JURISDICTION.—An independent counsel's identity and prosecutorial jurisdiction (including any expansion under subsection (c)) may not be made public except upon the request of the Attorney General or upon a determination of the division of the court that disclosure of the identity and prosecutorial jurisdiction of such independent counsel would be in the best interests of justice. In any event, the identity and prosecutorial jurisdiction of such independent counsel shall be made public when any indictment is returned, or any criminal information is filed, pursuant to the independent counsel's investigation.

"(c) EXPANSION OF JURISDICTION.—

"(1) IN GENERAL.—The division of the court, upon the request of the Attorney General, may expand the prosecutorial jurisdiction of an independent counsel, and such expansion may be in lieu of the appointment of another independent counsel.

"(2) PROCEDURE FOR REQUEST BY INDEPENDENT COUNSEL.—(A) If the independent counsel discovers or receives information about possible violations of criminal law by persons as provided in section 591, which are not covered by the prosecutorial jurisdiction of the independent counsel, the independent counsel may submit such information to the Attorney General. The Attorney General shall then conduct a preliminary investigation of the information in accordance with the provisions of section 592, except that such preliminary investigation shall not exceed 30 days from the date such information is received. In making the determinations required by section 592, the Attorney General shall give great weight to any recommendations of the independent counsel.

"(B) If the Attorney General determines, after according great weight to the recommendations of the independent counsel, that there are no reasonable grounds to believe that further investigation is warranted, the Attorney General shall promptly so notify the division of the court and the division of the court shall have no power to expand the jurisdiction of the independent counsel or to appoint another independent counsel with respect to the matters involved.

"(C) If—

"(i) the Attorney General determines that there are reasonable grounds to believe that further investigation is warranted; or

"(ii) the 30-day period referred to in subparagraph (A) elapses without a notification to the division of the court that no further investigation is warranted,

the division of the court shall expand the jurisdiction of the appropriate independent counsel to include the matters involved or shall appoint another independent counsel to investigate such matters.

"(d) Return for Further Explanation.—Upon receipt of a notification under section 592 or subsection (c)(2)(B) of this section from the Attorney General that there are no reasonable grounds to believe that further investigation is warranted with respect to information received under this chapter, the division of the court shall have no authority to overrule this determination but may return the matter to the Attorney General for further explanation of the reasons for such determination.

"(e) Vacancies.—If a vacancy in office arises by reason of the resignation, death, or removal of an independent counsel, the division of the court shall appoint an independent counsel to complete the work of the independent counsel whose resignation, death, or removal caused the vacancy, except that in the case of a vacancy arising by reason of the removal of an independent counsel, the division of the court may appoint an acting independent counsel to serve until any judicial review of such removal is completed.

"(f) Attorneys' Fees.—

"(1) Award of fees.—Upon the request of an individual who is the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, if no indictment is brought against such individual pursuant to that investigation, award reimbursement for those reasonable attorneys' fees incurred by that individual during that investigation which would not have been incurred but for the requirements of this chapter. The division of the court shall notify the Attorney General of any request for attorneys' fees under this subsection.

"(2) Evaluation of fees.—The division of the court may direct the Attorney General to file a written evaluation of any request for attorneys' fees under this subsection, analyzing for each expense—

"(A) the sufficiency of the documentation;

"(B) the need or justification for the underlying item; and

"(C) the reasonableness of the amount of money requested.

"(g) Disclosure of Information.—The division of the court may, subject to section 594(h)(2), allow the disclosure of any notification, application, or any other document, material, or memorandum supplied to the division of the court under this chapter.

"(h) AMICUS CURIAE BRIEFS.—When presented with significant legal issues, the division of the court may disclose sufficient information about the issues to permit the filing of timely amicus curiae briefs.

28 USC 594.

"§ 594. Authority and duties of an independent counsel

"(a) AUTHORITIES.—Notwithstanding any other provision of law, an independent counsel appointed under this chapter shall have, with respect to all matters in such independent counsel's prosecutorial jurisdiction established under this chapter, full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18. Such investigative and prosecutorial functions and powers shall include—

"(1) conducting proceedings before grand juries and other investigations;

"(2) participating in court proceedings and engaging in any litigation, including civil and criminal matters, that such independent counsel considers necessary;

"(3) appealing any decision of a court in any case or proceeding in which such independent counsel participates in an official capacity;

"(4) reviewing all documentary evidence available from any source;

"(5) determining whether to contest the assertion of any testimonial privilege;

Defense and national security.

"(6) receiving appropriate national security clearances and, if necessary, contesting in court (including, where appropriate, participating in in camera proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

"(7) making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18, exercising the authority vested in a United States attorney or the Attorney General;

"(8) inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1986 and the regulations issued thereunder, exercising the powers vested in a United States attorney or the Attorney General;

"(9) initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case, in the name of the United States; and

"(10) consulting with the United States attorney for the district in which any violation of law with respect to which the independent counsel is appointed was alleged to have occurred.

Wages.

"(b) COMPENSATION.—An independent counsel appointed under this chapter shall receive compensation at the per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

"(c) ADDITIONAL PERSONNEL.—For the purposes of carrying out the duties of an office of independent counsel, such independent counsel may appoint, fix the compensation, and assign the duties of such employees as such independent counsel considers necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate of pay payable for GS-18 of the General Schedule under section 5332 of title 5.

Wages.

"(d) ASSISTANCE OF DEPARTMENT OF JUSTICE.—

"(1) IN CARRYING OUT FUNCTIONS.—An independent counsel may request assistance from the Department of Justice in carrying out the functions of the independent counsel, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within such independent counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform such independent counsel's duties.

"(2) PAYMENT OF AND REPORTS ON EXPENDITURES OF INDEPENDENT COUNSEL.—The Department of Justice shall pay all costs relating to the establishment and operation of any office of independent counsel. The Attorney General shall submit to the Congress, not later than 30 days after the end of each fiscal year, a report on amounts paid during that fiscal year for expenses of investigations and prosecutions by independent counsel. Each such report shall include a statement of all payments made for activities of independent counsel but may not reveal the identity or prosecutorial jurisdiction of any independent counsel which has not been disclosed under section 593(b)(4).

"(e) REFERRAL OF OTHER MATTERS TO AN INDEPENDENT COUNSEL.—An independent counsel may ask the Attorney General or the division of the court to refer to the independent counsel matters related to the independent counsel's prosecutorial jurisdiction, and the Attorney General or the division of the court, as the case may be, may refer such matters. If the Attorney General refers a matter to an independent counsel on the Attorney General's own initiative, the independent counsel may accept such referral if the matter relates to the independent counsel's prosecutorial jurisdiction. If the Attorney General refers any matter to the independent counsel pursuant to the independent counsel's request, or if the independent counsel accepts a referral made by the Attorney General on the Attorney General's own initiative, the independent counsel shall so notify the division of the court.

"(f) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—An independent counsel shall, except where not possible, comply with the written or other established policies of the Department of Justice respecting enforcement of the criminal laws.

"(g) DISMISSAL OF MATTERS.—The independent counsel shall have full authority to dismiss matters within the independent counsel's prosecutorial jurisdiction without conducting an investigation or at any subsequent time before prosecution, if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

"(h) REPORTS BY INDEPENDENT COUNSEL.—

"(1) REQUIRED REPORTS.—An independent counsel shall—

"(A) file with the division of the court, with respect to the 6-month period beginning on the date of his or her appointment, and with respect to each 6-month period thereafter until the office of that independent counsel terminates, a report which identifies and explains major expenses, and summarizes all other expenses, incurred by that office during the 6-month period with respect to which the report is filed, and estimates future expenses of that office; and

"(B) before the termination of the independent counsel's office under section 596(b), file a final report with the division of the court, setting forth fully and completely a description of the work of the independent counsel, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel.

"(2) DISCLOSURE OF INFORMATION IN REPORTS.—The division of the court may release to the Congress, the public, or any appropriate person, such portions of a report made under this subsection as the division of the court considers appropriate. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and to prevent undue interference with any pending prosecution. The division of the court may make any portion of a final report filed under paragraph (1)(B) available to any individual named in such report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may, in the discretion of the division of the court, be included as an appendix to such final report.

"(i) INDEPENDENCE FROM DEPARTMENT OF JUSTICE.—Each independent counsel appointed under this chapter, and the persons appointed by that independent counsel under subsection (c), are separate from and independent of the Department of Justice for purposes of sections 202 through 209 of title 18.

"(j) STANDARDS OF CONDUCT APPLICABLE TO INDEPENDENT COUNSEL, PERSONS SERVING IN THE OFFICE OF AN INDEPENDENT COUNSEL, AND THEIR LAW FIRMS.—

"(1) RESTRICTIONS ON EMPLOYMENT WHILE INDEPENDENT COUNSEL AND APPOINTEES ARE SERVING.—(A) During the period in which an independent counsel is serving under this chapter—

"(i) such independent counsel, and

"(ii) any person associated with a firm with which such independent counsel is associated,

may not represent in any matter any person involved in any investigation or prosecution under this chapter.

"(B) During the period in which any person appointed by an independent counsel under subsection (c) is serving in the office of independent counsel, such person may not represent in any matter any person involved in any investigation or prosecution under this chapter.

"(2) POST EMPLOYMENT RESTRICTIONS ON INDEPENDENT COUNSEL AND APPOINTEES.—(A) Each independent counsel and each person appointed by that independent counsel under subsection (c) may not, for 3 years following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter if that individual was the subject of an investigation or prosecution under this chapter that was conducted by that independent counsel.

"(B) Each independent counsel and each person appointed by that independent counsel under subsection (c) may not, for 1 year following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be, represent any person in any matter involving any investigation or prosecution under this chapter.

"(3) ONE-YEAR BAN ON REPRESENTATION BY MEMBERS OF FIRMS OF INDEPENDENT COUNSEL.—Any person who is associated with a firm with which an independent counsel is associated or becomes associated after termination of the service of that independent counsel under this chapter may not, for 1 year following such termination, represent any person in any matter involving any investigation or prosecution under this chapter.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'firm' means a law firm whether organized as a partnership or corporation; and

"(B) a person is 'associated' with a firm if that person is an officer, director, partner, or other member or employee of that firm.

"(k) CUSTODY OF RECORDS OF AN INDEPENDENT COUNSEL.—

"(1) TRANSFER OF RECORDS.—Upon termination of the office of an independent counsel, that independent counsel shall transfer to the Archivist of the United States all records which have been created or received by that office. Before this transfer, the independent counsel shall clearly identify which of these records are subject to rule 6(e) of the Federal Rules of Criminal Procedure as grand jury materials and which of these records have been classified as national security information. Any records which were compiled by an independent counsel and, upon termination of the independent counsel's office, were stored with the division of the court or elsewhere before the enactment of the Independent Counsel Reauthorization Act of 1987, shall also be transferred to the Archivist of the United States by the division of the court or the person in possession of such records.

Defense and national security.

"(2) MAINTENANCE, USE, AND DISPOSAL OF RECORDS.—Records transferred to the Archivist under this chapter shall be maintained, used, and disposed of in accordance with chapters 21, 29, and 33 of title 44.

"(3) ACCESS TO RECORDS.—

"(A) IN GENERAL.—Subject to paragraph (4), access to the records transferred to the Archivist under this chapter shall be governed by section 552 of title 5.

"(B) ACCESS BY DEPARTMENT OF JUSTICE.—The Archivist shall, upon written application by the Attorney General, disclose any such records to the Department of Justice for purposes of an ongoing law enforcement investigation or court proceeding, except that, in the case of grand jury materials, such records shall be so disclosed only by order of the court of jurisdiction under rule 6(e) of the Federal Rules of Criminal Procedure.

"(C) EXCEPTION.—Notwithstanding any restriction on access imposed by law, the Archivist and persons employed by the National Archives and Records Administration who are engaged in the performance of normal archival work shall be permitted access to the records transferred to the Archivist under this chapter.

"(4) RECORDS PROVIDED BY CONGRESS.—Records of an investigation conducted by a committee of the House of Representatives or the Senate which are provided to an independent counsel to assist in an investigation or prosecution conducted by that independent counsel—

"(A) shall be maintained as a separate body of records within the records of the independent counsel; and

"(B) shall, after the records have been transferred to the Archivist under this chapter, be made available, except as provided in paragraph (3) (B) and (C), in accordance with the rules governing release of the records of the House of Congress that provided the records to the independent counsel.

Subparagraph (B) shall not apply to those records which have been surrendered pursuant to grand jury or court proceedings.

28 USC 595.

"§ 595. Congressional oversight

"(a) OVERSIGHT OF CONDUCT OF INDEPENDENT COUNSEL.—

"(1) CONGRESSIONAL OVERSIGHT.—The appropriate committees of the Congress shall have oversight jurisdiction with respect to the official conduct of any independent counsel appointed under this chapter, and such independent counsel shall have the duty to cooperate with the exercise of such oversight jurisdiction.

"(2) REPORTS TO CONGRESS.—An independent counsel appointed under this chapter shall submit to the Congress such statements or reports on the activities of such independent counsel as the independent counsel considers appropriate.

"(b) OVERSIGHT OF CONDUCT OF ATTORNEY GENERAL.—Within 15 days after receiving an inquiry about a particular case under this chapter, which is a matter of public knowledge, from a committee of the Congress with jurisdiction over this chapter, the Attorney General shall provide the following information to that committee with respect to that case:

"(1) When the information about the case was received.

"(2) Whether a preliminary investigation is being conducted, and if so, the date it began.

"(3) Whether an application for the appointment of an independent counsel or a notification that further investigation is not warranted has been filed with the division of the court, and if so, the date of such filing.

"(c) INFORMATION RELATING TO IMPEACHMENT.—An independent counsel shall advise the House of Representatives of any substantial and credible information which such independent counsel receives, in carrying out the independent counsel's responsibilities under this chapter, that may constitute grounds for an impeachment. Nothing in this chapter or section 49 of this title shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

28 USC 596.

"§ 596. Removal of an independent counsel; termination of office

"(a) REMOVAL; REPORT ON REMOVAL.—

"(1) GROUNDS FOR REMOVAL.—An independent counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for good cause, physical disability, mental incapacity, or any other condition that substantially impairs the performance of such independent counsel's duties.

"(2) REPORT TO DIVISION OF THE COURT AND CONGRESS.—If an independent counsel is removed from office, the Attorney General shall promptly submit to the division of the court and the Committees on the Judiciary of the Senate and the House of Representatives a report specifying the facts found and the ultimate grounds for such removal. The committees shall make available to the public such report, except that each committee may, if necessary to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report. The division of the court may release any or all of such report in accordance with section 594(h)(2).

Public information.

"(3) JUDICIAL REVIEW OF REMOVAL.—An independent counsel removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia. A member of the division of the court may not hear or determine any such civil action or any appeal of a decision in any such civil action. The independent counsel may be reinstated or granted other appropriate relief by order of the court.

District of Columbia.

"(b) TERMINATION OF OFFICE.—

"(1) TERMINATION BY ACTION OF INDEPENDENT COUNSEL.—An office of independent counsel shall terminate when—

"(A) the independent counsel notifies the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions; and

"(B) the independent counsel files a final report in compliance with section 594(h)(1)(B).

"(2) TERMINATION BY DIVISION OF THE COURT.—The division of the court, either on its own motion or upon the request of the Attorney General, may terminate an office of independent counsel at any time, on the ground that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. At the time of such termination, the independent counsel shall file the final report required by section 594(h)(1)(B).

Reports.

"(c) AUDITS.—After the termination of the office of an independent counsel, the Comptroller General shall conduct an audit of the expenditures of that office, and shall submit to the appropriate committees of the Congress a report on the audit.

Reports.

28 USC 597.

"§ 597. Relationship with Department of Justice

"(a) SUSPENSION OF OTHER INVESTIGATIONS AND PROCEEDINGS.—Whenever a matter is in the prosecutorial jurisdiction of an independent counsel or has been accepted by an independent counsel under section 594(e), the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matter, except to the extent required by section 594(d)(1), and except insofar as such independent counsel agrees in writing that such investigation or proceedings may be continued by the Department of Justice.

"(b) PRESENTATION AS AMICUS CURIAE PERMITTED.—Nothing in this chapter shall prevent the Attorney General or the Solicitor General from making a presentation as amicus curiae to any court as to issues of law raised by any case or proceeding in which an independent counsel participates in an official capacity or any appeal of such a case or proceeding.

28 USC 598.

"§ 598. Severability

"If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.

28 USC 599.

"§ 599. Termination of effect of chapter

"This chapter shall cease to be effective five years after the date of the enactment of the Independent Counsel Reauthorization Act of 1987, except that this chapter shall continue in effect with respect to then pending matters before an independent counsel that in the judgment of such counsel require such continuation until that independent counsel determines such matters have been completed.".

SEC. 3. STATUS OF INDEPENDENT COUNSEL AS A SPECIAL GOVERNMENT EMPLOYEE; FINANCIAL DISCLOSURE REQUIREMENTS.

(a) AMENDMENT TO TITLE 18.—The first sentence of section 202(a) of title 18, United States Code, is amended—

(1) by striking out "or" after "United States commissioner" and inserting in lieu thereof a comma; and

(2) by striking out the period at the end of the sentence and inserting in lieu thereof the following: ", or, regardless of the number of days of appointment, an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28.".

(b) FINANCIAL DISCLOSURE REQUIREMENTS.—

5 USC app.

(1) FILING OF REPORTS.—Section 203(b) of the Ethics in Government Act of 1978 is amended by striking out "and the Vice President" and inserting in lieu thereof ", the Vice President, and independent counsel and persons appointed by independent counsel under chapter 40 of title 28".

Reports.

(2) LIMITATION ON PUBLIC DISCLOSURE.—(A) Section 203(d) of the Ethics in Government Act of 1978 is amended by inserting before the period at the end thereof the following: ", except that any report filed by an independent counsel whose identity has not been disclosed by the division of the court under chapter 40

of title 28, and any report filed by any person appointed by that independent counsel under such chapter, shall not be made available to the public under this title".

5 USC app. (B) Section 205(a) of the Ethics in Government Act of 1978 is amended by striking out "Each" in the first sentence and inserting in lieu thereof "Except as provided in section 203(d) of this Act, each".

SEC. 4. CLERK OF THE DIVISION OF THE COURT.

Section 49(a) of title 28, United States Code, is amended by adding at the end thereof the following: "The Clerk of the United States Court of Appeals for the District of Columbia Circuit shall serve as the clerk of such division of the court and shall provide such services as are needed by such division of the court.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) TITLE 28, UNITED STATES CODE.—Section 49(f) of title 28, United States Code, is amended by striking out "a independent" and inserting in lieu thereof "an independent".

(b) CONTINGENCY FUND.—Section 601(c) of the Ethics in Government Act of 1978 (28 U.S.C. 591 note) is amended by striking out "39 (relating to special prosecutor)" and inserting in lieu thereof "40 (relating to independent counsel)".

SEC. 6. EFFECTIVE DATE.

28 USC 591 note.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this Act take effect on the date of the enactment of this Act.

(b) PENDING PROCEEDINGS.—With respect to any proceeding under chapter 39 of title 28, United States Code (before the redesignation of such chapter as chapter 40 by section 144(g) of Public Law 99-554), or under chapter 40 of such title (after such redesignation), which is pending on the date of the enactment of this Act, the following shall apply:

(1) Except as provided in paragraphs (2) and (3), the provisions of chapter 40 of such title as in effect on the day before such date of enactment shall, in lieu of the amendments made by this Act, continue to apply on or after such date to such proceeding until such proceeding is terminated in accordance with such chapter.

(2) The following provisions shall apply to such proceeding on or after such date of enactment:

(A) Section 593(f) of title 28, United States Code, as amended by section 2 of this Act, relating to the award of attorneys' fees.

Reports. (B) Section 594(d)(2) of such title, as added by section 2 of this Act, to the extent that such section 594(d)(2) relates to reports by the Attorney General on expenditures by independent counsel, except that the first such report shall be made only with respect to expenditures on or after the date of the enactment of this Act.

Reports. (C) Section 594(h)(1)(A) of such title, as added by section 2 of this Act, relating to reports by independent counsel, except that the 6-month periods described in such section 594(h)(1)(A) shall be calculated from the date of the enactment of this Act.

(D) Section 594(i) of such title, as added by section 2 of this Act, relating to the independence of the office of independent counsel for certain purposes.

(E) Section 594(k) of such title, as added by section 2 of this Act, relating to custody of records of independent counsel.

(F) Section 596(a)(3) of such title, as amended by section 2 of this Act, relating to judicial review of the removal of an independent counsel from office.

(G) Section 596(c) of such title, as added by section 2 of this Act, relating to audits of expenditures of independent counsel.

(H) The amendments made by section 3 of this Act, relating to the status of independent counsel and their appointees as special government employees and to their financial disclosure requirements.

(3) Section 594(j) of title 28, United States Code, as added by section 2 of this Act, relating to certain standards of conduct shall, 90 days after the date of the enactment of this Act, apply to a pending proceeding described in this subsection.

Approved December 15, 1987.

LEGISLATIVE HISTORY—H.R. 2939 (S. 1293):

HOUSE REPORTS: No. 100-316 (Comm. on the Judiciary).
SENATE REPORTS: No. 100-123 accompanying S. 1293 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Oct. 16, S. 1293 considered in Senate.
  Oct. 21, H.R. 2939 considered and passed House.
  Nov. 3, considered and passed Senate, amended, in lieu of S. 1293.
  Nov. 20, Senate agreed to conference report.
  Dec. 2, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
  Dec. 15, Presidential statement.

○

Public Law 100-192
100th Congress

An Act

To amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail.

Dec. 16, 1987
[S. 578]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding the following new paragraph at the end thereof:

"(16)(A) The Trail of Tears National Historic Trail, a trail consisting of water routes and overland routes traveled by the Cherokee Nation during its removal from ancestral lands in the East to Oklahoma during 1838 and 1839, generally located within the corridor described through portions of Georgia, North Carolina, Alabama, Tennessee, Kentucky, Illinois, Missouri, Arkansas, and Oklahoma in the final report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled "Trail of Tears" and dated June 1986. Maps depicting the corridor shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Trail of Tears except with the consent of the owner thereof.

"(B) In carrying out his responsibilities pursuant to subsections 5(f) and 7(c) of this Act, the Secretary of the Interior shall give careful consideration to the establishment of appropriate interpretive sites for the Trail of Tears in the vicinity of Hopkinsville, Kentucky, Fort Smith, Arkansas, Trail of Tears State Park, Missouri, and Tahlequah, Oklahoma.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Section 10(c)(2) of the National Trails System Act (16 U.S.C. 1249(c)(2)) is amended by striking "through (13) and (15)" and inserting ", (10), (11), (12), (13), (15), and (16)".

Approved December 16, 1987.

LEGISLATIVE HISTORY—S. 578:

HOUSE REPORTS: No. 100-461 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-175 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 1, considered and passed Senate.
Dec. 1, considered and passed House, amended.
Dec. 3, Senate concurred in House amendments.

○

19-139 O - 87 (192)

Public Law 100-193
100th Congress

Joint Resolution

Dec. 16, 1987
[H.J. Res. 425]

Making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes.

Ante, p. 903.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of Public Law 100-120, as amended by Public Law 100-162, is further amended by striking out "December 16, 1987" and inserting in lieu thereof "December 18, 1987".

Approved December 16, 1987.

LEGISLATIVE HISTORY—H.J. Res. 425:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 16, considered and passed House and Senate.

Public Law 100-194
100th Congress

Joint Resolution

To congratulate King Bhumibol Adulyadej of Thailand on his sixtieth birthday on December 5, 1987.

Dec. 17, 1987
[H.J. Res. 412]

Whereas His Majesty is the only reigning monarch in the world who was born in the United States, having been born on December 5, 1927, in Cambridge, Massachusetts, where his father was a medical student;

Whereas, on July 2, 1988, he will become the longest reigning monarch in the history of Thailand, having served forty-two years;

Whereas His Majesty is most revered by his subjects and respected by people throughout the world; and

Whereas on the occasion of his sixtieth birthday in December 1987, His Majesty will be honored with the establishment of an International University in Thailand: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States congratulates His Majesty King Bhumibol Adulyadej of Thailand on the occasion of his sixtieth birthday and expresses appreciation for his long and valued friendship with the United States.

Approved December 17, 1987.

LEGISLATIVE HISTORY—H.J. Res. 412:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 3, considered and passed House.
Dec. 4, considered and passed Senate.

Public Law 100-195
100th Congress

Joint Resolution

Dec. 18, 1987
[H.J. Res. 199]

Designating April 1988 as "Actors' Fund of America Appreciation Month".

Whereas the Actors' Fund of America has given over 100 years of dedicated service to the entire entertainment world;

Whereas the Fund's services are not restricted to actors but are available to any bona fide professional in the entertainment community who works in any capacity in the areas of ballet, opera, circus, variety, motion pictures, radio, television, and the legitimate stage;

Whereas the Actors' Fund provides its members with a wide variety of services and benefits, including financial assistance, educational and career guidance, blood banks, funeral and burial assistance, psychological counseling, home nursing care, and the use of the renowned Actors' Fund Home, a retirement residence in Englewood, New Jersey;

Whereas the Fund's new extended care facility, scheduled to be completed during 1987, will provide members with the finest possible nursing care;

Whereas the efforts of the officers and board members of the Actors' Fund have been aided by the cooperation and financial support of members of the entertainment community, who support the Fund with bequests, donations, endowments, and by giving special performances for the benefit of the Fund; and

Whereas since 1882 the Actors' Fund of America has been actively and productively concerned with the dignity and well-being of all members of the entertainment community: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1988 is designated as "Actors' Fund of America Appreciation Month", and the President is authorized and requested to issue a proclamation saluting the accomplishments of the Fund and calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved December 18, 1987.

LEGISLATIVE HISTORY—H.J. Res. 199:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 30, considered and passed House.
Dec. 4, considered and passed Senate.

○

Public Law 100-196
100th Congress

An Act

Dec. 18, 1987
[S. 649]

To amend the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 208 of the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327) is amended by deleting "$39,370,000 (January 1976 prices), plus or minus such amounts, if any," and inserting in lieu thereof "$88,000,000 (January 1987 prices): *Provided,* That of the $88,000,000 authorized herein, only $18,000,000 thereof may be adjusted by such amounts, plus or minus,".

Approved December 18, 1987.

LEGISLATIVE HISTORY—S. 649:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 8, considered and passed Senate.
Dec. 8, considered and passed House.

○

Public Law 100-197
100th Congress

Joint Resolution

Dec. 20, 1987
[H.J. Res. 431]

Making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes.

Ante, p. 1310.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, **That section 102(c) of Public Law 100-120, as amended by Public Law 100-162 and Public Law 100-193 is further amended by striking out "December 18, 1987" and inserting in lieu thereof "December 21, 1987".**

Approved December 20, 1987.

LEGISLATIVE HISTORY—H.J. Res. 431:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 20, considered and passed House and Senate.

○

Public Law 100-198
100th Congress

An Act

To amend title 38, United States Code, to modify the amount of the Veterans' Administration home loan guaranty and to make other improvements in the loan guaranty program, and for other purposes.

Dec. 21, 1987
[H.R. 2672]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987.
Housing.
38 USC 101 note.

SECTION 1. SHORT TITLE; REFERENCE.

(a) **Short Title.**—This Act may be cited as the "Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987".

(b) **Reference.**—Whenever in this Act an amendment, repeal, or redesignation is expressed in terms of an amendment to, or repeal or redesignation of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code, unless otherwise specified.

SEC. 2. LOAN FEE.

(a) **Extension.**—Section 1829(c) is amended by striking out "1987" and inserting in lieu thereof "1989".

(b) **Waiver.**—Section 1829(b) is amended by striking out "described in section 1801(b)(2) of this title" and inserting in lieu thereof "of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability".

SEC. 3. GUARANTY AMOUNT.

(a) **Purchase or Construction of Homes.**—(1) Section 1803(a)(1) is amended to read as follows:

"(a)(1) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 1810 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed—

"(A) in the case of any loan of not more than $45,000, 50 percent of the loan; or

"(B) in the case of any loan of more than $45,000, 40 percent of the loan or $36,000, whichever is less, except that the amount of such guaranty for any such loan shall not be less than $22,500;

reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title.".

(2) Section 1810(c) is repealed.

(b) **Manufactured Homes.**—Section 1819(c) is amended—

(1) in paragraph (3), by striking out the first sentence and inserting in lieu thereof the following: "The Administrator's guaranty may not exceed 40 percent of the loan, or $20,000, whichever is less, reduced by the amount of entitlement pre-

viously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title."; and

(2) in paragraph (4), by striking out the first sentence and inserting in lieu thereof "The amount of any loan guaranteed under this section shall not exceed an amount equal to 95 percent of the purchase price of the property securing such loan.".

(c) DIRECT LOANS.—Section 1811(d)(2)(A) is amended by striking out "$27,500" each place it appears and inserting in lieu thereof "$36,000".

38 USC 1803 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to loans which are closed on or after February 1, 1988, except that they shall not apply to any loan for which a guaranty commitment is made on or before December 31, 1987.

SEC. 4. FINANCIAL INFORMATION AND COUNSELING ASSISTANCE FOR VETERANS.

(a) ASSISTANCE TO VETERANS.—Section 1816(a) is amended by adding at the end the following new paragraph:

"(4)(A) Upon receiving a notice pursuant to paragraph (1) of this subsection, the Administrator shall—

"(i) provide the veteran with information and, to the extent feasible, counseling regarding—

"(I) alternatives to foreclosure, as appropriate in light of the veteran's particular circumstances, including possible methods of curing the default, conveyance of the property to the Administrator by means of a deed in lieu of foreclosure, and the actions authorized by section 1816(a)(2) of this title; and

"(II) what the Veterans' Administration's and the veteran's liabilities would be with respect to the loan in the event of foreclosure; and

"(ii) advise the veteran regarding the availability of such counseling;

except with respect to loans made by a lender which the Administrator has determined has a demonstrated record of consistently providing timely and accurate information to veterans with respect to such matters.

"(B) The Administrator shall, to the extent of the availability of appropriations, ensure that sufficient personnel are available to administer subparagraph (A) of this paragraph effectively and efficiently.

Termination date.

"(C) The authority to carry out this paragraph shall terminate on March 1, 1991.".

38 USC 1816 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on March 1, 1988.

SEC. 5. ACTIONS WITH RESPECT TO DEFAULTED LOANS.

(a) DETERMINATION OF TOTAL INDEBTEDNESS.—Section 1816(c) is amended—

(1) in paragraph (1)(D), by striking out "The" and inserting in lieu thereof "Except as provided in subparagraph (D) of paragraph (10) of this subsection, the";

(2) in clause (ii) of paragraph (1)(D), by striking out "of the liquidation sale" and all that follows in such clause and inserting in lieu thereof the following: "applicable under paragraph (10) of this subsection, and";

(3) in clause (iii) of paragraph (1)(D), by striking out "such regulations" and inserting in lieu thereof "regulations prescribed by the Administrator to implement this subsection"; and

(4) by adding at the end the following new paragraphs:

"(10)(A) Except as provided in subparagraphs (B) and (C) of this paragraph, the date referred to in paragraph (1)(D)(ii) of this subsection shall be the date of the liquidation sale of the property securing the loan.

Regulations.

"(B)(i) Subject to division (ii) of this subparagraph, in any case in which there is a substantial delay in such sale caused by the holder of the loan exercising forebearance at the request of the Administrator, the date referred to in paragraph (1)(D)(ii) of this subsection shall be such date, on or after the date on which forebearance was requested and prior to the date of such sale, as the Administrator specifies pursuant to regulations which the Administrator shall prescribe to implement this paragraph.

"(ii) The Administrator may specify a date under subdivision (i) of this subparagraph only if, based on the use of a date so specified for the purposes of such paragraph (1)(D)(ii), the Administrator is authorized, under paragraph (7)(A) of this subsection, to accept conveyance of the property.

"(C) In any case in which there is an excessive delay in such liquidation sale caused—

"(i) by the Veterans' Administration (including any delay caused by its failure to provide bidding instructions in a timely fashion); or

"(ii) by a voluntary case commenced under title 11, United States Code (relating to bankruptcy);

the date referred to in paragraph (1)(D)(ii) of this subsection shall be a date, earlier than the date of such liquidation sale, which the Administrator specifies pursuant to regulations which the Administrator shall prescribe to implement this paragraph.

"(D) For the purpose of determining the liability of the United States under a loan guaranty under clause (B) of paragraphs (5), (6), (7), and (8) of this subsection, the amount of the total indebtedness with respect to such loan guaranty shall include, in any case in which there was an excessive delay caused by the Veterans' Administration in the liquidation sale of the property securing such loan, any interest which had accrued as of the date of such sale and which would not be included, except for this subparagraph, in the calculation of such total indebtedness as a result of the specification of an earlier date under subparagraph (C)(i) of this paragraph.

"(11) This subsection shall cease to have effect on October 1, 1989.".

38 USC 1816 note.

(b) **Repeal.**—Paragraph (2) of section 2512(c) of the Deficit Reduction Act of 1984 (Public Law 98-369; 98 Stat. 1117) is repealed.

38 USC 1816 note.

(c) **Effective Date.**—The amendments made by subsection (a) shall apply to defaults which occur more than 60 days after the date of the enactment of this Act.

SEC. 6. CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES.

(a) **Number of Vendee Loans.**—(1) Section 1816(d)(1) is amended by striking out "not more than 75 percent, nor less than 60 percent," in the first sentence and inserting in lieu thereof "not more than 65 percent, nor less than 50 percent,".

Effective date.
38 USC 1816 note.

(2) The amendment made by paragraph (1) shall take effect as of October 1, 1987.

(b) MAXIMUM AMOUNT AND REHABILITATION LOANS.—(1) Section 1816(d) is amended by adding at the end the following new paragraphs:

"(4)(A) Except as provided in subparagraph (B) of this paragraph, the amount of a loan made by the Administrator to finance the purchase of real property from the Administrator described in paragraph (1) of this subsection may not exceed an amount equal to 95 percent of the purchase price of such real property.

"(B) The Administrator may waive the provisions of subparagraph (A) of this paragraph in the case of any loan described in paragraph (5) of this subsection.

"(5) The Administrator may include, as part of a loan to finance a purchase of real property from the Administrator described in paragraph (1) of this subsection, an amount to be used only for the purpose of rehabilitating such property. Such amount may not exceed the amount necessary to rehabilitate the property to a habitable state, and payments shall be made available periodically as such rehabilitation is completed.

"(6) This subsection shall cease to have effect on October 1, 1990.".

38 USC 1816 note.

(2) The amendment made by this subsection shall apply to loans made more than 30 days after the date of the enactment of this Act.

38 USC 1816 note.

(c) REPORT.—The Administrator of Veterans' Affairs shall, by March 1, 1990, transmit to the Congress a report of the activities carried out, through December 31, 1989, under paragraphs (4) and (5) of section 1816(d) of title 38, United States Code, as added by subsection (b) of this section.

SEC. 7. REFINANCING HOME LOANS.

(a) LOANS GUARANTEED OR INSURED BY THE VETERANS' ADMINISTRATION.—Section 1810(e)(1) is amended—

(1) in clause (B), by striking out "and such" and all that follows through "home"; and

(2) in clause (D), by striking out "and";

(3) in clause (E), by striking out the period and inserting in lieu thereof "by more than 10 years; and"; and

(4) by adding at the end the following new clause:

"(F) the veteran must own the dwelling or farm residence securing the loan and—

"(i) must occupy such dwelling or residence as such veteran's home;

"(ii) must have previously occupied such dwelling or residence as such veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied such dwelling or residence; or

"(iii) in any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy such residence or dwelling as a home because of such status, the spouse of the veteran must occupy, or must have previously occupied, such dwelling or residence as such spouse's home and must certify such occupancy in such form as the Administrator shall require.".

(b) MANUFACTURED HOUSING LOANS.—Section 1819(a)(4)(A) is amended—

(1) in clause (ii), by striking out "and such" and all that follows through "veteran's home";

(2) in clause (iv), by striking out "and";

(3) in clause (v), by striking out the period at the end and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new clause:

"(vi) the veteran must own the manufactured home, or the manufactured-home lot, or the manufactured home and the manufactured-home lot, securing the loan and—

"(I) must occupy the home, a manufactured home on the lot, or the home and the lot, securing the loan;

"(II) must have previously occupied the home, a manufactured home on the lot, or the home and the lot, securing the loan as the veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied the home (or such a home on the lot); or

"(III) in any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy the home, a manufactured home on the lot, or the home and the lot, as a home because of such status, the spouse of the veteran must occupy, or must have previously occupied, the manufactured home on the lot, or the home and the lot, as such spouse's home and must certify such occupancy in such form as the Administrator shall require.".

(c) AMOUNTS OF OTHER REFINANCING LOANS.—Section 1810 is amended by adding at the end the following new subsection:

"(h) The amount of a loan guaranteed for the purpose specified in subsection (a)(5) of this section may not exceed the amount equal to 90 percent of the appraised value of the dwelling or farm residence which will secure the loan, as determined by the Administrator.".

(d) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (b) of this section shall apply to loans made more than 30 days after the date of the enactment of this Act.

38 USC 1810 note.

(2) The amendment made by subsection (c) of this section shall apply to loans for which commitments are made more than 60 days after the date of the enactment of this Act.

SEC. 8. OCCUPANCY REQUIREMENTS.

(a) ORIGINAL LOANS.—(1) Section 1804(c) is amended—

(A) by striking out "(c) No" and inserting in lieu thereof "(c)(1) Except as provided in paragraph (2) of this subsection, no";

(B) by striking out "No loan" in the second sentence and inserting in lieu thereof "Except as provided in paragraph (2) of this subsection, no loan"; and

(C) by adding at the end the following new paragraph:

"(2) In any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of—

"(A) paragraph (1) of this subsection;

"(B) paragraphs (1) through (5) and paragraph (7) of section 1810(a) of this title;

"(C) section 1819(a)(5)(A)(i) of this title; and

"(D) section 1819(e)(5) of this title;

shall be considered to be satisfied if the spouse of the veteran occupies the property as the spouse's home and the spouse makes the certification required by paragraph (1) of this subsection.".

(2) Section 1810(a) is amended by striking out "(a) Any" and inserting in lieu thereof "(a) Except as provided in section 1804(c)(2) of this title, any".

(b) MANUFACTURED HOUSING LOANS.—(1) Section 1819(a)(5)(A)(i) is amended by inserting "(except as provided in section 1804(c)(2) of this title)" after "by the veteran".

(2) Section 1819(e)(5) is amended by inserting before the semicolon the following: "; except that the requirement of this clause shall not apply (A) in the case of a guaranteed loan that is for the purpose described in paragraph (1)(F) of subsection (a), or (B) in the case described in section 1804(c)(2)".

38 USC 1804 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to loans made more than 30 days after the date of the enactment of this Act.

SEC. 9. PROPERTY MANAGEMENT.

38 USC 1820 note.

(a) HOMELESS PROGRAM.—(1) To assist homeless veterans and their families acquire shelter, the Administrator of Veterans' Affairs may enter into agreements described in paragraph (2) of this subsection with—

(A) nonprofit organizations, with preference being given to any organization named in, or approved by the Administrator under, section 3402 of title 38, United States Code; or

(B) any State, as defined in section 101(20) of such title, or any political subdivision thereof.

(2) To carry out paragraph (1) of this subsection, the Administrator may enter into agreements to sell real property, and improvements thereon, acquired by the Administrator as the result of a default on a loan made or guaranteed under chapter 37 of title 38, United States Code. Such sale shall be for such consideration as the Administrator determines is in the best interests of homeless veterans and the Federal Government.

(3) The Administrator may enter into an agreement under paragraph (1) only if—

(A) the Administrator determines that such an action will not adversely affect the Veterans' Administration's ability—

(i) to fulfill its statutory missions with respect to the Veterans' Administration loan guaranty program and the short- and long-term solvency of the Loan Guaranty Revolving Fund under such chapter 37; or

(ii) to carry out other functions and administer other programs authorized by law;

(B) the entity to which the property is sold agrees to (i) utilize the property solely as a shelter primarily for homeless veterans and their families, (ii) comply with all zoning laws relating to the property, (iii) make no use of the property that is not compatible with the area where the property is located, and (iv) take such other actions as the Administrator determines are necessary or appropriate in the best interests of homeless veterans and the Federal Government; and

(C) the Administrator determines that there is no significant likelihood of the property being sold for a price sufficient to reduce the liability of the Veterans' Administration or the veteran who had defaulted on the loan guaranteed under such chapter 37.

(4) Any agreement, deed, or other instrument executed by the Administrator under this subsection shall be on such terms and

conditions as the Administrator determines to be appropriate and necessary to carry out the purpose of such agreement.

(b) JOB TRAINING PROGRAM.—(1) To assist veterans to obtain training pursuant to the Veterans' Job Training Act (29 U.S.C. 1721 note), the Administrator of Veterans' Affairs may convey to persons described in paragraph (2) of this subsection real property and improvements described in subsection (a)(2) of this section for an amount not less than 75 percent of the fair market value of such real property and improvements.

(2) The Administrator may convey such property to persons who enter into an agreement with the Administrator to—

(A) use veterans in a program of job training under the Veterans' Job Training Act in the rehabilitation of residences on such real property; and

(B) provide a priority to veterans in the sale of such rehabilitated residences.

(3) The Administrator may include appropriate enforcement provisions in any agreement described in paragraph (2), including provision for reasonable liquidated damages.

(4) The Administrator shall reduce the amount of any liability that a veteran has with respect to any property conveyed under this section by an amount equal to the reduction in the sale price of the property below the fair market value of the property.

(c) TERMINATION.—The authority provided in subsections (a) and (b) shall terminate on October 1, 1990.

(d) REPORT.—The Administrator of Veterans' Affairs shall, by March 1, 1990, transmit to the Congress a report of the activities carried out, through December 31, 1989, under this section.

SEC. 10. LOAN ASSUMPTIONS.

(a) IN GENERAL.—(1) Chapter 37 is amended by inserting after section 1817 the following new section:

"§ 1817A. Assumptions; release from liability

38 USC 1817A.

"(a)(1) If a veteran or any other person disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by a veteran under this chapter and the veteran or other person notifies the holder of the loan in writing before the property is disposed of, the veteran or other person, as the case may be, shall be relieved of all further liability to the Administrator with respect to the loan (including liability for any loss resulting from any default of the purchaser or any subsequent owner of the property) and the application for assumption shall be approved if the holder determines that—

"(A) the loan is current; and

"(B) the purchaser of the property from such veteran or other person—

Contracts.

"(i) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan; and

"(ii) qualifies from a credit standpoint, to the same extent as if the purchaser were a veteran eligible under section 1810 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the purchaser is to assume liability.

"(2) For the purposes of paragraph (1), paragraph (3), and paragraph (4)(C)(ii) of this subsection, the Administrator shall be considered to be the holder of the loan if the actual holder is not an approved lender described in section 1802.

"(3) If the holder of the loan determines that the loan is not current or that the purchaser of the property does not meet the requirements of paragraph (1)(B) of this subsection, the holder shall—

"(A) notify the transferor and the Administrator of such determination; and

"(B) notify the transferor that the transferor may appeal the determination to the Administrator.

"(4)(A) Upon the appeal of the transferor after a determination described in paragraph (3) is made, the Administrator shall, in a timely manner, review and make a determination (or a redetermination in any case in which the Administrator made the determination described in such paragraph) with respect to whether the loan is current and whether the purchaser of the property meets the requirements of paragraph (1)(B) of this subsection. The Administrator shall transmit, in writing, a notice of the nature of such determination to the transferor and the holder and shall inform them of the action that shall or may be taken under subparagraph (B) of this paragraph as a result of the determination of the Administrator.

"(B)(i) If the Administrator determines under subparagraph (A) of this paragraph that the loan is current and that the purchaser meets the requirements of paragraph (1)(B) of this subsection, the holder shall approve the assumption of the loan, and the transferor shall be relieved of all liability to the Administrator with respect to such loan.

"(ii) If the Administrator determines under subparagraph (A) of this paragraph that the purchaser does not meet the requirements of paragraph (1)(B) of this subsection, the Administrator may direct the holder to approve the assumption of the loan if—

"(I) the Administrator determines that the transferor of the property is unable to make payments on the loan and has made reasonable efforts to find a buyer who meets the requirements of paragraph (1)(B) of this subsection and that, as a result, the proposed transfer is in the best interests of the Veterans' Administration and the transferor;

"(II) the transferor has requested, within 15 days after receiving the notice referred to in subparagraph (A) of this paragraph, that the Administrator approve the assumption; and

"(III) the transferor will, upon assumption of the loan by the purchaser, be secondarily liable on the loan.

"(C) If—

"(i) the loan is not approved for assumption under subparagraph (B) of this paragraph or paragraph (1) of this subsection; or

"(ii) no appeal is made by the transferor under subparagraph (A) of this paragraph within 30 days after the holder informs the transferor of its determination under paragraph (3) of this subsection,

the holder may demand immediate, full payment of the principal, and all interest earned thereon, of such loan if the transferor disposes of the property.

"(b) If a person disposes of residential property described in subsection (a)(1) of this section and the person fails to notify the holder of the loan before the property is disposed of, the holder, upon learning of such action by the person, may demand immediate and full payment of the principal, interest, and all other amounts owing under the terms of the loan.

"(c)(1) In any case in which the holder of a loan described in subsection (a)(1) of this section has knowledge of a person's disposing of residential property securing the loan, the holder shall notify the Administrator of such action.

"(2) If the holder fails to notify the Administrator in such a case, the holder shall be liable to the Administrator for any damage sustained by the Administrator as a result of the holder's failure, as determined at the time the Administrator is required to make payments in accordance with any insurance or guaranty provided by the Administrator with respect to the loan concerned.

"(d) The Administrator shall provide that the mortgage or deed of trust and any other instrument evidencing the loan entered into by a person with respect to a loan guaranteed, insured, or made under this chapter shall contain provisions, in such form as the Administrator shall specify, implementing the requirements of this section, and shall bear in conspicuous position in capital letters on the first page of the document in type at least 2 and ½ times larger than the regular type on such page the following: 'This loan is not assumable without the approval of the Veterans' Administration or its authorized agent.'.

Regulations.

"(e) The Administrator shall establish in regulations a reasonable amount as the maximum amount that a lender may charge for processing an application for a creditworthiness determination and assumption of a loan pursuant to this section. Such regulations shall establish requirements for the timely processing of applications for acceptance of assumptions.

"(f) This section shall apply only to loans for which commitments are made on or after March 1, 1988.".

(2) Section 1817 is amended by adding at the end the following new subsection:

"(c) This section shall apply only to loans for which commitments are made before March 1, 1988.".

(3) The table of sections for chapter 37 is amended by inserting after the item for section 1817 the following new item:

"1817A. Assumptions; release from liability.".

(b) Protection Against Transfers to Persons Not Creditworthy.—Section 1804 is amended by adding at the end the following new subsection:

"(f) Any housing loan which is financed through the assistance of this chapter and to which section 1817A of this chapter applies shall include a provision that the loan is immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to such section 1817A.".

(c) Loan Fee.—Section 1829 is amended by adding at the end the following new subsection:

"(d) Except as provided in subsection (b) of this section, a fee shall be collected from a person assuming a loan to which section 1817A of this chapter applies. The amount of the fee shall be equal to one-half of one percent of the balance of such loan on the date of the transfer of the property.".

SEC. 11. APPRAISALS.

(a) QUALIFICATIONS OF APPRAISERS.—(1) Section 1831(a)(1) is amended—

(A) by striking out "(1)" and inserting in lieu thereof "(1) subject to subsection (b)(2) and"; and

(B) by inserting before the semicolon at the end the following: ", including the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers".

(2) Section 1831(b) is amended—

(A) by striking out "(b)" and inserting in lieu thereof "(b)(1)"; and

(B) by adding at the end the following new paragraph:

"(2) If uniform qualifications become applicable for appraisers who perform appraisals for or in connection with the Federal Government, the qualifications required by subsection (a)(1) of this section may be more stringent than such uniform qualifications, but the Administrator may use no written test in determining the qualifications of appraisers other than the test prescribed to implement such uniform qualifications.".

(b) REVIEW OF APPRAISALS.—Section 1831 is amended—

Reports.

(1) in subsection (c), by striking out "The Administrator shall, upon request," and inserting in lieu thereof "Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Administrator for review. Upon receipt of such report, the Administrator shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Administrator shall";

(2) in subsection (d), by inserting "(other than a lender authorized under subsection (f) of this section to determine reasonable value)" after "lender"; and

(3) by adding at the end the following new subsection:

"(f)(1) Subject to the provisions of paragraphs (2) and (3) of this subsection, the Administrator may, in accordance with standards and procedures established in regulations prescribed by the Administrator, authorize a lender to determine the reasonable value of property for the purposes of this chapter if the lender is authorized to make loans which are automatically guaranteed under section 1802(d) of this title. In such a case, the appraiser selected by the Administrator pursuant to subsection (b) of this section shall submit the appraisal report directly to the lender for review, and the lender shall, as soon as possible thereafter, furnish a copy of the appraisal to the veteran who is applying for the loan concerned and to the Administrator.

Reports.

"(2) In exercising the authority provided in paragraph (1) of this subsection, the Administrator shall assign a sufficient number of personnel to carry out an appraisal-review system to monitor, on at least a random-sampling basis, the making of appraisals by appraisers and the effectiveness and the efficiency of the determination of reasonable value of property by lenders.

Termination date.

"(3) The authority provided in this subsection shall terminate on October 1, 1990.".

(b) Conforming Amendment.—Section 1810(b) is amended—

(1) in paragraph (5), by striking out "by the Administrator" and inserting in lieu thereof "pursuant to section 1831 of this title"; and

(2) by striking out the final sentence.

SEC. 12. SEQUESTRATION EXEMPTION.

(a) In General.—Section 113 is amended—

(1) in subsection (a), by adding at the end the following new clause:

"(6) Benefits under subchapters I, II, and III of chapter 37 of this title, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans.";

(2)(A) by striking out subsection (e); and

(B) by redesignating subsections (f) and (g) as (e) and (f), respectively; and

(3) in subsection (c)(2), by striking out "34, or 36" and inserting in lieu thereof "31, 34, 35, or 36".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on November 19, 1987.

38 USC 113 note.

SEC. 13. DETERMINATION OF MINIMUM RESIDUAL INCOME.

Paragraph (3) of section 1810(g) is amended by adding at the end the following new sentence: "If the procedures described in clause (C) of this paragraph include standards for evaluating residual income, the Administrator shall, in establishing such standards, give appropriate consideration to State statistics (in States as to which the Administrator determines that such statistics are reliable) pertinent to residual income and the cost of living in the State in question rather than in a larger region.".

SEC. 14 MARKETING VETERANS' ADMINISTRATION-ACQUIRED PROPERTIES.

Section 1832 is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsection:

"(b) For the purpose of facilitating the most expeditious sale, at the highest possible price, of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter, the Administrator shall list all such property with real estate brokers under such arrangements as the Administrator determines to be most appropriate and cost effective.".

Approved December 21, 1987.

LEGISLATIVE HISTORY—H.R. 2672 (S. 1801):

HOUSE REPORT: No. 100-257 (Comm. on Veterans' Affairs).
SENATE REPORT: No. 100-204 accompanying S. 1801 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 3, considered and passed House.
Oct. 30, considered and passed Senate, amended, in lieu of S. 1801.
Nov. 17, House concurred in Senate amendments with amendments.
Dec. 4, Senate concurred in House amendments.

Public Law 100-199
100th Congress

Joint Resolution

Dec. 21, 1987
[H.J. Res. 426]

Authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, during the remainder of the first session of the One Hundredth Congress, the provisions of sections 106 and 107 of title 1, United States Code, with respect to the printing (on parchment or otherwise) of the enrollment of the bill H.R. 3545 of the One Hundredth Congress (or any other bill providing for reconciliation pursuant to the concurrent resolution on the budget for fiscal year 1988) and of the joint resolution H.J. Res. 395 of the One Hundredth Congress (or any other joint resolution making continuing appropriations for fiscal year 1988) are waived, and the enrollment of any such bill or joint resolution shall be in such form as the Committee on House Administration certifies to be a true enrollment.

Approved December 21, 1987.

LEGISLATIVE HISTORY—H.J. Res. 426:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 16, considered and passed House.
Dec. 17, considered and passed Senate.

○

Public Law 100-200
100th Congress

Joint Resolution

To provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

Dec. 21, 1987
[H.J. Res. 427]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That each provision of law amended by Public Law 100-179 is amended by striking "December 16, 1987" each place it appears and inserting "March 15, 1988".

Ante, p. 1018.

Approved December 21, 1987.

LEGISLATIVE HISTORY—H.J. Res. 427:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 16, considered and passed House.
Dec. 17, considered and passed Senate.

○

Public Law 100-201
100th Congress

An Act

Dec. 22, 1987
[H.R. 2325]

To authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas.

16 USC 157d.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the boundaries of Big Bend National Park, established by the Act of June 20, 1935 (16 U.S.C. 156), are hereby revised to include the lands and interests therein, together with all improvements thereon, within the area comprising approximately sixty-seven thousand one hundred and twenty-five acres as generally depicted on the map entitled "Harte Ranch Addition, Big Bend National Park", numbered 155/80,044 and dated September 1987. Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to acquire lands and interests therein, together with all improvements thereon, within the addition described in such map by donation, purchase with donated or appropriated funds, or exchange.

Public information.

Approved December 22, 1987.

LEGISLATIVE HISTORY—H.R. 2325:

HOUSE REPORTS: No. 100-341 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-249 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 5, considered and passed House.
Dec. 11, considered and passed Senate.

○

19-139 O - 88 (201)

*Public Law 100-202
100th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 1988, and for other purposes.

Dec. 22, 1987
[H.J. Res. 395]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. Because the spending levels included in this Resolution achieve the deficit reduction targets of the Economic Summit, sequestration is no longer necessary. Therefore: 2 USC 902 note.

(a) Upon the enactment of this Resolution the orders issued by the President on October 20, 1987, and November 20, 1987, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, are hereby rescinded.

(b) Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

[1] SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

ENROLLMENT ERRATA

Pursuant to the provisions of section 101(n) of this joint resolution (appearing on 101 Stat. 1329-432 changes made are indicated by footnote.

The words "Government", when referring to the Government of the United States will be capitalized, "Act", if referring to an action of the Congress of the United States, will be capitalized, "State", when referring to a State of the United States will be capitalized, "title" and "section" will be lower case, when referring to the United States Code or a Federal law. The capitalization of the foregoing words may be changed, and not footnoted.

---

[1] Copy read "(a) Such amounts".

*Note: For information on the printing of this law and a related Presidential memorandum, see the editorial note at the end.

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988.
Department of Commerce Appropriations Act, 1988.

AN ACT

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—DEPARTMENT OF COMMERCE

General Administration

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, $39,204,000: *Provided*, That $250,000 for establishing a clearinghouse on State and local initiatives on productivity, technology and innovation shall be available subject to enactment of authorizing legislation.

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $94,835,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $346,444,000.

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, $32,079,000.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $182,028,000 of which:

(a) $3,000,000 is for a grant to the Institute for Technology Development, Jackson, Mississippi;

(b) $2,500,000 is for a grant to the University of Bridgeport, in Bridgeport, Connecticut to assist in the construction and instrumentation of the Connecticut Technology Institute;

(c) $1,000,000 is for a grant to the city of Worcester, Massachusetts and the Worcester Business Development Corporation to assist in the construction of a biotechnology research park in Worcester, Massachusetts: *Provided*, That notwithstanding any other provision of law or regulation, including title I of the Public Works and Economic Development Act of 1965, as amended, except the following provisions; section 712 of said

Act, the Secretary of Commerce is hereby directed to obligate said funds as a direct grant without any further requirement or delay upon enactment of this legislation; and

(d) $250,000 shall be obligated for the Center for International Trade Development at Oklahoma State University:

Provided, That during fiscal year 1988 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration.

FINANCIAL AND TECHNICAL ASSISTANCE

(RESCISSION)

Of available funds under this head, $1,541,067 are rescinded.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $24,742,000: *Provided*, That the full time permanent positions for the Economic Development Administration shall not be fewer than 360 and that the number of Deputy Assistant Secretary positions shall not be greater than four: *Provided further*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1988, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and when possible, with those employees who filled those positions on that date.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $253,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $161,432,000 to remain available until expended, of which $6,791,000 is for the Office of Textiles and Apparels, including $3,360,000 for a grant to the Tailored Clothing Technology Corporation and of which $3,840,000 is for support costs for a new materials center in Ames, Iowa: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further*, That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight.

19 USC 2171 note.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $5,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $37,465,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,705,000, of which $25,463,000 shall remain available until expended: *Provided*, That not to exceed $14,242,000 shall be available for program management for fiscal year 1988: *Provided further*, That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $8,000 for representation expenses abroad; $11,724,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; $1,110,015,000, to remain available until expended; and in addition, $28,291,000 shall be derived from the Airport and Airways Trust Fund; and in addition, $44,397,000 shall be derived by transfer from the Fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $15,248,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided,* That grants to States pursuant to section 306 and section 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further,* That $376,000 of the funds made available under this paragraph shall be used for a semi-tropical research facility located at Key Largo, Florida: *Provided further,* That of the funds appropriated in this paragraph, necessary funds shall be used to fill and maintain a staff of three persons, as National Oceanic and Atmospheric Administration personnel, to work on contracts and purchase orders at the National Data Buoy Center in Bay St. Louis, Mississippi, and report to the Director of the National Data Buoy Center in the same manner and extent that such procurement functions were performed at Bay St. Louis prior to June 26, 1983, except that they may provide procurement assistance to other Department of Commerce

33 USC 851.

activities pursuant to ordinary interagency agreements. Where practicable, these positions shall be filled by the employees who performed such functions prior to June 26, 1983.

No monies appropriated by this Act shall be used by the Department of Commerce prior to February 1, 1988, to initiate proceedings under section 312 (d) and (e) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) against the State of California's Coastal Management Program. Further, the Secretary of Commerce is directed to release to the California Coastal Commission the fiscal year 1987 administrative grant for operations and equipment authorized under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

Notwithstanding the provisions of Public Law 100-71, any funds appropriated in prior Acts and unobligated for the commercialization of the Land Remote Sensing Satellite System (LANDSAT) as of the date of enactment of House Joint Resolution 395, shall be available to restore the reductions in other programs funded in "Operations, Research, and Facilities" which were made pursuant to the conference report and accompanying statement of the managers on House Joint Resolution 395, if a new contract has not been signed by April 1, 1988 for commercialization of the Land Remote Sensing Satellite System (LANDSAT): *Provided,* That such contract shall be subject to the approval of the Appropriations Committees of the Congress pursuant to the reprogramming provisions of section 608 of this Act.

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, $2,625,000 shall be made available as authorized by said Act, to remain available until expended, and $375,000 shall be transferred to the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries".

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $719,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,919,000, to remain available until expended.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, $120,000,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, $144,783,000, to remain available until expended, of which not to exceed $4,920,000 may be transferred to the "Working Capital Fund", and of which not to exceed $1,000,000 shall be available for construction of research facilities.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $13,814,000, of which $700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $21,290,000, to remain available until expended: *Provided,* That not to exceed $1,200,000 shall be available for program management as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further,* That notwithstanding sections 391 and 392 of the Communications Act, as amended, up to $1,700,000 shall be available for the establishment and administration of the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT).

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advance payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the

Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

SEC. 104. During the current fiscal year, the National Bureau of Standards is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

SEC. 105. In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multi-year contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriation Acts.

19 USC 2347 note.

SEC. 106. Notwithstanding any other provision of law, including section 257(c) of the Trade Act of 1974, as amended, and section 203 of the Public Works and Economic Development Act of 1965, as amended, principal and interest repayments from loans, proceeds from the sale of loan assets or collateral, and other receipts arising out of transactions entered into pursuant to title II, chapter 3 of the Trade Act of 1974 shall be deposited into the economic development revolving fund established under section 203 of the Public Works and Economic Development Act of 1965 beginning October 1, 1987: *Provided,* That payments of obligations in connection with loans guaranteed under the authority of the Trade Act of 1974 or the Public Works and Economic Development Act of 1965, and any related expenses, shall be made from funds available in the economic development revolving fund: *Provided further,* That deposits to the economic development revolving fund of amounts appropriated for, or received in connection with, activities authorized under the Trade Act of 1974, made prior to October 1, 1987, shall be deemed valid deposits.

SEC. 107. Notwithstanding any other provision of law, the Secretary of Commerce is authorized to negotiate and conclude an agreement to exchange properties with the necessary private and public parties for the purpose of expanding the National Oceanic and Atmospheric Administration marine facility at Pascagoula, Mississippi.

15 USC 1531.

SEC. 108. In order to maintain overseas program activity for the Department of Commerce provided for each fiscal year at the appropriated program levels, the Secretary may establish Buying Power Maintenance accounts for the International Trade Administration, the Export Administration, and the United States Travel and Tourism Administration. There are authorized to be appropriated for such accounts such sums as may be necessary to offset adverse fluctuations in foreign currency exchange rates, or unbudgeted overseas wage and price changes. To eliminate substantial gains to the approved levels of overseas operations, the Secretary shall transfer to a Buying Power Maintenance account such amounts determined to be excessive to the needs of the approved level of overseas operations because of fluctuations in foreign currency exchange rates or changes in unbudgeted overseas wages and prices, including unobligated balances associated with the overseas program. To offset adverse fluctuations in foreign currency exchange rates or unbudgeted overseas wage and price changes, the Secretary may transfer from a Buying Power Maintenance account such amounts determined to be necessary to maintain the approved level of overseas operations under an appropriation account. Funds transferred by the Secretary to or from a Buying Power Maintenance account to another account shall be merged with and be available for the same purpose, and for the same time period, as the funds in the account into which transferred. Any restriction contained in an appropriation Act or other provision of law limiting the amounts available for the Department of Commerce that may be obligated or expended shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctuations in foreign currency exchange rates or unbudgeted overseas wage and price changes in order to maintain approved levels.

This title may be cited as the "Department of Commerce Appropriation Act, 1988".

TITLE II—DEPARTMENT OF JUSTICE

Department of Justice Appropriation Act of 1988.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $88,360,000.

WORKING CAPITAL FUND

For additional capital, not to exceed $4,000,000, to remain available until expended, to be derived from current operating income.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $11,665,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $237,209,000, of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1989: *Provided,* That of the funds available in this appropriation, not to exceed $5,000,000 shall be available for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through Salaries and expenses, General Administration, to remain available until expended: *Provided further,* That of the funds appropriated to the Department of Justice in this Act, not to exceed

$1,000,000 may be transferred to this appropriation to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq., upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds: *Provided further*, That a permanent indefinite appropriation is established within the Department of Justice to pay all necessary expenses of investigations and prosecutions by independent counsel appointed pursuant to the provisions of 28 U.S.C. 591 et seq. or other law: *Provided further*, That the Comptroller General shall perform semiannual financial reviews of expenditures from the Independent Counsel permanent indefinite appropriation, and report their findings to the Committees on Appropriations of the House and Senate: *Provided further*, That not to exceed $5,000,000 may be transferred to "Salaries and expenses, general legal activities" from "Fees and expenses of witnesses": *Provided further*, That the Chief, U.S. National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit not more than $150,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.

28 USC 591 note.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $44,937,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $380,339,000.

UNITED STATES TRUSTEES SYSTEM FUND

For the necessary expenses of the United States Trustees Program, $29,370,000, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): *Provided*, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That the Attorney General may credit to this appropriation not more than $18,000,000 of fees available pursuant to 28 U.S.C. 589(a).

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other

Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $500,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $183,168,000: *Provided*, That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the United States Marshals Service may collect fees and expenses for the service of civil process, including: complaints, summonses, subpoenas and similar process; and seizures, levies, and sales associated with judicial orders of execution; and credit not to exceed $1,000,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $73,746,000, which shall remain available until expended; of which not to exceed $5,000,000 shall be available under the Cooperative Agreement Program for the purposes of renovating, constructing, and equipping State and local correctional facilities: *Provided*, That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further*, That following agreement on or completion of any federally assisted correctional facility construction, the availability of the space acquired for Federal prisoners with these Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; $53,015,000, to remain available until expended, of which not to exceed $1,350,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $27,858,000, of which not to exceed $20,667,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided*, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of

1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forfeiture Act of 1984 and the Anti-Drug Abuse Act of 1986, such sums as may be necessary to be derived from the Department of Justice Assets Forfeiture Fund: *Provided*, That not to exceed 50 per centum of total amounts available for appropriation in fiscal year 1988 from the Department of Justice Assets Forfeiture Fund shall be obligated during fiscal year 1988 for payments pursuant to section 524(c)(1) of title 28, United States Code: *Provided further*, That such limitation shall not apply to funds transferred pursuant to section 210 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,000 passenger motor vehicles of which 1,650 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,388,492,000, of which not to exceed $10,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1989; of which not to exceed $3,000,000 for research related to investigative activities shall remain available until expended; of which not to exceed $13,000,000 for the construction of the Engineering Research Facility shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism: *Provided*, That the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further*, That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $8,000,000 for the expansion and renovation of the New York field office shall remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed 525 passenger motor vehicles of which 489 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $494,076,000, of which not to exceed $1,200,000 for research shall remain available until expended; not to exceed $1,700,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical equipment shall remain available until September 30, 1989.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 1,670, of which 490 shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $741,114,000, of which not to exceed $400,000 for research and $35,000,000 for construction shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds available to the Immigration and Naturalization Service shall be available to administer or implement a nationwide employer telephone verification system unless the Commissioner of Immigration and Naturalization procures such system through sealed bid or competitive proposal procedures, except that this proviso shall not affect the pilot project directed in section 101(d)(4) of the Immigration Reform and Control Act of 1986, Public Law 99-603: *Provided further,* That effective February 28, 1988, none of the funds appropriated herein shall be available to detain aliens convicted of a felony under State or Federal law at the Krome processing center unless such center has been designated a security level 3 or higher level correctional facility.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 142 of which 106 are for replacement only) and hire of law enforcement and passenger motor vehicles;

42 USC 250a.

$719,814,000: *Provided*, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $9,590,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $201,676,000 to remain available until expended: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,347,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $7,571,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, Runaway Youth and Missing Children Act Amendments of 1984, and the Missing Children Assistance Act including salaries and expenses in connection therewith, $87,383,000 to remain available until expended, of which $5,000,000 is provided for programs authorized under part E of the Justice Assistance Act of 1984, notwithstanding the provisions of section 407 of such Act, including $1,000,000 for a grant to assist in the construction of a consolidated judicial center in Owensboro, Kentucky, and including $1,025,000 for a grant to the town of Alderson, West Virginia, to assist in the expansion of the municipal water treatment system serving the Federal Correctional Institution at Alderson, West Virginia: *Provided*, That of the unobligated funds previously appropriated for the Juvenile Justice and Delinquency Prevention Act which are subject to provisions of sections 222(b), 223(d), and 228(e) of title II of such Act, $3,000,000 to remain available until expended, shall be made available for programs authorized by part E of the Justice Assistance Act of 1984, notwithstanding the provisions of section 407 of such Act. In addition, for grants as authorized by the State and Local Law Enforcement Assistance Act of 1986 (Public Law 99-570, 100 Stat. 3207-42 to 3207-48), including salaries and expenses in connection therewith, $70,000,000 to remain available until expended: *Provided further*,[2] That the Director, Bureau of Justice Assistance may increase the limitation, not to exceed 20 per centum, on administrative costs pursuant to 42 U.S.C. 3796n upon notification to the Director by States unable to comply with the limitation. In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $66,692,000 to remain available until expended, of which not less than $3,000,000 shall be allotted under subpart II of part B of the Act to assist those States deemed not in substantial compliance with the jail removal mandate found in section 224(a)(14) of the Act. In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1987 through September 30, 1988, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided further*,[2] That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1988, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further*, That the Attorney General, not later than April 1, 1988, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further*, That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

Federal Register, publication.

---

[2] Copy read "*Provided*."

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

23 USC 114 note.

SEC. 202. Notwithstanding any other provision of law, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

SEC. 203. Appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1988, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the

United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

28 USC 533 note.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1988—

(i) submit the results of such audit in writing to the Attorney General, and

Reports.

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

Reports.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operations, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

28 USC 533 note.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are conducted, or

(ii) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 205. None of the funds appropriated or made available by this Act shall be used prior to October 1, 1988, to issue or implement any final rule in the rulemaking proceeding commenced August 8, 1986 (51 Fed. Reg. 28576-28589).

SEC. 206. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided,* That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 207. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 208. Nothing in the preceding section shall remove the obligation of the director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 207 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 209. Notwithstanding subsections (c) and (d) of section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633), the Administrator of the Office of Juvenile Justice and Delinquency Prevention may not—

(1) terminate any State's eligibility for funding under subpart I of part B of title II of such Act, or

(2) determine that the State's plan fails to meet the requirements of such section,

for fiscal year 1988 because of the failure of such State to comply with the requirements of section 223(a)(14) of such Act before such fiscal year.

SEC. 210. (a) Section 524(c)(1) of title 28 of the United States Code is amended by deleting "and" at the end of subparagraph (F), by striking out the period at the end of (G) and inserting in lieu thereof "; and" and, by inserting the following new subparagraph:

"(H) after all reimbursements and program-related expenses have been met at the end of each fiscal year, the Attorney General may transfer deposits from the Assets Forfeiture Fund to the Building and Facilities account of the Federal prison system for the construction of correctional institutions.".

28 USC 524 note.

(b) Amounts proposed for transfer pursuant to subsection (a) shall be transferred only upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds.

8 USC 1160.

SEC. 211. Section 210(d) of the Immigration and Nationality Act is amended by inserting the following new paragraph:

"(3) No application fees collected by the Immigration and Naturalization Service (INS) pursuant to section 210(d) of the Immigration and Nationality Act (INA) may be used by the INS to offset the costs of the special agricultural worker legalization program until the INS implements the program consistent with the statutory mandate as follows:

"(A) During the application period as defined in section 210(a)(1)(A) of the INA the INS may grant temporary admission to the United States, work authorization, and provide an 'employment authorized' [3] endorsement or other appropriate work permit to any alien who presents a preliminary application for adjustment of status under subsection (a) at a designated port of entry on the southern land border. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in the INA.

"(B) During the application period as defined in section 210(a)(B)(1)(B) of the INA any alien [4] who has filed an application for adjustment of status within the United States as provided in section 210(b)(1)(A) pursuant to the provision of 8 CFR section 210.1(j) is subject to paragraph (2) of this subsection.

---

[3] Copy read " "employment authorized' ".

[4] Copy read "alient".

[5] "(C) A preliminary application is defined as a fully completed and signed application with fee and photographs which contains specific information concerning the performance of qualifying employment in the United States and the documentary evidence which the applicant intends to submit as proof of such employment. The applicant must be otherwise admissible to the United States and must establish to the satisfaction of the examining officer during an interview that his or her claim to eligibility for special agriculture worker status is credible.".

This title may be cited as the "Department of Justice Appropriation Act, 1988".

Department of State Appropriation Act, 1988.

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

Notwithstanding sections 110 and 122 of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989) [6] for necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945), expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad, including not to exceed $7,000,000 for counterterrorism research and development; permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; $1,694,000,000: *Provided*, That none of these funds shall be available for the Office of Public Diplomacy for Latin America and the Caribbean.

REPRESENTATION ALLOWANCES

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and the Organization of American States, $4,500,000.

---

[5] Copy read "(C)".

[6] Copy read "1989 for".

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,000,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), $313,100,000, to remain available until expended: *Provided*, That the funds appropriated in this paragraph shall be available subject to the approval of the House and Senate Committees on Appropriations under said Committees' policies concerning the reprogramming of funds contained in House Report 100-182: *Provided further*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,000,000, to remain available until expended.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $11,000,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $86,000,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

22 USC 269a note.

Notwithstanding section 102(a) (1) through (11) of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989), for expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $480,000,000, to remain available until expended: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, $29,400,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations, and personal services without regard to civil service and classification laws, $6,000,000, to remain available until expended, of which not to exceed $200,000 may be expended for representation as authorized by law.

International Commissions

22 USC 269a note.

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the United States and Mexico International Boundary and Water Commission, and to comply with laws applicable to the United States Section; and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, operation and maintenance of the interceptor system to be constructed to intercept sewage flows from Tijuana and from selected canyon areas as currently planned, and the operation and maintenance upon completion of the proposed Environmental Protection Agency and Corps of Engineers pipeline and plant project to capture Tijuana sewage flows in the event of a major breakdown in Mexico's conveyance system, $10,261,000: *Provided*, That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89): *Provided further*, That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State: *Provided further*, That not to exceed $500,000 of the amount appropriated in this paragraph shall be available to reimburse the city of San Diego, in the State of California, for expenses incurred in treating domestic sewage received from the city of Tijuana, in the State of Baja California, Mexico.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For detailed plan preparation and construction of authorized projects, including the Rio Grande Rectification Improvement project, to remain available until expended, $3,166,000: *Provided,* That activities for the New River project may be financed from these funds or from carryover balances under the heading, "International Boundary and Water Commission, United States and Mexico, Construction".

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 for necessary expenses, not otherwise provided for, including not to exceed $6,000 for representation, $4,316,000; for the International Joint Commission, including salaries and expenses of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses; and the International Boundary Commission, for necessary expenses, not otherwise provided for, including expenses required by awards to the Alaskan Boundary Tribunal and existing treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, $10,548,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For expenses, not otherwise provided for, to enable the United States to participate in programs of scientific and technological cooperation with Yugoslavia, $1,900,000, to remain available until expended.

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $13,700,000, to remain available until expended.

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses not otherwise provided to enable the Secretary of State to reimburse private firms and American institutions of higher education for research contracts and graduate training for development and maintenance of knowledge about the Soviet Union and Eastern European countries, $4,600,000.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $1,725,000 to be derived from the receipts collected pursuant to that Act, to remain available until expended.

FISHERMEN'S PROTECTIVE FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $959,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter [7] 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger or freight transportation.

Reports.
22 USC 4851 note.

SEC. 302. The Secretary of State shall report to the appropriate committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month beginning January 1, 1988.

22 USC 276 note.

SEC. 303. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a total of $290,000 for each fiscal year to carry out (in accordance with the respective authorization amounts) paragraph (2) of the first section of Public Law 74-170, section 2(2) of Public Law 84-689, section 2 of Public Law 86-42, and section 2 of Public Law 86-420. These funds may be disbursed to each delegation, pursuant to vouchers in accordance with the applicable provisions of law, at any time requested by the Chairman of the delegation after that fiscal year begins. Section 2 of Public Law 84-689 is amended by striking out "annually," and inserting in lieu thereof "annually (1)", by striking out "$50,000, $25,000" and inserting in lieu thereof "(2) $100,000, $50,000", and by striking out "and $25,000" and inserting in lieu thereof "and $50,000".

22 USC 1928b.

SEC. 304. The Secretary of State shall not permit the Soviet Union to occupy the new chancery building at its new embassy complex in Washington D.C. or any other new facility in the Washington, D.C. metropolitan area, until a new chancery building is ready for occupancy for the United States embassy in Moscow: *Provided*, That none of the funds appropriated in this Act or any prior Act may be obligated for the new office building in Moscow except for engineering and technical studies prior to October 1, 1988.

22 USC 1461 note, 2656 note.

SEC. 305. The following sections of H.R. 1777 (the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989) are waived during Fiscal Years 1988 and 1989 in the event that H.R. 1777 is enacted into law: Sec. 122, Sec. 151, and Sec. 204.

This title may be cited as the "Department of State Appropriation Act, 1988".

---

[7] Copy read "subchapters".

TITLE IV—THE JUDICIARY

The Judiciary Appropriation Act, 1988.

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice and not to exceed $10,000 for the purpose of transporting Associate Justices, hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $15,247,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, and for security installations both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); $2,110,000, of which $75,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, $7,430,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; $7,768,000: *Provided*, That travel expenses of judges of the Court of International Trade shall be paid upon written certificate of the judge.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and all necessary expenses of the courts, including the purchase of firearms and ammunition, $1,081,447,000: *Provided*, That, of the total amount appropriated, $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions: *Provided further*, That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship, exclusive of the seven attorneys assigned preargument conference duties: *Provided further*, That such sums as may be available in the fund established pursuant to 28 U.S.C. 1931 may be credited to this appropriation.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by law; $85,100,000 to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses and refreshments of jurors; compensation of jury commissioners; and compensation of commissioners appointed in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure; $43,135,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; $40,853,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, hire of a passenger motor vehicle, and rent in the District of Columbia and elsewhere, $31,167,000, of which an amount not to exceed $5,000 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $10,548,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $5,129,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. The position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Director of the Administrative Office of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1988.

Termination date.

SEC. 405. Such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

28 USC 461 note.

SEC. 406. Pursuant to section 140 of Public Law 97-92, during fiscal year 1988, justices and judges of the United States shall receive the same percentage increase in salary accorded to employees paid under the General Schedule (pursuant to 5 U.S.C. 5305).

SEC. 407. Section 1344(b)(1) of title 31, United States Code, is amended by inserting—

> "(2) The Chief Justice and Associate Justices of the Supreme Court;" and redesignating subsections (2) and (3) as subsections (3) and (4), respectively.

SEC. 408. (a) Section 153(a) of title 28, United States Code, is amended to read as follows:

"(a) Each bankruptcy judge shall serve on a full-time basis and shall receive as full compensation for his services, a salary at an annual rate that is equal to 92 percent of the salary of a judge of the district court of the United States as determined pursuant to section 135, to be paid at such times as the Judicial Conference of the United States determines.".

(b) Section 634(a) of title 28, United States Code, is amended by amending the first sentence to read as follows:

"(a) Officers appointed under this chapter shall receive, as full compensation for their services, salaries to be fixed by the conference pursuant to section 633, at rates for full-time United States magistrates up to an annual rate equal to 92 percent of the salary of a judge of the district court of the United States, as determined pursuant to section 135, and at rates for part-time magistrates of not less than an annual salary of $100, nor more than one-half the maximum salary payable to a full-time magistrate.".

(c) Section 225(C) of the Federal Salary Act of 1967 (2 U.S.C. 356(c)) is amended by striking out "and magistrates and" and inserting in lieu thereof "except bankruptcy judges, but including".

Effective date.
28 USC 153 note.

(d) This section shall become effective October 1, 1988, and any salary affected by the provisions of this section shall be adjusted at the beginning of the first applicable pay period commencing on or after such date of enactment.

Sec. 409. Section 603 of title 28, United States Code, is amended by striking the second sentence and inserting in lieu thereof the following: "The salaries of the Deputy Director and of three additional positions shall be [8] fixed by the Director at rates not to exceed the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5.".

This title may be cited as "The Judiciary Appropriation Act, 1988".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

Maritime Administration

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $250,300,000, to remain available until expended.

OCEAN FREIGHT DIFFERENTIAL

46 USC app
1241h note.

Such sums as may be necessary for fiscal year 1988 and thereafter are hereby appropriated to liquidate debt and pay interest due to the Secretary of the Treasury, as required by section 901d, Merchant Marine Act, 1936.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $75,521,000, to remain available until expended: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program: *Provided further,* That in addition to any amount heretofore appropriated, $10,000,000 of the funds appropriated in this paragraph shall be available for the activation and conversion costs of a training vessel for the State University of New York Maritime College: *Provided further,* That the second sentence of the paragraph under this heading in chapter II of title I of the Act of August 22, 1984 (98 Stat. 1372), is amended by deleting "preconversion" and inserting in lieu thereof "activation and conversion", by inserting a period after the word "expended", and by deleting the remainder of the sentence: *Provided further,* That hereafter such training vessel shall be subject to a plan for sharing training vessels approved by the Secretary of Transportation, if such plan is deemed necessary: *Provided further,* That hereafter no funds shall be appropriated for the purchase or construction of training vessels for State maritime academies unless a plan for sharing training vessels between State maritime academies has been approved by the Maritime Administration.

---

[8] Copy read "shall be be fixed".

46 USC app 1295c-1.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $48,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $30,100,000 of which $2,600,000 shall be transferred to the Department of Energy for the Reduced Enrichment in Research and Test Reactor Program.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $185,000,000, of which $20,000,000, to remain available until expended, shall become available for expenditure on October 1, 1988, and of which not to exceed $52,000 may be made available for official reception and representation expenses.

ISRAEL RADIO RELAY STATION

There is hereby appropriated the sum of $34,000,000, to remain available until expended, to the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to begin implementation of the agreement signed on June 18, 1987, between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission, $212,000, to remain available until November 15, 1992.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $16,000,000 to remain available until expended, of which $6,250,000 is for carrying out the provisions of Public Law 99-194, including $2,850,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $3,400,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act, and in addition, $1,000,000 to remain available until expended, is provided for a grant to the National Trust for Historic Preservation for the purpose of making urgently needed repairs necessary to preserve James Madison's Montpelier from the threat of destruction by fire and structural deterioration, and provide for necessary public health and safety, and in addition, $1,000,000 is provided for a grant to the We The People 200 Committee: *Provided*, That not to exceed a total of $1,250,000 from appropriations provided to the Commission on the Bicentennial of the United States Constitution for fiscal years 1985 through 1988 is available for educational programs about the Constitution and the Bill of Rights below the university level not provided for elsewhere in this Act: *Provided further*, That until the Board of Trustees of the James Madison Memorial Fellowship Foundation is appointed, the Commission on the Bicentennial of the United States Constitution is authorized to receive, review and certify for payment the applications for grants of endowment funds for the establishment of Constitutional Law Resource Centers as provided and appropriated under the James Madison Memorial Fellowship Act, title VIII, sections 817 and 818, Public Law 99-500 and Public Law 99-591; and the authority to make grants to carry out an educational program for the Commemo-

20 USC 4516 note.

ration of the Bicentennial of the Constitution of the United States and the Bill of Rights, enacted under title V, section 501 of Public Law 99-194, is amended by (i) striking the period at the end of section 501(a)(2)(B), inserting a semicolon and the word "and", and (ii) adding the following: "(C) is authorized to make grants for the establishment of Constitutional Law Resource Centers in accordance with the terms of title VIII, sections 817 and 818 of Public Law 99-500 and Public Law 99-591, and is authorized to make grants to two University Centers in accordance with the terms of Amendment Numbered 70 of Conference Report 99-236 (Public Law 99-88 [99 Stat. 305])."; *Provided further*, That there is hereby appropriated for each recipient University Center named in Amendment Numbered 70 of Conference Report 99-236 (Public Law 99-88 [99 Stat. 305]) an additional $1,500,000 to remain available until expended for the endowment funds created pursuant to such Act and to be used under the same conditions and requirements set forth therein and such Bicentennial Commission or Board of Trustees referred to above is authorized to receive, review and certify for payment the applications for said grants.

99 Stat. 1346.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $5,707,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: *Provided*, That not to exceed $20,000 may be used to employ consultants: *Provided further*, That not to exceed $185,000 may be used to employ temporary or special needs appointees: *Provided further*, That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service, exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: *Provided further*, That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: *Provided further*, That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days: *Provided further*, That the General Accounting Office shall perform a mid-year audit of the Commission to determine compliance with this section and shall report its findings to the Appropriations Committees of the Senate and House of Representatives by June 1, 1988.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $701,000, to remain available until expended: *Provided*, That not to exceed $6,000 of such amount shall be available for official reception and representation expenses.

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99-603, $870,000, to remain available until expended.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $179,812,000: *Provided,* That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR sections 1627.16 (c) (1)-(3)), shall not have effect during fiscal year 1988: *Provided further,* That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses: purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $99,613,000, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1989, for research and policy studies: *Provided,* That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in Statement of Policy on Minority Ownership of Broadcast Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 60 F.C.C. 2d 607 Rev. Bd. (1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86-484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: *Provided further,* That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That none of the funds appropriated by this Act or any other Act may be used to repeal, to retroactively apply changes in, or to begin or continue a re-examination of the rules of the Federal Communications Commission with respect to the common ownership of a daily newspaper and a television station where the grade A contour of the television station encompasses the entire community in which the newspaper is published, or to extend the time period of current grants of temporary waivers to achieve compliance with such rules: *Provided further,* That no funds appropriated to the Federal Communications Commission shall be used prior to March 22, 1988 to accept or grant any applications to construct or operate cellular systems in rural service areas.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $13,585,000: *Provided,* That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; the sum of $66,243,000: *Provided,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $34,750,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,200,000, to remain available until expended; and an amount of

Japanese currency not to exceed the equivalent of $1,700,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: *Provided,* That not to exceed a total of $3,500 of such amounts shall be available for official reception and representation expenses.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $305,500,000 of which $261,294,000 is for basic field programs, $7,022,000 is for Native American programs, $9,698,000 is for migrant programs, $1,100,000 is for law school clinics, $1,000,000 is for supplemental field programs, $624,000 is for regional training centers, $7,228,000 is for national support, $7,843,000 is for State support, $865,000 is for the Clearinghouse, $510,000 is for computer assisted legal research regional centers, and $8,316,000 is for Corporation management and administration: *Provided,* That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of Public Law 99-180 and section 112 of Public Law 99-190: *Provided further,* That the funds distributed to each grantee funded in fiscal year 1988 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1988 at not less than 1 per centum more than the annual level at which each grantee and contractor was funded in fiscal year 1987 or $8.30 per poor person within its geographical area under the 1980 Census, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under the first priority above, falls below $14.56 per poor person within its geographical area under the 1980 census:

Provided further, That if funds become available because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs, to be distributed in the manner specified by this paragraph, if the Appropriations Committees of both Houses of Congress have been notified pursuant to section 608 of this Act: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1988 migrant funds as was used in fiscal year 1987: *Provided further,* That none of the funds appropriated by this Act or prior Acts may be used by an officer, board member, employee or consultant of the Corporation to implement or enforce provisions in the regulation regarding legislative and administrative advocacy and training (Part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds received by a recipient for the provision of legal assistance except to the extent that such restrictions are explicitly authorized by sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the LSC Act: *Provided further,* That the Corporation shall not impose requirements on governing bodies of recipients that are additional to, or more restrictive than, the provisions of Public Law 99-180 and section 1007(c) of the Legal Services [9] Corporation Act including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of, board members and (2) the size, quorum requirements, and committee operations of such governing bodies.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $953,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $15,229,000, of which $1,000,000 shall remain available until expended: *Provided,* That not to exceed $69,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $9,000 for official reception and representation expenses, $135,221,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Association of Securities Commissioners.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses $175,832,000; and for grants for performance in fiscal year 1988 or fiscal year 1989 for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended, $40,000,000: *Provided,* That not more than $350,000 of this amount shall be made available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further,* That none of the funds appropriated or made available by this Act or otherwise appropriated or made available to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648) nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987, unless specifically approved by the Committees on Appropriations under reprogramming procedures; nor may any of such funds be used to restrict in any way the right of association of participants in such program: *Provided further*, That the staffing levels at the Small Business Administration District Office, Clarksburg, West Virginia and the Small Business Administration Branch Office, Charleston, West Virginia, shall be maintained at the same levels that were in place as of August 30, 1987. In addition, $88,228,000 for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund".

---

[9] Copy read "Legal Service".

None of the funds made available under this joint resolution or any subsequent appropriations Act for fiscal year 1988 for the Small Business Administration shall be used to promulgate final regulations adjusting numerical size standards as required by section 921 (f) and (h) of Public Law 99-661 and section 921 (f) and (h) of Public Law 99-591 prior to May 31, 1988.

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $91,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $85,000,000, to remain available without fiscal year limitation.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $9,497,000, to remain available without fiscal year limitation.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,656,000, to remain available without fiscal year limitation.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, $10,980,000, to remain available until expended.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of which $250,000 is to facilitate United States participation in international expositions abroad); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000; $620,347,000, none of which shall be restricted from use for the purposes appropriated herein and of which $36,900,000 shall be available for the Television and Film Service: *Provided*, That not to exceed $1,070,000 may be used for representation abroad: *Provided further*, That not to exceed $14,557,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further*, That not to exceed $500,000 shall remain available until expended, for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of such data processing and administrative services as the Director determines may be performed advantageously and more economically as central services: *Provided further*, That not to exceed $3,650,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion picture, and television programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further*, That the funds appropriated by this paragraph shall be available notwithstanding sections 201(2) and 204 of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989) whenever it or alternative authorization legislation is enacted and notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948, as amended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

Notwithstanding section 301(a) (1) through (7) of H.R. 1777 (the Foreign Relations Authorization Act, fiscal years 1988 and 1989), for expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), $142,310,000: *Provided*, That not less than $540,000 shall be made available to the Institute for Representative Government for a pilot program for exchanges of persons and other exchange-related activities with legislators and legislatures of developing democracies: *Provided further*, That not less than $2,000,000 shall be made available for a grant to the Oregon Historical Society to assist in the establishment of the North Pacific Research Center in Portland, Oregon. For the Private Sector Exchange Programs, $7,730,000 of which $500,000 shall be available only for the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $12,759,000, to remain available until expended, of which not to exceed $100,000 shall be available for the Advisory Board on Radio Broadcasting to Cuba for a feasibility study on television broadcasting to Cuba.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $16,875,000.

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

The United States Information Agency and the Voice of America shall pursue all relevant information relating to the availability of transmitters and antennas, spare parts, and other technical equipment to determine whether such items can be procured at reasonable prices and in a timely manner under all foreseeable circumstances. The agency and the Voice of America shall purchase American-manufactured equipment and materials to the fullest extent reasonably possible under the law in carrying out the facilities modernization program. This provision shall apply to all funds which are obligated for the facilities modernization program during fiscal year 1988. Where a foreign bidder receives any governmental subsidy, the price bid of each foreign bidder shall be increased by the amount of that subsidy as determined by the Department of Commerce for purposes of this procurement.

General Provisions—Related Agencies

Funds appropriated to the United States Information Agency for radio construction and to the Board for International Broadcasting for facility modernization, including for both agencies balances available from prior years, may be transferred between the two agencies to meet priority broadcasting facility improvement needs as mutually agreed to by the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting: *Provided*, That such transfers will be subject to the approval of the Committees on Appropriations of the House of Representatives and the United States Senate pursuant to the reprogramming provisions of section 608 of this Act.

TITLE VI—GENERAL PROVISIONS

Sec. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

Sec. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Sec. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Sec. 605. None of the funds appropriated in titles II and V of this Act may be used for any activity to alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: *Provided*, That nothing in this provision shall prohibit any employee of a department or agency for which funds are provided in titles II and V of this Act from presenting testimony on this matter before appropriate committees of the House and Senate.

SEC. 606. None of the funds appropriated by this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion.

SEC. 607. No funds appropriated under this Act may be used to procure any item or service from a foreign entity which engages, directly or indirectly, in activities which, if it were a United States person, would violate section 8 of the Export Administration Act of 1979 (50 U.S.C. Appendix, section 2401 et seq.).[10]

SEC. 608. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 609. No funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987.

SEC. 610. (a) Unless specifically permitted by subsequently enacted legislation, none of the funds appropriated or made available by this Act to the Small Business Administration may be used—

(1) to impose a user fee in connection with a Small Business Administration program or service for which no user fee was in effect on September 1, 1987, or

(2) to increase a user fee which was in effect in connection with such a program or service on such date.

Cuban Political Prisoners and Immigrants.

TITLE VII—CUBAN POLITICAL PRISONERS AND IMMIGRANTS

8 USC 1201 note.

SEC. 701. This title may be cited as "Cuban Political Prisoners and Immigrants".

8 USC 1201 note.

SEC. 702. (a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of enactment of this Act, consular officer of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

---

[10] Copy read "et seq.)".

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

TITLE VIII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987

Indochinese Refugee Resettlement and Protection Act of 1987.

SEC. 801. This title may be cited as the "Indochinese Refugee Resettlement and Protection Act of 1987".

SEC. 802. (a) FINDINGS.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting approximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complimented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border. The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c) ALLOCATIONS OF REFUGEE ADMISSIONS.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High

Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Senate that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should allocate—

(A) at least 28,000 admissions from East Asia, first-asylum camps,

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), admissions allocated in a fiscal year under priorities II and III of the program (as defined in the Department of State Bureau for Refugee Programs worldwide processing priorities) and the number of admissions allocated for Amerasians and their immediate family members under priority I, should be generous.

(d) INTERNATIONAL SOLUTIONS TO REFUGEE PROBLEMS.—It is the sense of the Congress that—

(1) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(2) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

President of U.S.

SEC. 803. REPORTING REQUIREMENT.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee program with recommendations for improving the effectiveness and efficiency of the program.

SEC. 804. FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(a) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(b) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(c) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(d) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(e) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

Adjustment to Lawful Resident Status of Certain Nationals of Countries for Which Extended Voluntary Departure Has Been Made Available.
8 USC 1255a note.
8 USC 1255a note.

TITLE IX—ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE

SEC. 901. This title may be cited as "Adjustment to Lawful Resident Status of Certain Nationals of Countries for Which Extended Voluntary Departure Has Been Made Available".

SEC. 902. (a) ADJUSTMENT OF STATUS.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) "extended voluntary departure" by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

(1) applies for such adjustment within two years after the date of the enactment of this Act;

(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;

(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;

(4) in the case of an alien who entered the United States as a nonimmigrant before July 21, 1984, establishes that (A) the alien's period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage of time or (B) the alien applied for asylum before July 21, 1984; and

(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)).

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

(b) STATUS AND ADJUSTMENT OF STATUS.—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988".

(b) Such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1988, and for other purposes.

Department of Defense Appropriations Act, 1988.

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $23,427,732,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $17,971,297,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $5,478,266,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security

Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,583,118,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,239,365,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,496,522,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $292,209,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United

States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $608,345,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,196,386,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty, or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $976,939,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $17,923,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $20,853,205,000: *Provided,* That of the funds appropriated herein, $150,000 shall be available only to reimburse We The People 200, Incorporated, for expenses related to the celebration of the Bicentennial of the Constitution.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $3,886,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $23,601,462,000: *Provided,* That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards and air rework facilities. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards and air rework facilities. Competitions shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A-76: *Provided further,* That funds appropriated or made available in this Act shall be obligated and expended to restore the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels: *Provided further,* That in fiscal year 1988, of the amounts from this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available for the performance of the New Threat Upgrade program on one such vessel in the Philadelphia Naval Shipyard: *Provided further,* That contracting to private shipyards for the New Threat Upgrade overhaul program shall utilize full and open competition among shipyards qualified for overhaul work: *Provided further,* That not less than $540,000 shall be available only to operate the Naval Investigative Service Regional Office in New Orleans, Louisiana.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,819,188,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $6,775,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $19,661,448,000, of which $22,000,000 shall be available only to operate a C-130E unit at McChord Air Force Base, Washington.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,112,951,000, of which not to exceed $10,789,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided,* That $900,000 is available to the Office of Economic Adjustment for making community planning assistance grants pursuant to section 2391 of title 10, United States Code, and joint community/military planning assistance grants for mitigation of operational impacts from encroachment: *Provided further,* That of the amounts appropriated herein, $53,375 shall be available only to operate the procurement outreach center in North Platte, Nebraska: *Provided further,* That $100,000 shall be made available for payment to the National Academy of Sciences for participation in the "Study of the Impact of National Security Controls on International Technology Transfer": *Provided further,* That $9,000,000 shall be made available to the General Services Administration for carrying out the provisions of section 2 under the heading "National Defense Stockpile Transaction Fund" as set forth in section 101(m) of this joint resolution.

Operation and Maintenance, Army Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $857,540,000.

Operation and Maintenance, Navy Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $929,896,000.

Operation and Maintenance, Marine Corps Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $69,500,000.

Operation and Maintenance, Air Force Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,000,981,000.

Operation and Maintenance, Army National Guard

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,856,542,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; $1,958,063,000.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances in excess of the amounts provided under section 4313 of title 10, United States Code; not to exceed $4,099,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board.

CLAIMS, DEFENSE

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; $193,574,000.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $3,241,000, and not to exceed $1,500 can be used for official representation purposes.

Environmental Restoration, Defense

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $402,800,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Humanitarian Assistance

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $13,000,000, to remain available for obligation until September 30, 1989: *Provided*, That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 21 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress.

TITLE III

PROCUREMENT

Aircraft Procurement, Army

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,718,406,000, to remain available for obligation until September 30, 1990.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,332,237,000, to remain available for obligation until September 30, 1990: *Provided,* That funds may be obligated and expended for procurement and advance procurement of the Forward Area Air Defense System, Line-of-Sight Forward-Heavy system without regard to the restrictions contained in section 111(d) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180): *Provided further,* That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

Army Tactical Missile System, $9,125,000.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,207,187,000, to remain available for obligation until September 30, 1990.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,273,592,000, to remain available for obligation until September 30, 1990.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 861 passenger motor vehicles, of which 398 shall be for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; as follows:

Tactical and support vehicles, $844,921,000;
Communications and electronics equipment, $3,177,739,000;
Other support equipment, $1,070,889,000;

In all: $5,093,549,000, to remain available for obligation until September 30, 1990: *Provided*, That $24,300,000 available from the fiscal year 1986 Other Procurement, Army appropriation for light division field artillery tactical data systems shall be obligated for procurement of seven LFATDS sets for seven light divisions by April 1, 1988.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $9,522,299,000, to remain available for obligation until September 30, 1990: *Provided*, That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

A-6E Program, $0;
EA-6B Program, $479,413,000;
F-14 A/D Program, $734,289,000;
F/A-18 Program, $2,388,710,000;
SH-60B Program, $125,000,000;
SH-60F Program, $294,346,000;
Long Range ASW Capable Aircraft Program, $0;
E-2C Program, $380,195,000;
A-6E Modification Series, $219,478,000;
H-53 Modification Series, $22,737,000;
H-2 Modification Series, $55,000,000;
P-3 Modification Series, $136,865,000;
S-3 Modification Series, $74,772,000;
ES-3 Modification Series, $80,000,000;
E-2 Modification Series, $39,639,000;
Common ECM equipment, $16,708,000:

Provided further, That notwithstanding section 111(e) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) $609,917,000 is available for the procurement of 12 A-6F aircraft.

Weapons Procurement, Navy

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:
Poseidon, $181,000;
TRIDENT I, $6,986,000;
TRIDENT II, $2,041,331,000;
Support equipment and facilities, $194,000;
Tomahawk, $847,336,000;
AIM/RIM-7 F/M Sparrow, $79,000,000;
AIM-9L/M Sidewinder, $25,833,000;
AIM-54A/C Phoenix, $343,596,000;
AGM-84A Harpoon, $142,660,000;
AGM-88A HARM, $187,128,000;
SM-2 MR, $583,098,000;
RAM, $44,931,000;
Stinger, $17,765,000;
Sidearm, $25,381,000;
Hellfire, $44,154,000;
Laser Maverick, $263,200,000;
IIR Maverick, $60,000,000;
Penguin, $3,455,000;
Aerial targets, $104,104,000;
Drones and decoys, $24,767,000;
Other missile support, $19,157,000;
Modification of missiles, $15,513,000;
Support equipment and facilities, $152,407,000;
Ordnance support equipment, $218,436,000;
MK-48 ADCAP torpedo program, $243,444,000;
MK-50 advance lightweight torpedo program, $108,402,000;
MK-30 mobile target program, $31,495,000;
Antisubmarine rocket (ASROC) program, $9,522,000;
Modification of torpedoes, $42,190,000;
Torpedo support equipment program, $53,986,000;
MK-15 close-in weapons system program, $28,023,000;
25mm gun mount, $4,091,000;
Small arms and weapons, $9,568,000;
Modification of guns and gun mounts, $57,589,000;
Guns and gun mounts support equipment program, $1,068,000;
Spares and repair parts, $127,028,000;

In all: $5,967,019,000, to remain available for obligation until September 30, 1990: *Provided,* That none of the funds provided herein may be used for a multiyear procurement contract of the

Harpoon missile system: *Provided further,* That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

Trident II missile, $2,041,331,000.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,260,800,000;

CVN nuclear aircraft carrier program, $6,325,000,000;

SSN-688 attack submarine program, $1,676,900,000;

SSN-21 attack submarine program, $257,600,000;

Aircraft carrier service life extension program, $729,755,000;

CG-47 cruiser program, $4,127,000,000;

DDG-51 destroyer program, $5,500,000: *Provided,* That contracts awarded for any DDG-51 class destroyers in fiscal year 1989 shall be made on the basis of a full and open competition among all technically qualified bidders regardless of prior contractual experience for construction of DDG-51 destroyers. More than two shipyards may not be utilized for this purpose unless the Secretary of the Navy certifies that the Five Year Defense Plan is sufficient to support cost effective construction at more than two shipyards;

LHD-1 amphibious assault ship program, $752,900,000;

LSD-41 cargo variant ship program, $258,000,000;

T-AO fleet oiler program, $256,400,000;

AO conversion program, $44,100,000;

Strategic sealift program, $43,400,000;

T-ACS auxiliary crane ship program, $53,100,000;

LCAC landing craft air cushion program, $36,500,000;

For craft, outfitting, and post delivery, $328,400,000;

In all: $16,155,355,000, to remain available for obligation until September 30, 1992: *Provided,* That additional obligations may be incurred after September 30, 1992, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction; and each Shipbuilding and Conversion, Navy, appropriation that is currently available for such obligations may also hereafter be so obligated after the date of its expiration: *Provided further,* That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further,* That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 861 passenger motor vehicles of which 717 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ship support equipment, $812,891,000;
Communications and electronics equipment, $1,656,886,000;
Aviation support equipment, $674,615,000;
Ordnance support equipment, $829,037,000;
Civil engineering support equipment, $94,215,000;
Supply support equipment, $109,194,000;
Personnel and command support equipment, $416,823,000;
Spares and repair parts, $278,800,000;

In all: $4,872,461,000, to remain available for obligation until September 30, 1990.

Coastal Defense Augmentation

For the augmentation of United States Coast Guard inventories to meet national security requirements; $20,000,000, to remain available until expended: *Provided,* That these funds shall be for the procurement by the Department of Defense of vessels, aircraft, and equipment and for modernization of existing Coast Guard assets, which assets are to be made available to the Coast Guard for operation and maintenance.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed 153 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,295,599,000, to remain available for obligation until September 30, 1990.

Aircraft Procurement, Air Force

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $12,956,827,000, to remain available for obligation until September 30, 1990: *Provided*, That none of the funds available to the Air Force may be obligated on B-1B bomber production contracts if such contracts would cause the production portion of the Air Force's $20,500,000,000 estimate for the B-1B bomber baseline costs expressed in fiscal year 1981 constant dollars to be exceeded.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,290,771,000, to remain available for obligation until September 30, 1990.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; for the purchase of not to exceed 1,313 passenger motor vehicles of which 1,260 shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, as follows:

Munitions and associated equipment, $603,331,000;

Vehicular equipment, $232,830,000;

Electronics and telecommunications equipment, including $36,100,000 to complete procurement of relay nodes (towers) for the Ground Wave Emergency Network Program, $1,937,906,000;

Other base maintenance and support equipment, $5,236,760,000;

In all: $8,010,827,000, to remain available for obligation until September 30, 1990.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, as follows:

Army Reserve, $85,000,000;
Navy Reserve, $258,800,000;
Marine Corps Reserve, $40,000,000;
Air Force Reserve, $202,100,000;
Army National Guard, $273,100,000;
Air National Guard, $341,000,000;

In all: $1,200,000,000, to remain available for obligation until September 30, 1990: *Provided,* That notwithstanding section 112(b) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) $193,800,000 is available only for the procurement of six P-3 aircraft.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 535 passenger motor vehicles of which 524 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,266,263,000, to remain available for obligation until September 30, 1990.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $13,000,000, to remain available for obligation until September 30, 1990.

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $4,687,513,000, to remain available for obligation until September 30, 1989: *Provided,* That $3,500,000 shall be available as a one-time appropriation to conduct nutrition research activities at the Pennington Biomedical Research Center: *Provided further,* That none of the funds provided by this Act for the fiscal year 1988 support of the AFATDS program office shall be available for obligation beyond April 1, 1988 unless the LFATDS procurement contract has been executed: *Provided further,* That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

Army Tactical Missile System, $102,208,000;
Electronic Warfare Programs, $85,000,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,493,546,000, to remain available for obligation until September 30, 1989: *Provided,* That $112,899,000 shall be made available only for the Advanced Submarine Technology Program as described in section 211 of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) and not less than $90,000,000 of this amount is to be allocated to development of hull, mechanical, electrical, and non-nuclear propulsion systems: *Provided further,* That funds made available for the SSN-21 Combat System shall not be obligated or expended except for a system design which incorporates at least four units of the Enhanced Modular Signal Processor: *Provided further,* That $1,800,000 shall be made available for personnel and other expenses for the Institute for Technology Development, as a grant, for the National Center for Physical Acoustics: *Provided further,* That notwithstanding section 203(a) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180), $111,023,000 of funds provided in this section may be obligated or expended for the purpose of configuring the A-6 aircraft in the F model configuration: *Provided further,* That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows: Trident II, $1,050,463,000; Electronic Warfare Programs, $198,691,000: *Provided further,* That not less than $2,100,000 shall be available only for the National Bone Marrow Donor Registry and of that amount, $200,000 shall be available only to integrate independent bone marrow donor centers into the National Registry.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $15,002,095,000, to remain available for obligation until September 30, 1989: *Provided,* That $91,500,000 of funds made available for the National Aerospace Plane (NASP) Program may not be obligated or expended until the Secretary of Defense certifies that the Department of Defense and the National Aeronautics and Space Administration (NASA) have negotiated revised funding arrangements for NASP development which significantly increase NASA investment as a percentage of total NASP research, development, test and evaluation costs: *Provided further,* That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

Pave Tiger, $0;
Industrial Preparedness, $85,000,000;
Electronic Warfare Programs, $179,800,000.

Research, Development, Test, and Evaluation, Defense Agencies

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $7,631,825,000, to remain available for obligation until September 30, 1989: *Provided,* That such amounts as may be determined by the Secretary of Defense to have been available in other appropriations available to the Department of Defense during the current fiscal year or the following fiscal year, as appropriate, for programs related to advanced research may be transferred to and merged with either of the foregoing appropriations, as appropriate, to be available for the same purposes and time period as the appropriation to which transferred: *Provided further,* That during their period of availability, such amounts of the foregoing appropriations as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred: *Provided further,* That $285,000,000 shall be made available only for the Defense Mapping Agency Exploitation Modernization Program: *Provided further,* That of the total amount available for obligation, $15,000,000 shall be made available only for the X-Ray Lithography Program: *Provided further,* That of the total amount available for obligation, $16,500,000 shall be made available through the Office of the Under Secretary of Defense for Acquisition only for bioenvironmental hazards research activities at universities, for associated facilities, and for other related purposes: *Provided further,* That of the total amount available for obligation, $7,000,000 shall be made available, as a grant, only for development of an engineering, sciences, and technology center to promote defense industry involvement in manpower training and education, for associated facilities, and for related purposes: *Provided further,* That of the total amount available for obligation, $5,000,000 is available only to complete a program begun in fiscal year 1986 for developing advanced semiconductor materials and devices, and to establish a program in parallel processing computing technology at that institution: *Provided further,* That of the total amount available for obligation, $25,000,000 shall be made available, as a grant, only to support a program of advanced compound and other semiconductor research, and related materials research at university centers of excellence for design and test of semiconductors, micro fabrication techniques (microfabritech/MARTECH), and materials technologies sciences (microfabritech/MARTECH): *Provided further,* That of the total amount available for obligation for the Strategic Technology Program, $19,040,000 shall be made available only for an innovative manufacturing technology initiative in the Strategic Computing Program of the Defense Advanced Research Projects Agency, of which $13,000,000 shall be made available only for the Concurrent Design and Assembly Science and Technology Program: *Provided further,* That of the total amount available for obligation, $10,000,000 shall be made available only for a proposed Center for Compound Semiconductor Technology, at a major Department of Energy national weapons laboratory with a demonstrated expertise in both silicon and compound semiconductor microelectronics and possessing a state-of-the-art clean room and crystal growth facilities, to perform the materials processing and instrumentation studies necessary to develop compound semiconductor technology for high-speed optoelectronics: *Provided further,* That not more than 14 percent of funds made available in this Act for the University Research Initiative Program may be obligated or expended within any one State: *Provided further,* That of the total amount available for the Strategic Defense Initiative, not less than $150,000,000 may be obligated or expended only for the Advanced Launch System (ALS) Program under Air Force management, and that of the funds made available for the ALS Program, not less than $70,000,000 shall be transferred to the National Aeronautics and Space Administration only for ALS propulsion activities: *Provided further,* That the funds appropriated by this Act for any activities associated directly or indirectly with the Advanced Launch System or any ALS variant shall be subject to the terms and conditions of section 5 of chapter II of title I of Public Law 100-71 (Supplemental Appropriations Act, 1987): *Provided further,* That of the amount available for obligation, $25,000,000 is available only for the Joint Standoff Weapons Program and may not be obligated or expended until the Secretary of Defense reports to the Committees on Appropriations of the Senate and the House of Representatives which standoff weapons will be supported with the available funds: *Provided further,* That of the amount available for obligation, $50,291,000 is available only for the Joint Remotely Piloted Vehicles (RPV) Program and may not be obligated or expended until the Secretary of Defense submits to the Committees on Appropriations of the Senate and House of Representatives an updated RPV Master Plan fully explaining his decisions as to which RPVs will be supported with the available funds, and assessing the cooperation by the military services with efforts to coordinate RPV programs and to eliminate duplication within and among these programs: *Provided further,* That none of the funds provided for the activities of the Semiconductor Manufacturing Technology consortium known as "SEMATECH" may be obligated or expended until the Secretary of Defense has entered into a memorandum of understanding with SEMATECH governing the use of such funds for research, development, test, and evaluation activities in the field of semiconductor manufacturing technology, and the Secretary of Defense submits, no later than March 31, 1988, a report to the Committees on Appropriations of the Senate and House of Representatives containing a copy of this memorandum: *Provided further,* That with regard to programs, projects and activities funded by this appropriation, provisions of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) which provide that funds appropriated pursuant to such Act shall be available only for specific programs, projects and activities in specific dollar amounts shall be effective, except as follows:

LightSat, $35,000,000;
University Research Initiatives, $85,000,000;
Bioenvironmental Hazards Research, $16,500,000;
High Temperature Superconductivity, $15,000,000.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Under Secretary of Defense, Developmental Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance of joint developmental testing and evaluation; and administrative expenses in connection therewith; $182,116,000, to remain available for obligation until September 30, 1989.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $70,221,000, to remain available for obligation until September 30, 1989.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $193,207,000.

NAVY STOCK FUND

For the Navy stock fund; $329,400,000.

AIR FORCE STOCK FUND

For the Air Force stock fund; $226,007,000.

DEFENSE STOCK FUND

For the Defense stock fund; $132,600,000.

TITLE VI

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986; $198,500,000, of which $97,000,000 shall remain available for obligation until September 30, 1988, $4,900,000 shall remain available for obligation until September 30, 1989, and $96,600,000 shall remain available for obligation until September 30, 1990.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $134,700,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $23,057,000.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 8002. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8003. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided*, That such contracts may be renewed annually.

SEC. 8004. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense. 10 USC 1584 note.

SEC. 8005. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 8006. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8007. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 8008. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

SEC. 8009. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army, or to the appropriations provided in this Act for Claims, Defense.

SEC. 8010. During the current fiscal year, the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided*, That except as provided in 10 U.S.C. 2690, the foregoing authority shall not be available for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe: *Provided further*, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the

Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

SEC. 8011. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000 shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 8012. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 8013. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $14,362,000 for the current fiscal year:

Provided, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense: *Provided further*, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8014. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided*, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

(TRANSFER OF FUNDS)

SEC. 8015. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 8016. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8017. Except as provided in 10 U.S.C. 2690, none of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe.

SEC. 8018. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 days in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 8019. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 8020. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions for section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code.

SEC. 8021. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $46,951,000: *Provided*, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8022. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: *Provided*, That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 8023. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided*, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further*, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: *Provided further*, That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 8024. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1989.

SEC. 8025. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and

Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 8026. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 8027. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

SEC. 8028. During the current fiscal year, the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

SEC. 8029. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8030. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided*, That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 8031. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

SEC. 8032. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. 8033. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10 day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

HEMTT (for two years);

High mobility multipurpose wheeled vehicle;

HAWK missile system;

TOW II missile system: *Provided*, That a multiyear procurement contract shall not be awarded for TOW II until the Secretary of Defense has certified to the Congress that a multiyear procurement will be more economical than a second source acquisition.

SEC. 8034. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

SEC. 8035. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 8036. None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(TRANSFER OF FUNDS)

SEC. 8037. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 8038. None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 8039. None of the funds appropriated by this Act may be used to appoint or compensate more than 39 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

SEC. 8040. Notwithstanding section 213(b) of the Joint Chiefs of Staff Reorganization Act of 1985 or any other provision of law, none of the funds in this or any other Act may be used to alter the command structure for military forces in Alaska.

SEC. 8041. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 69,935: *Provided*, That none of the funds appropriated by this Act shall be available to support more than 46,890 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further*, That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.

10 USC 113 note.

SEC. 8042. No later than April 8, 1988, and not later than April 8 of each year thereafter, the Secretary of Defense, in consultation with the Secretary of Commerce, shall submit to the Committees on Appropriations of the Senate and House of Representatives, a report detailing: (a) the full cost of stationing United States troops overseas, including costs incurred in the United States and overseas in connection with such stationing, (b) the overseas costs incurred in connection with operating, maintaining, and supporting United States troops overseas, including direct and indirect expenditures of United States funds in connection with such stationing, and (c) the effect of such overseas expenditures on the United States' balance-of-payments.

SEC. 8043. (a) The provisions of section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1988 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1988, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

SEC. 8044. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department to exceed, outside the fifty States of the United States and the District of Columbia, 188,496 civilian workyears: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual Supplement 298-2, Book IV: *Provided further*, That workyears expended in dependent summer hiring programs or hiring programs for disadvantaged youth shall not be included in this workyear limitation.

(TRANSFER OF FUNDS)

SEC. 8045. Appropriations during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

SEC. 8046. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1988 for construction or services performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 8047. None of the funds appropriated by this or any other Act for fiscal year 1988 shall be available to pay the variable housing allowance authorized members of the uniformed services under section 403a of title 37, United States Code, in a total amount in excess of $1,115,261,000 or the amount computed for the current fiscal year under section 403a(d) of such title, whichever is less: *Provided*, That any reduction in the rates of the variable housing allowance necessitated by the foregoing limitation shall be made as provided in section 403a of title 37, United States Code.

(RESCISSIONS)

SEC. 8048. (a) The following funds are hereby rescinded from the following accounts in the specified amounts:

Aircraft procurement, Army, 1986/1988, $32,000,000;

Aircraft procurement, Army, 1987/1989, $29,200,000;

Missile procurement, Army, 1986/1988, $25,100,000;

Missile procurement, Army, 1987/1989, $34,100,000;

Procurement of weapons and tracked combat vehicles, Army, 1986/1988, $41,700,000;

Procurement of weapons and tracked combat vehicles, Army, 1987/1989, $72,000,000;

Procurement of ammunition, Army, 1987/1989, $7,200,000;

Other procurement, Army, 1986/1988, $41,300,000;

Other procurement, Army, 1987/1989, $65,593,000;

Aircraft procurement, Navy, 1986/1988, $156,400,000;

Aircraft procurement, Navy, 1987/1989, $261,900,000;

Weapons procurement, Navy, 1986/1988, $161,200,000;
Weapons procurement, Navy, 1987/1989, $227,800,000;
Shipbuilding and conversion, Navy, 1984/1988, $134,100,000;
Shipbuilding and conversion, Navy, 1985/1989, $94,600,000;
Shipbuilding and conversion, Navy, 1986/1990, $20,000,000;
Shipbuilding and conversion, Navy, 1987/1991, $155,600,000;
Other procurement, Navy, 1986/1988, $32,361,000;
Other procurement, Navy, 1987/1989, $225,614,000;
Procurement, Marine Corps, 1986/1988, $47,600,000;
Procurement, Marine Corps, 1987/1989, $15,000,000;
Aircraft procurement, Air Force, 1986/1988, $278,521,000;
Aircraft procurement, Air Force, 1987/1989, $659,600,000;
Missile procurement, Air Force, 1985/1989, $40,100,000;
Missile procurement, Air Force, 1986/1988, $122,446,000;
Missile procurement, Air Force, 1987/1989, $11,500,000;
Other procurement, Air Force, 1986/1988, $58,200,000;
Procurement, Defense Agencies, 1986/1988, $31,000,000;
Procurement, Defense Agencies, 1987/1989, $75,000,000;
National Guard and Reserve Equipment, 1986/1988, $17,900,000;
Research, development, test, and evaluation, Army, 1987/1988, $14,000,000;
Research, development, test, and evaluation, Navy, 1987/1988, $67,495,000;
Research, development, test, and evaluation, Air Force, 1987/1988, $266,000,000;
Research, development, test, and evaluation, Defense Agencies, 1987/1988, $8,900,000;

100 Stat. 3979.

(b) Section 1305 of Public Law 99-661 is amended in subsection (b) by striking "that are enacted before December 31, 1986" and inserting in lieu thereof "and/or fiscal year 1988".

(TRANSFER OF FUNDS)

SEC. 8049. In addition to any other transfer authority contained in this Act, amounts from working capital funds may be transferred to the Operation and Maintenance appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided*, That such transfers shall not exceed $451,036,000 for Operation and Maintenance, Army; $813,400,000 for Operation and Maintenance, Navy; $14,738,000 for Operation and Maintenance, Marine Corps; and $888,881,000 for Operation and Maintenance, Air Force.

SEC. 8050. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: *Provided*, That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: *Provided further*, That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

SEC. 8051. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8052. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process: *Provided,* That any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

SEC. 8053. None of the funds made available by this Act shall be available to operate in excess of 247 commissaries in the contiguous United States.

SEC. 8054. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. 8055. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8056. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided,* That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 8057. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

SEC. 8058. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. 8059. No more than $182,402,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

SEC. 8060. Of the funds made available to the Department of the Air Force in this Act, not less than $11,600,000 shall be available for the Civil Air Patrol.

SEC. 8061. Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

SEC. 8062. (a) None of the funds appropriated by this Act shall be available to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on April 1, 1984.

(b) Notwithstanding section 2324(e)(1)(H) of title 10, United States Code, and subsection (a) of this section, appropriations contained in this Act shall be available for, and the Secretary of Defense shall pay, reasonable costs under covered contracts incurred to promote American aerospace exports at domestic and international exhibits.

10 USC 401 note.

SEC. 8063. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 403(a) of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 403(b) of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239.

SEC. 8064. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8065. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. 8066. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

SEC. 8067. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: *Provided*, That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

SEC. 8068. Funds available for operation and maintenance under this Act, may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code.

SEC. 8069. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

SEC. 8070. None of the funds appropriated by this or any other Act for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS program elsewhere.

SEC. 8071. Notwithstanding any other provision of law, during fiscal year 1988, the Department of Defense shall conduct an expanded pilot project of providing home health care as part of an individualized case-managed range of benefits that may reasonably deviate from otherwise payable types, amounts and levels of care, in up to four geographic areas containing no more than one-fourth of the Department's beneficiaries, for dependents entitled to health care under sections 1079 and 1086 of title 10, United States Code, with the patients selected from those with exceptionally serious, long-range, costly and incapacitating physical or mental conditions defined by the Secretary of Defense as likely to benefit from the range of demonstration benefits: *Provided*, That although the cost may be greater in a specific case, the net benefit cost to the Department of Defense shall not exceed that which could reasonably have been expected to occur in the absence of the demonstration: *Provided further*, That outside of the areas selected, the home health care pilot project as directed and implemented in fiscal years 1986 and 1987 shall be continued.

SEC. 8072. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8073. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8074. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. 8075. Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided,* That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under this section to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further,* That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8076. Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. 8077. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided,* That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 8078. Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: *Provided,* That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. 8079. Within the funds made available under title II of this Act, the military departments may use such funds as necessary, but not to exceed $2,400,000, to carry out the provisions of section 430 of title 37, United States Code.

SEC. 8080. None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment: *Provided*, That the Navy may use these funds to paint aluminum-hulled craft as necessary, and, in addition, the Navy may paint no more than fifteen steel-hulled ships to conduct research as described in the "Navy Organotin Program Plan for Two Case Study Harbors".

10 USC 114 note.

SEC. 8081. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which a military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8082. Notwithstanding any other provision of law, funds available in this Act shall be available to the Defense Logistics Agency to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

SEC. 8083. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications-electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: *Provided*, That the foregoing limitation shall not apply to civilian personnel who perform caretaker-type functions at these installations: *Provided further*, That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

SEC. 8084. (a) The Secretary of Defense shall award to a United States firm a contract pursuant to a solicitation issued on or after the date of enactment of this Act under the Department of Defense overseas fuel procurement programs that would otherwise be awarded to a foreign firm if such United States firm—

(1) has a crude oil refining capacity of not more than 85,000 barrels a day;

(2) participates in the Department of Defense overseas fuel procurement program;

(3) agrees to the contract on the terms proposed by the foreign firm to which the contract would otherwise be awarded; and

(4) does not use processing agreements in order to fulfill the contract.

(b) This provision shall not apply if the total cost of supplies offered by the United States firm, including transportation as specified in the solicitation, would exceed the total evaluated cost to the Government if the contract were awarded to the foreign firm.

(c) This provision shall not supersede any status of forces agreement and shall not apply to acquisitions subject to the Agreement on Government Procurement of 1979 and the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582) and including acquisitions from countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.).

(d) For purposes of this section, the term "United States firm" means a corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

SEC. 8085. (a) None of the funds made available by this Act to the Department of Defense may be used to procure the Federal Supply Classes of machine tools set forth in subsection (b) of this section, for use in any Government-owned facility or property under control of the Department of Defense, which machine tools were not manufactured in the United States or Canada.

(b) The procurement restrictions contained in subsection (a) shall apply to Federal Supply Classes of metalworking machinery in categories numbered 3408, 3410-3419, 3426, 3433, 3441-3443, 3446, 3448, 3449, 3460, and 3461.

(c) When adequate domestic supplies of the classifications of machine tools identified in subsection (b) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case by case basis by the Secretary of the Service responsible for the procurement.

(d) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. 8086. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided,* That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,100,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 8087. Notwithstanding any other provision of law, appropriations available to the Department of Defense during the current fiscal year shall be available to make payments to a hospital that obtains 6 percent or more of its operating funds from contributions and that limits the care it provides to the treatment of heart and lung conditions: *Provided,* That payment may not be denied for a claim for otherwise reimbursable services submitted under a plan contracted for under sections 1079(a) and 1086(a) of title 10, United States Code, solely on the basis that such hospital does not impose a legal obligation, including a patient cost share or deductible, on its patients to pay for such services.

SEC. 8088. The Secretary of Defense shall take such action as necessary to assure that a minimum of 50 percent of the polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992: *Provided,* That the annual goals to achieve this requirement be as follows: 15 percent of the total DoD requirement by 1988; 15 percent of the total DoD requirement by 1989; 20 percent of the total DoD requirement by 1990; 25 percent of the total DoD requirement by 1991; and 50 percent of the total DoD requirement by 1992.

SEC. 8089. (a) Section 9102 of the Department of Defense Appropriations Act, 1987 (as included in Public Laws 99-500 and 99-591) is repealed; (b) of the funds appropriated by this Act not more than $1,190,923,000 may be obligated for morale, welfare, and recreation activities: *Provided*, That such funds may be spent in accordance with the criteria set forth in the Report of the Assistant Secretary of Defense (Force Management and Personnel) to the Congress entitled "Reassessment of the Department of Defense Morale, Welfare and Recreation Programs" dated August 10, 1987: *Provided further*, That nonappropriated funds may be used to reimburse appropriated funds for expenses of civilian employees employed on January 1, 1987, by revenue-generating recreation activities and such reimbursed expenses shall not be included in the dollar limitation of this section.

10 USC 114 note.

SEC. 8090. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Philadelphia Municipal Authority, a State authority, (hereinafter in this section referred to as the "PMA"), all right, title, and interest of the United States in and to approximately 29 acres of land located in the United States Naval Base, Philadelphia, Pennsylvania, together with any improvements thereon.

(b) The exact acreage and legal description of the lands to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the PMA.

(c) In consideration for any conveyance authorized under subsection (a), the PMA shall pay to the United States an amount equal to the fair market value of the property to be conveyed (as determined by the Secretary).

(d) The Secretary may require such additional terms and conditions with respect to the conveyance under this section as he considers appropriate to protect the interests of the United States.

(e) In addition to the authority provided in subsection (a) and pursuant to section 2394 of title 10, United States Code, the Secretary, upon his determination that there is an economic advantage to the Navy, is authorized to enter into a long-term contract with the PMA for the purchase of steam generated from a facility to be constructed upon the land authorized to be conveyed herein.

SEC. 8091. Notwithstanding any other provision of law, appropriations made available in this Act may be used for the procurement, product improvement and modification of the Copperhead projectile, without regard to whether or not a second production source program or contract has been established for this program if the Secretary of Defense determines that such expenditures are in the interest of the Government of the United States: *Provided*, That prior year unobligated balances of funds appropriated for Other Procurement, Navy for procurement of the five inch guided projectile (other than those required for production qualification efforts) shall be available for obligation only after the Secretary of the Navy certifies to the Committees on Appropriations of the House of Representatives and Senate that (1) procurement funding is included in the fiscal year 1989 Navy five year budget, (2) it will be competitively procured, and (3) procurement will be on a firm fixed price contract with a procurement unit cost of not to exceed $29,000 per round.

SEC. 8092. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during fiscal year 1988, limiting the amount which may be expended for personnel services, and including pay and allowances of military personnel and civilian employees, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

SEC. 8093. None of the funds appropriated or made available by this or any other Act with respect to any fiscal year may be used by any Department, agency, or instrumentality of the United States to purchase electricity in a manner inconsistent with State law governing the provision of electric utility service, including State utility commission rulings and electric utility franchises or service territories established pursuant to State statute, State regulation, or State-approved territorial agreements: *Provided*, That nothing in this section shall preclude the head of a Federal agency from entering into a contract pursuant to 42 U.S.C. 8287; nor shall it preclude the Secretary of a military department from entering into a contract pursuant to 10 U.S.C. 2394 or from purchasing electricity from any provider when the utility or utilities having applicable State-approved franchise or other service authorizations are found by the Secretary to be unwilling or unable to meet unusual standards for service reliability that are necessary for purposes of national defense.

SEC. 8094. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8095. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 8096. The Secretary of Defense shall submit a quarterly report of cumulative reprogrammings from any project or program in excess of an initial $10,000,000 in total for procurement and an initial $4,000,000 in total for research and development. The initial report shall cover the quarter ending March 31, 1988, and include funds in this and prior appropriation Acts.

SEC. 8097. (a) The Secretary of Defense shall conduct through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) a demonstration project on the treatment of alcoholism designed to compare the use of chemical aversion therapy with the use of other treatments. At the conclusion of the demonstration project, the Secretary shall submit to the Committees on Appropriations and Armed Services of the Senate and House of Representatives a report on the results of the project: *Provided*, That the demonstration project shall be conducted at only one location: *Provided further*, That coverage for chemical aversion therapy under this demonstration project is extended to those beneficiaries referred for such treatment by a physician, psychiatrist or psychologist recognized as an authorized provider under CHAMPUS.

(b) Until the report required by subsection (a) is submitted, the Secretary of Defense shall ensure that coverage of beneficiaries under section 1079(a) or 1086(a) of title 10, United States Code, shall continue under the provisions of subsection (a).

SEC. 8098. Notwithstanding the provisions of section 2401, title 10, United States Code, or of any other provision of law which would limit lease or charter terms to less than five years, the Navy is authorized to enter into agreements to construct and charter up to six clean product tankers of adequate cargo capacity to replace the SEALIFT-class tankers now in service. Tankers constructed under the terms of this section must be constructed in a shipyard of the United States in accordance with section 10-(d), title 41, United States Code.

SEC. 8099. The Secretary of the Army, as Executive Agent for the Department of Defense, may authorize activities on the part of the Armed Forces in celebration of the Bicentennial of the Constitution, and in support of Congressional Bicentennial activities. Such sums as are necessary to pay the expenses of these activities shall be made available from funds otherwise appropriated to the Department of Defense, except that such funds shall not be counted against the limitation on funds available for public affairs or legislative liaison activities of the Department of Defense.

SEC. 8100. Upon a certification by the Chief, National Guard Bureau, to the Committees on Appropriations and Armed Services of the Senate and House of Representatives that complete delivery of 530 M939A2 trucks cannot be accomplished by February 1, 1989, and that the total cost of a contract for M939A1 trucks will not exceed the cost of a contract for M939A2 trucks for the same number of trucks to be acquired under the M939A1 contract, appropriations made in this Act, or in the Department of Defense Appropriations Acts for fiscal year 1986 and for fiscal year 1987 under the heading "National Guard and Reserve Equipment", may be used to acquire M939A1 trucks.

SEC. 8101. None of the funds appropriated by this Act shall be available for the operation and maintenance of contractor-owned, contractor-operated primary health care facilities unless the Department of Defense Inspector General agrees to conduct an inspection, audit and evaluation of these clinics.

SEC. 8102. Funds provided by this Act for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) may be used by the Office of CHAMPUS to conduct a pilot project to provide program modifications and efficiencies by amending up to two existing fiscal intermediary contracts: *Provided,* That the Secretary of Defense conducts a separate health care demonstration project, if it is in the best interests of the Government, in the New Orleans, Louisiana area (the area described in Solicitation Number MDA903-87-R-0047) that uses a managed health care network, including health care enrollment (as provided for in section 1099, title 10, United States Code): *Provided further,* That the Secretary shall implement this demonstration project no later than September 30, 1988.

SEC. 8103. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 8104. (a) None of the funds in this Act may be used to award a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth.

10 USC 1103 note.

(b) Notwithstanding section 725 of Public Law 100-180, the preemption provisions of title 10, United States Code, chapter 55, section 1103, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to any and all contracts entered into pursuant to Solicitation Number MDA-903-87-R-0047 and shall preempt any and all State and local laws or regulations which relate to health insurance or to prepaid health care plans.

SEC. 8105. None of the funds appropriated by this Act may be used by the Defense Logistics Agency to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided*, That savings that result from this provision are represented as such in future budget proposals.

SEC. 8106. Appropriations made available in this Act by the appropriation "Operation and maintenance, Army" shall be available for logistical support and personnel services required to complete Department of Defense support for the Tenth International Pan American Games.

SEC. 8107. Of funds identified in chapter IIIA, section 5(b) of the Urgent Supplemental Appropriations Act, 1986 (Public Law 99-349), the $18,500,000 made available for purchase of an HC-130 tanker and the $12,000,000 made available for purchase of an aerostat radar system shall be available only for procurement and installation, including site preparations, of aerostat radars.

SEC. 8108. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of the enactment of this Act, enlists in the armed services for less than three years; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member: *Provided*, That these limitations shall not apply to members in combat arms skills.

SEC. 8109. Of the funds made available in this Act, the Department of Defense shall transfer $1,342,000 to the Bureau of Land Management appropriation account for fire management to be used for repair and replacement of materials destroyed by fire, to be merged with, and such funds are to be awarded for the same purposes and for the same time period as the appropriation to which transferred.

SEC. 8110. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Administrator of Veterans Affairs from the Department of Defense Education Benefits Fund when the time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this provision shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this provision applies to active components of the Army.

SEC. 8111. Of the funds made available in this Act for military personnel appropriations, up to $2,800,000 may be available for the purposes of section 638 of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180).

SEC. 8112. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability and the planned upgrade of this capability: *Provided*, That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8113. The Secretary of Defense shall take such action as may be necessary to implement at the earliest practicable date and with funds provided for such purpose by section 8110 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1222), the program proposed by the Department of Defense in a letter dated August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics to rehabilitate and convert current steam generating plants at defense facilities in the United States to coal burning facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year (including at least 300,000 short tons of anthracite coal) above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: *Provided*, That such action shall be subject to the use of only the most cost effective fuel system in the construction of new plants or the conversion of existing plants: *Provided further*, That during fiscal year 1988, the amount of anthracite coal purchased by the Department shall be at least 300,000 short tons: *Provided further*, That the funds identified in section 8110 of Public Law 99-190 shall continue to be made available until expended to be used on a non-reimbursable basis for the administrative costs of this program.

SEC. 8114. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1988, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action: *Provided, however*, that the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

SEC. 8115. (a) Of the funds appropriated to the Army, $90,895,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided*, That none of these funds can be expended:

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) unless the RCAS contract source selection official is the Chief of the National Guard Bureau;

(4) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(5) unless the Program Manager (PM) charter makes the PM accountable to the source selection official and fully defines his authority, responsibility, reporting channels and organizational structure;

(6) to pay the salaries of individuals assigned to the RCAS program management office, source selection evaluation board, and source selection advisory board unless such organizations are comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(7) to award a contract for development or acquisition of RCAS unless such contract is competitively awarded under procedures of OMB Circular A-109 for an integrated system consisting of software, hardware, and communications equipment and unless such contract precludes the use of Government furnished equipment, operating systems, and executive and applications software; and

(8) unless RCAS performs its own classified information processing.

(b) None of the funds appropriated in this Act are available for procurement of Tactical Army Combat Service Support Computer Systems (TACCS) unless at least fifty percent of the TACCS computers procured with Army fiscal year 1988 funds are provided to the Reserve Component.

(c) None of the funds appropriated in this Act are available for procurement of mini- and micro-computers for the Army Reserve Component until the RCAS contract is awarded.

SEC. 8116. Whereas a verifiable treaty eliminating United States and Soviet medium- and short-range nuclear ballistic missiles in Europe would enhance United States and European security;

Whereas the Congress supports the President's goal of reducing United States and Soviet conventional forces in Europe and reducing United States and Soviet strategic nuclear forces;

Whereas it is important the Congress and the President be in agreement on United States national security goals and objectives in order for the United States to be in the strongest possible position to negotiate with the Soviet Union future reductions in conventional and strategic nuclear forces;

Whereas the Congress strongly opposes the undercutting of these arms reduction negotiations by either the United States or the Soviet Union through unnecessary military initiatives or counterproductive arms control proposals;

Whereas no decision has been made on the development or deployment of strategic defenses;

Therefore, it is the sense of the Congress that—

(1) in order to maintain the basis for strong deterrence, the Strategic Defense Initiative (SDI) should be a long-term and robust research program to provide the United States with

expanded options for responding to a Soviet breakout from the 1972 Anti-Ballistic Missile Treaty and to respond to other future Soviet arms initiatives that might pose a grave threat to United States national security;

(2) by expanding potential United States strategic options the SDI research program can enhance United States leverage in the United States-Soviet arms reduction negotiations and serve as a safeguard for ensuring that negotiated agreements are kept;

(3) future research plans and budgets for SDI must be established using realistic projections of available resources in the overall defense budget and must not undercut other important Department of Defense programs; and

(4) in matching research priorities against available resources, the primary emphasis of SDI should be to explore promising new technologies, such as directed energy technologies, which might have long-term potential to defend against a responsive Soviet offensive nuclear threat.

SEC. 8117. From funds available in this Act for Research, Development, Test, and Evaluation, Army, the Army shall expeditiously and without further delay complete development and operational testing of the M72E4, type classify the weapon, and acquire a technical data package.

SEC. 8118. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided*, That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further*, That the Under Secretary report to the Committees on Appropriations of the Senate and House of Representatives in writing, on a quarterly basis, the contracts which have obligated funds under such a fixed price-type developmental contract.

SEC. 8119. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. 8120. Not to exceed $25,000,000 of the funds appropriated in this Act to the Department of the Army may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

SEC. 8121. From the amounts appropriated in this Act, funds shall be available for Naval Air Rework Facilities to perform manufacturing in order to compete for production contracts of Defense articles: *Provided*, That the Navy shall certify that successful bids between Naval Air Rework Facilities and private companies for such production contracts include comparable estimates of all direct and indirect costs: *Provided further*, That competitions conducted under this authority shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the

Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A-76.

10 USC 194 note. SEC. 8122. Nothing in section 102d(1) of Public Law 100-178, section 601(b)(2)(A) of Public Law 99-433 (100 Stat. 1065), or section 601(d) of Public Law 99-433 (100 Stat. 1065) shall be construed as requiring or suggesting that the Secretary of Defense avoid allocating personnel reductions to the Defense Intelligence Agency.

SEC. 8123. Notwithstanding any other provision of law, the Department of Defense may waive Federal regulations concerning wage rates for authorized civilian employees hired for certain health care occupations: *Provided,* That only those occupations cited in the June 30, 1988, report to be submitted by the Assistant Secretary of Defense for Health Affairs shall be covered by this provision.

SEC. 8124. None of the funds available to the Department of Defense are available for obligation or expenditure to procure either directly or indirectly any goods or services from Toshiba Corporation or any of its subsidiaries, or from Kongsberg Vapenfabrik[11] or any of its subsidiaries: *Provided,* That the Secretary of Defense may, on a case-by-case basis, waive the preceding prohibition upon a written determination to the Committees on Appropriations of the House of Representatives and the Senate that compliance would be detrimental to United States national security interests: *Provided further,* That the above provision shall not be effective until ninety days after enactment of this Act.

SEC. 8125. (a) None of the funds available to the Department of Defense may be used for procurement of welded shipboard anchor chain and mooring chain (of all types four or less inches in diameter) manufactured outside of the United States or Canada.

(b) When adequate domestic supplies of welded shipboard anchor chain and mooring chain (of all types four or less inches in diameter) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case-by-case basis by the Secretary of the Service responsible for the procurement.

(c) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. 8126. Except as provided in section 2690 of title 10, United States Code, none of the funds available to the Department of Defense may be used for the consolidation or conversion of heating plants at defense facilities in Europe from coal to district heating distribution systems: *Provided,* That this provision shall not apply to facilities for which consolidation or construction contracts were entered into before September 30, 1987.

SEC. 8127. During the current fiscal year, notwithstanding any other provision of law, the Department of Defense shall exclude from diagnosis related groups regulations: (a) inpatient hospital services in a hospital whose patients are predominantly under 18 years of age and (b) such services in any hospital with respect to (1) discharges involving newborns and infants who are less than 29 days old upon admission (other than discharges classified to diagnosis related group 391), (2) discharges involving pediatric bone marrow transplants, (3) discharges involving children who have been determined to be HIV seropositive, and (4) discharges involving pediatric cystic fibrosis: *Provided,* That the Department of Defense shall ensure that beneficiaries not be required to pay more in cost-shares under the foregoing exclusions than those which would have been imposed if the diagnosis related group system had been instituted: *Provided further,* That notwithstanding any other provision of law, appropriations available to the Department of Defense may be used to pay the difference between the cost-shares paid by beneficiaries under the foregoing and the billed charges for services covered by this provision.

---

[11] Copy read "Vapenfabrikk".

SEC. 8128. None of the funds available for programs administered by the Assistant Secretary of the Army for Civil Works in this or any other Act hereafter are available to continue, initiate, review, complete, or approve A-76 studies on contracting out for any reservoir area in the State of Mississippi administered by the Corps of Engineers unless specified in appropriation bills.

SEC. 8129. None of the funds in this Act or any other funds available to commissaries and exchanges may be used to purchase or sell any Toshiba products in those commissaries or exchanges: *Provided,* That the above provision shall not be effective until ninety days after enactment of this Act.

(TRANSFER OF FUNDS)

SEC. 8130. Of the funds appropriated in this Act and from funds appropriated to the Department of Defense in prior years that remain available for obligation, $316,000,000 may be transferred from any appropriation, except appropriations made available to the Department of the Army, to any appropriate Air Force appropriation, and thirty legislative days after notification of such transfers to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate and without objection of the Committees within that thirty legislative day period, such transfers may be used for activities related to the space launch recovery program, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred: *Provided,* That none of the funds transferred pursuant to this paragraph may be obligated or expended for the space launch recovery program until the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration have submitted the plan required by section 5(a) of chapter II of title I of Public Law 100-71 (101 Stat. 398): *Provided further,* That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8131. Notwithstanding any other provision of law, the Secretary of the Air Force shall, from existing prior year funds, make available the additional $18,000,000 necessary to complete the $28,700,000 development and qualification program of the next generation trainer engine (F-109) over the next three-year period: *Provided,* That none of the funds may be obligated or expended until the Air Force submits a report to the Committees on Appropriations which identifies the specific Air Force aircraft on which the F-109 engine will be used.

(TRANSFER OF FUNDS)

SEC. 8132. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations of the reserve components for the purpose of providing military technician pay the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) as that granted the other military personnel accounts: *Provided,* That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations of the reserve components do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119): *Provided further,* That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further,* That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty legislative days before any such transfer of funds under this provision and if no objection is expressed within that twenty legislative day period.

(TRANSFER OF FUNDS)

SEC. 8133. Funds appropriated in this Act and from funds appropriated to the Department of Defense in prior years that remain available for obligation, $100,000,000 may be transferred from any such appropriation to Aircraft Procurement, Air Force, for the procurement of six replacement aircraft for the Flight Inspection Program, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred: *Provided,* That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 8134. None of the funds appropriated by this Act may be used to carry out full-scale engineering development or deployment on the project under the Strategic Defense Initiative designated on September 1, 1987, as the Space-Based Interceptor (SBI) Project.

SEC. 8135. Sections 4, 431, and 634 of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180) are hereby repealed.

SEC. 8136. Notwithstanding any other provision of law, during fiscal year 1988, the Secretary of Defense shall make available to the United States Coast Guard without reimbursement not less than $105,000,000 in supplies, fuel, training assistance, and other operational support, exclusive of administrative costs, including $5,000,000 for the completion of development of a low-frequency, lightweight, portable sonar for the Coast Guard's antisubmarine warfare mission requirements, in addition to such assistance as would ordinarily be provided in the absence of this provision: *Provided,* That such items shall be deemed Department of Defense expenditures for Coast Guard defense related activities: *Provided further,* That from funds provided for "Aircraft Procurement, Navy, fiscal year 1987", $33,000,000 shall be available for procurement and installation of APG-66 radar and other sensors for HU-25 aircraft and seabased aerostat radar systems in support of the Coast Guard Drug Interdiction Program.

President of U.S.

SEC. 8137. The President shall submit in his budget proposals to the Congress for fiscal year 1989 an arrangement for the Ready

Reserve Fleet in which funding and program responsibilities are consolidated in a single Federal organization.

SEC. 8138. It is the sense of the Congress that the Secretary of Defense should name one of the new nuclear aircraft carriers appropriated in fiscal year 1988 the U.S.S. JOHN C. STENNIS.

(TRANSFER OF FUNDS)

SEC. 8139. In addition to the amounts appropriated or otherwise made available in this Act, $875,000,000 is appropriated to fully fund the military pay raise with any remaining balance of the appropriation available to fund the civilian pay raise as authorized by law: *Provided*, That such amounts shall be transferred and merged with "Military Personnel" and "Operation and Maintenance" appropriations accounts as applicable and that such transfer authority shall be in addition to that provided elsewhere in this Act: *Provided further*, That such sums as may be necessary for authorized pay raise costs in excess of this appropriation shall be accommodated within the levels appropriated in this Act.

SEC. 8140. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8141. No naval vessel or any vessel owned and operated by the Department of Defense homeported in the United States may be overhauled, repaired, or maintained in a foreign owned and operated shipyard located outside of the United States, except for voyage repairs.

SEC. 8142. (a) Section 38(b)(1) of the Arms Export Control Act (22 U.S.C. 2778(b)(1)) is amended—

(1) by inserting "(A)" before "As prescribed in"; and

(2) by adding at the end the following:

"(B) The prohibition under such regulations required by the second sentence of subparagraph (A) shall not extend to any military firearms (or ammunition, components, parts, accessories, and attachments for such firearms) of United States manufacture furnished to any foreign government by the United States under this Act or any other foreign assistance or sales program of the United States if—

"(i) such firearms are among those firearms that the Secretary of the Treasury is, or was at any time, required to authorize the importation of by reason of the provisions of section 925(e) of title 18, United States Code (including the requirement for the listing of such firearms as curios or relics under section 921(a)(13) of that title); and

"(ii) such foreign government certifies to the United States Government that such firearms are owned by such foreign government.".

22 USC 2778 note.

(b)(1) Except as provided in paragraphs (2) and (3), subparagraph (B) of section 38(b)(1) of the Arms Export Control Act, as added by subsection (a), shall take effect at the end of the ninety-day period beginning on the date of the enactment of this Act.

(2)(A) Such subparagraph shall take effect on the date of the enactment of this Act with respect to any military firearms or ammunition (or components, parts, accessories and attachments for such firearms) with respect to which an import permit was issued by the Secretary of the Treasury on or after July 1, 1986, irrespective of whether such import permit was subsequently suspended, revoked, or withdrawn by the Secretary of the Treasury based on the application of section 38(b)(1) of the Arms Export Control Act as in effect on the day before the date of the enactment of this Act.

(B) In the case of an import permit described in subparagraph (A) which was suspended, revoked, or withdrawn by the Secretary of the Treasury during the period beginning on July 1, 1986, and ending on the date of the enactment of this Act under the conditions described in such subparagraph, such import permit shall be reinstated and reissued immediately upon the enactment of this Act, and in any event not later than ten days after the date of the enactment of this Act.

(3) During the period preceding the revision of regulations issued under section 38(b)(1) of the Arms Export Control Act to reflect the provisions of subparagraph (B) of such section, as added by subsection (a), such regulations may not be applied with respect to matters covered by paragraph (2) of this subsection so as to prohibit or otherwise restrict the importation of firearms described in that paragraph or in any other manner inconsistent with that paragraph, notwithstanding that such regulations have not yet been so revised: *Provided,* That this section shall not take effect if during the twenty day period beginning on the date of enactment of this section the Secretary of State, the Secretary of Defense, or the Secretary of the Treasury notifies Congress that he has an objection to the intent of this section: *Provided further,* That the Attorney General shall, within the period of time stated in the first proviso, submit a certification to Congress indicating whether the enactment of this section will interfere with any ongoing criminal investigation with respect to this section. If a certification of criminal investigative interference or an objection to the intent of this section is made, as herein provided, no permit shall be issued to anyone.

22 USC 2321j.

SEC. 8143. (a) EXTENSION OF PROGRAM.—Section 516(a) of the Foreign Assistance Act of 1961 is amended in the first sentence by striking out "and 1988" and inserting in lieu thereof ", 1988, and 1989,".

(b) MAJOR NON-NATO ALLIES.—Section 516(a) of that Act is amended in the first sentence by inserting ", and to major non-NATO allies on the southern and southeastern flank of NATO which are eligible for United States security assistance," after "military structure".

(c) EXCESS DEFENSE ARTICLES.—Section 516 of that Act is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting "excess" before "defense articles", and

(B) in the second sentence, by inserting "excess defense" before "articles"; and

(2) in the text of subsection (b) preceding paragraph (1), in subsection (c), and in subsection (d), by inserting "excess" before "defense articles".

Nicaragua.

SEC. 8144. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States Government may be obligated or expended during fiscal year 1988 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 104 of the Intelligence Authorization Act (Public Law 100-178) for fiscal year 1988.

This Act may be cited as the "Department of Defense Appropriations Act, 1988".

(c) Such amounts as may be necessary for programs, projects or activities provided for in the District of Columbia Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

District of Columbia Appropriations Act, 1988.

AN ACT

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I

FISCAL YEAR 1988 APPROPRIATIONS

Federal Payment to the District of Columbia

For payment to the District of Columbia for the fiscal year ending September 30, 1988, $430,500,000, which shall not be subject to apportionment and shall be paid to the District of Columbia by the Secretary of the Treasury within 15 days after the enactment of this joint resolution: *Provided*, That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

Federal Payment for Water and Sewer Services

For payment to the District of Columbia for the fiscal year ending September 30, 1988, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $40,500,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612): *Provided*, That $7,900,000 of this amount shall be paid to the District government by the Secretary of the Treasury immediately upon enactment of this Act for fiscal years 1986 and 1987 adjustments: *Provided further*, That $32,600,000 shall be paid to the District government by the Secretary of the Treasury in four equal quarterly payments of $8,150,000 each, with each payment to be made on the first day of the beginning of each quarter without further justification by the District of Columbia government.

Federal Contribution to Retirement Funds

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $50,000,000.

TRANSITIONAL PAYMENT FOR SAINT ELIZABETHS HOSPITAL

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $29,000,000.

CRIMINAL JUSTICE INITIATIVE

(INCLUDING RESCISSION)

Of funds appropriated under this head in Public Law 99-500 and Public Law 99-591 for the design and construction of a prison in the District of Columbia, $20,000,000 are rescinded.

For the design and construction of a prison within the District of Columbia, to become available October 1, 1988, $20,000,000: *Provided*, That no funds are available for construction on the South part of Square E-1112 as recorded in Subdivision Book 140, Page 199 in the Office of the Surveyor of the District of Columbia unless previously approved by the Committees on Appropriations of the Senate and House of Representatives: Provided further, That the $50,000,000 herein and heretofore made available for the prison project shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, the payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $114,328,000: *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That notwithstanding any other provision of law, there is hereby appropriated $5,417,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $763,000 shall be derived from the general fund and not to exceed $4,654,000 shall be derived from the earnings of the applicable retirement funds: *Provided further*, That the District of Columbia Retirement Board shall provide to the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further,* That of the $150,000 appropriated for fiscal year 1988 for Admission to Statehood, $75,000 shall be for the Statehood Commission and $75,000 shall be for the Statehood Compact Commission: *Provided further,* That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further,* That no part of these funds shall be used for lobbying to support or defeat legislation pending before Congress or any State legislature.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $140,467,000: *Provided,* That the District of Columbia Housing Finance Agency established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia: *Provided further,* That up to $270,000 within the 15 percent set-aside for special programs within the Tenant Assistance Program shall be targeted for the single room occupancy initiative.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of not to exceed 135 passenger-carrying vehicles for replacement only (including 130 for police-type use and five for fire-type use) without regard to the general purchase price limitation for the current fiscal year, $655,524,000: *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles, and the Fire Department is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1988, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1988, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County and Prince William County, Virginia, for expenses incurred by the counties during fiscal year 1988 in relation to the Lorton prison complex. Such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further,* That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: *Provided further,* That none of the funds provided by this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services which are performed in emergencies by the Guard in a militia status and which are requested by the Mayor, in amounts which shall be jointly determined and certified as due and payable for such services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and their availability shall be deemed as constituting payment in advance for the emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $570,594,000, to be allocated as follows: $413,567,000 for the public schools of the District of Columbia, of which $600,000 shall be paid within 15 days of the enactment of this

Act directly to the District of Columbia Public Schools Foundation for entry level career employment programs, together with $200,000 which shall be paid directly to the Foundation when the Foundation certifies that an equal amount of private contributions has been received; $62,318,000 for the District of Columbia Teachers' Retirement Fund; $71,667,000 for the University of the District of Columbia; $17,047,000 for the Public Library; $3,544,000 for the Commission on the Arts and Humanities; $2,100,000 for the District of Columbia School of Law; and $351,000 for the Educational Institution Licensure Commission: *Provided further,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1988, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $695,591,000: *Provided,* That $14,700,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $213,654,000, of which not to exceed $4,141,000 shall be available for the School Transit Subsidy: *Provided,* That this appropriation shall not be available, prior to October 1, 1988, for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $6,758,000: *Provided,* That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); the Departments of Labor, and Health, Education and Welfare Appropriation Act of 1955, approved July 2, 1954 (68 Stat. 443; Public Law 83-472); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $220,905,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $224,881,000 general fund accumulated deficit as of September 30, 1986, $20,000,000 of which not less than $19,118,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both): *Provided*, That if the Federal payment to the District of Columbia for fiscal year 1988 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order.

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $3,750,000.

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $1,489,000.

ENERGY ADJUSTMENT

The Mayor shall reduce authorized energy appropriations and expenditures within object class 30a (energy) in the amount of $1,200,000, within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $272,526,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 to 43-1519); the District of Columbia Public Works Act of 1954, as approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That $15,353,000 shall be available for project management and $13,134,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That $4,000,000 of the $272,526,000, shall be financed from general fund operating revenues for pay-as-you-go capital projects for the Department of Public Works: *Provided further*, That $2,664,000 of the $272,526,000 shall be for the purchase of snow removal equipment of which $703,000 shall be financed from general fund operating revenues: *Provided further*, That $26,919,000 of the $272,526,000, shall be available to the Board of Education of the District of Columbia for the construction of new roofs for various school buildings, for boiler, window, door, and air conditioning replacements in various school buildings, for room conversions, erosion control, and general improvement projects at various school buildings, for an Administration Building site study and for the Sharpe Health School Modernization Project with $21,109,000 of these funds available for construction, $2,387,000 available for architectural design, $1,423,000 available for project management, and $2,000,000 for equipment: *Provided further*, That $10,000,000 appropriated in the fiscal year ending September 30, 1986, and $10,000,000 appropriated in the fiscal year ending September 30, 1987, shall be available to the Board of Education of the District of Columbia for asbestos abatement and removal, with $17,000,000 available for construction, $1,500,000 available for architectural design, and $1,500,000 for project management: *Provided further*, That notwithstanding the last sentence of section 405(b) of the District of Columbia Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1423; Public Law 93-471; D.C. Code, sec. 31-1535(b)), the Board of Education of the District of Columbia may procure contracts for the construction of new roofs for various school buildings, for boiler, window, door, and air conditioning replacements in various school buildings, for room conversions, erosion control and general improvement projects at various school buildings, for asbestos abatement, for an Administration Building site study, and for the Sharpe Health School Modernization Project: *Provided further,* That $12,819,000 of the $272,526,000 shall be available to the University of the District of Columbia for the construction of an underground parking extension at the Van Ness campus, for architectural barrier removal, for heating, ventilation, and air conditioning and partition modification, for a security system evaluation, and for the design and project management of the Mount Vernon Square campus: *Provided further,* That $500,000 of the $272,526,000 shall be available to the District of Columbia School of Law for general repair, rehabilitation, and improvement projects: *Provided further,* That all such funds shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1989, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1989: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $169,013,000, of which $31,720,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $7,358,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions which are applicable to general fund capital improvement projects and which are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981, as amended (95 Stat. 1174, 1175; Public Law 97-91), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $5,458,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $250,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law. Contracts.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-

205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1988, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 37,393, the number of positions authorized by this Act.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1989, shall be transmitted to the Congress no later than April 15, 1988.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency, Federalism and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

Abortion.

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Reports.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1987 shall be deemed to be the rate of pay payable for that position for September 30, 1987.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provision of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia govenment shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

SEC. 128. No later than 30 days after the end of the first quarter of fiscal year 1988, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1988 revenue estimate as of the end of the first quarter of fiscal year 1988: *Provided*, That these estimates shall be used in the fiscal year 1989 annual budget request: *Provided further*, That the officially revised estimates at midyear shall be used for the midyear report.

SEC. 129. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1987" and inserting in lieu thereof "sold before October 1, 1988".

SEC. 130. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 131. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by Public Law 99-177, as amended.

SEC. 132. Beginning with the fiscal year 1988, amounts appropriated for any fiscal year as the Federal payment to the District of Columbia under the District of Columbia Self-Government and Governmental Reorganization Act, as amended (D.C. Code, section 47-3406), shall not be subject to apportionment and shall be paid by the Secretary of the Treasury to the District of Columbia no later than 15 days after the beginning of the fiscal year for which they are appropriated (or no later than 15 days after the date of the enactment of the appropriating Act, if later).

SEC. 133. Beginning with the fiscal year 1988, amounts appropriated for any fiscal year for payment to the District of Columbia in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, under sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended (D.C. Code, sections 43-1552, 43-1612), shall be automatically apportioned in four equal amounts for the four quarters of the fiscal year and each such amount shall be paid in full by the Secretary of the Treasury to the District of Columbia on the first day of the beginning of the fiscal quarter involved without further justification by the District of Columbia government.

SEC. 134. None of the funds available to the District of Columbia government shall be used for any purpose involved in billing individual agencies or establishments for water and water services and sanitary sewer services traditionally funded under the account "Federal Payment for Water and Sewer Services" unless and until existing statutes (sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended, Public Law 364, approved May 18, 1954) are amended to specifically provide for such billing.

31 USC 1512 note.

SEC. 135. Federal funds hereafter appropriated to the District of Columbia government shall not be subject to apportionment except to the extent specifically provided by statute.

President of U.S.
31 USC 1105 note.

SEC. 136. After the effective date of this Joint Resolution, the President shall include, without change, in each annual budget submitted to the Congress under section 1105 of title 31, United States Code, the values estimated by the Mayor of the District of Columbia for water and water services and sanitary sewer services furnished to facilities of the United States Government under sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended (D.C. Code, sections 43-1552, 43-1612).

TITLE II

FISCAL YEAR 1987 SUPPLEMENTAL

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $3,115,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $1,056,000 are rescinded: *Provided further*, That notwithstanding any other provision of law, there is appropriated $1,000,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, which shall be derived from the earnings of the applicable retirement funds.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $309,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $5,281,000 are rescinded.

PUBLIC SAFETY AND JUSTICE

For an additional amount for "Public safety and Justice", $60,355,000, including ten additional passenger-carrying vehicles for the Fire Department.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $4,810,000, to be allocated as follows: $2,250,000 additional for the public schools of the District of Columbia; $1,354,000 additional for the University of the District of Columbia; $1,146,000 additional for the District of Columbia School of Law, which amount shall remain available until expended; $60,000 additional for the Educational Institution Licensure Commission: *Provided*, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $300,000 for the Public Library and $400,000 for the District of Columbia Teachers' Retirement Fund are rescinded.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $5,545,000: *Provided*, That $3,445,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $4,067,000 are rescinded.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $1,140,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $6,400,000 are rescinded.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $3,488,000 are rescinded.

PERSONAL SERVICES

For an additional amount for "Personal services", $1,800,000, to be apportioned by the Mayor to the various appropriations titles for optical and dental costs for nonunion employees.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $20,585,000: *Provided,* That $310,000 of this additional amount shall be for project management and $240,000 of this additional amount shall be for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System.

GENERAL PROVISIONS

SEC. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1987.

This Act may be cited as the "District of Columbia Appropriations Act, 1988".

(d) Such amounts as may be necessary for programs, projects or activities provided for in the Energy and Water Development Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

Energy and Water Development Appropriation Act, 1988.

AN ACT

Making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $138,767,000, to remain available until expended: *Pro-*

vided, That the Secretary of the Army is directed to proceed expeditiously with the feasibility study for the multipurpose project at Sunset Harbor, California, to demonstrate the feasibility of the financing mechanism of section 916 of Public Law 99-662 and to undertake the wetlands restoration and other project purposes set forth in section 1119 of Public Law 99-662: *Provided further,* That not to exceed $19,700,000 shall be available for obligation for research and development activities: *Provided further,* That of the amounts appropriated under this heading $220,000 shall be available for a reconnaissance study of the South Fork of the Sangamon River, Illinois.

Using funds previously appropriated in the Energy and Water Development Appropriation Act, 1987, Public Law 99-591, the Secretary of the Army is directed to undertake the following study: Indiana Shoreline Erosion, including preconstruction engineering and design, Indiana.

The Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1988:

Greenwood Lake, New Jersey;
East Bank Stabilization, New Jersey;
Beatties Dam, New Jersey;
Olcott Harbor Improvements, New York;
Atlantic Coast of New York City from Rockaway Inlet to Norton Point, New York (Coney Island Area);
Red River Waterway, Shreveport, Louisiana to Index, Arkansas;
Beaver Lake, Arkansas;
Brunswick County Beaches, North Carolina;
Westwego to Harvey Canal, Louisiana;
McCook and Thornton Reservoirs (CUP), Illinois;
Miami Harbor, Florida (cleanup);
St. Petersburg, Florida (coastal areas);
Little River, Horatio, Arkansas.

The Secretary of the Army is directed to expand the scope of the Denison Dam-Lake Texoma, Texas and Oklahoma, General Investigation study, authorized by United States Senate Public Works Committee Resolutions on April 30, 1960, and April 12, 1965, to consider alternatives for improving management and utilization of water resources of the Red River Basin at and above the Denison Dam-Lake Texoma project and to include consideration of the feasibility of additional reservoirs upstream of Denison Dam and direct current interconnections between the Southwest Power Pool and the Electric Reliability Council of Texas.

Funds are included herein for the Arthur Kill extension to Fresh Kills, near Carteret, New Jersey, to continue the ongoing post authorization planning, engineering and design provided that the level of detail shall be commensurate with General Design Memorandum level so that at the conclusion of the current effort and Secretary of the Army approval under section 202(b) of Public Law 99-662, only the preparation of plans and specifications will be necessary before construction.

The Secretary of the Army shall allocate $395,000 to continue preconstruction engineering and design and develop and execute a local cooperative agreement covering all elements of the Roanoke River Upper Basin, Virginia, project as described in the report of the Chief of Engineers dated August 5, 1985, and authorized in section

401(a) of the Water Resources Development Act, 1986 (Public Law 99-662).

The Secretary of the Army, acting through the Chief of Engineers, is directed to include preconstruction engineering and design for the upper Green Brook Sub-Basin and the Stony Brook Tributary, as authorized in the Water Resources Development Act of 1986, as part of preconstruction engineering and design for the flood control project for the Raritan River Basin, Green Brook Sub-Basin, New Jersey.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,077,985,000 of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterway Trust Fund, to remain available until expended, and of which not more than $7,000,000 shall be available to pay the authorized governing body of the Tohono O'odham Nation in accordance with the provisions of section 4(a) of Public Law 99-469; and in addition, $103,690,000, to remain available until expended, for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, $87,000,000 for work presently scheduled and $16,690,000 with which the Secretary of the Army is directed, as a minimum to award continuing contracts in fiscal year 1988 for construction and completion of each of the following features of the Red River Waterway: in Pool 3, Nantachie/Red Bayou Revetment Extension and Crain and Eureka Revetments; in Pool 4, Gahagan, Piermont, Nichols and Howard Realignments and Coushatta Capout; and in Pool 5, Cuples Revetment; and the amount provided herein includes $2,000,000 with which the Secretary of the Army is directed to initiate an accelerated design schedule for Locks and Dams 4 and 5 in order to initiate the first phase construction of Locks and Dams 4 and 5 by April 1990 and to complete construction of the Locks and Dams by 1994. None of these contracts are to be considered fully funded and contracts are to be initiated with funds herein provided; and in addition, $13,500,000, to remain available until expended, together with funds heretofore or hereafter appropriated, with which the Secretary of the Army is directed to award a single continuing contract for construction and completion of the Cooper River Seismic modification, South Carolina, project authorized by Public Law 98-63: *Provided*, That no fully allocated funding policy shall apply with respect to the construction of this project; and in addition, $5,000,000, to be made available to Metropolitan Dade County, Florida, for the purpose of a 50 per centum, cost-shared project, including environmental restoration, hurricane protection facilities and approximately one mile of dock space, establishing public access and a regional public park along the Miami River in the Allapatah community across from Curtis Park.

The Secretary of the Army is directed to initiate construction of the Presque Isle Peninsula, Erie, Pennsylvania (Permanent Project), authorized in section 501(a) of Public Law 99-662. The project to be constructed is described in the report of the Chief of Engineers dated

October 2, 1981. Of amounts provided herein, $500,000 is to be used to initiate construction of the Presque Isle Peninsula project in fiscal year 1988.

Within available funds, the Secretary of the Army is hereby directed to construct streambank protection measures along the west shoreline of the city of Guntersville, Alabama, on Guntersville Lake, under the authority of section 14 of Public Law 79-526.

The Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1988:

Sandy Hook to Barnegat Inlet, including Sea Bright to Ocean Township and Asbury Park to Manasquan, New Jersey;

New Melones Lake, California;

Barbourville, Kentucky (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia and Kentucky);

Harlan, Kentucky (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia and Kentucky): Provided, That no fully allocated funding policy shall apply with respect to the construction of Barbourville, Kentucky, and Harlan, Kentucky (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia and Kentucky);

Walnut and Cherry Street Bridges, Massillon, Ohio;

Mill Creek, Fort Smith, Arkansas;

Cape May Inlet to Lower Township, New Jersey;

Ouachita River Levees, Louisiana;

Gentilly, Minnesota;

Century Park, Lorain, Ohio;

Community Park, Sheffield Lake, Ohio;

Tangier Island, Virginia;

Shelburne Bay, Vermont.

The Secretary of the Army, using funds provided by this resolution, is directed to initiate construction of the Parker Lake Project, and is directed, as a minimum, to award continuing contracts in fiscal year 1988 for construction and completion of construction of the access road and project office and the purchase of necessary land for the Parker Lake Project.

The Secretary of the Army, using funds provided by this resolution, is directed to construct in accordance with Public Law 99-662 the Mud Creek Bridge Replacement Project at Eufaula Lake, Oklahoma.

The Secretary of the Army is authorized and directed to use the sum of $11,000,000 herein appropriated and which is to remain available until expended to carry out the provisions for the harbor modifications of the Cleveland Harbor, Ohio project contained in Public Law 99-662. The provisions include bulkheading and other necessary repairs at Pier 34 and approach channels and necessary protective structures for mooring basins for transient vessels in the area south of Pier 34 with necessary material to fill the area between Piers 34 and 36 with remaining fill to be disposed in the existing containment site 14. The local sponsor will provide the Corps of Engineers with the design plans for these projects. The Corps of Engineers shall also conduct a study, pursuant to section 992, of the Cuyahoga River and harbor modifications required by the Cleveland Cuyahoga County Port Authority. The Corps of Engineers shall also be directed to provide technical assistance for these harbor modifications to the Cleveland-Cuyahoga County Port

Authority and Pier 34. Congress hereby finds the project justified; and, for all elements in this appropriation, the funds expended by the Ohio Department of Natural Resources beginning with the first quarter of fiscal year 1986 in the area south of Pier 34 shall be considered eligible as non-Federal share consistent with the provisions of section 215 of Public Law 90-483, as amended. The Corps of Engineers shall inform the Congress of any delays in the project.

The Secretary of the Army is directed to dredge Saxon Harbor, Wisconsin, and to construct wood cribs as a permanent solution to the damages being caused by the Federal navigation project under the provisions of section 111 of the 1968 River and Harbor Act, Public Law 90-483, as amended.

The Secretary of the Army is directed to accomplish channel rehabilitation, repair and rehabilitation of fourteen pump stations and appurtenant works and rehabilitation and replacement of bridge structures in the vicinity of the East Side Levee and Sanitary District in East St. Louis, Illinois, by making available $1,000,000 in fiscal year 1988.

The Secretary of the Army, because of the Federal trust relationship that links the United States and Indian people, is directed to expend within available funds not to exceed $50,000 to plan and not to exceed $700,000 to design and engineer appropriate works to alleviate high ground water problems on agricultural lands owned by Cochiti Pueblo, New Mexico, directly downriver from Cochiti Dam: *Provided, however,* That no such funds shall be expended by the Secretary for design and engineering until the Secretary and the Tribal council of the Pueblo have agreed in writing to a plan of design that, in the judgment of both parties, will resolve the problems related to such high ground water: *And, Provided,* That the Secretary and the Tribal Council of the Pueblo shall continue to negotiate, and, if the parties so agree, the Secretary shall submit to Congress, if appropriate, a proposed settlement that would be in lieu of, or in addition to, any construction of works for the purposes of alleviating high ground water problems. For the purposes of this negotiation only, the provisions of section 3 of the Act of May 15, 1928 (45 stat. 535, ch. 569; 33 U.S.C. 702c) and sections 2401(a), 2401(b), and 2680(a) of title 28, United States Code, are waived. Nothing in this paragraph shall be construed to prejudice the rights, responsibilities, and defense of either party in any litigation between the Pueblo and the United States, nor commit the Secretary of the Army to a structural solution of the controversy.

The project for flood protection on the Lower San Joaquin River, California, authorized by section 10 of the Flood Control Act approved December 22, 1944 (58 Stat. 901), is modified—

(1) to authorize the Secretary of the Army, acting through the Chief of Engineers, to perform, in connection with the clearing and snagging authorized to be performed on such river from Stockton, California, to Friant Dam as part of such project by the Supplemental Appropriations Act, 1983 (97 Stat. 310)—

(A) clearing and snagging in the area of the North Fork of the Kings River in Mendota Pool from the southernly boundary of the James Reclamation District Number 1606 to Mendota Dam;

(B) fish and wildlife mitigation; and

(C) such rip-rapping in the area of the clearing and snagging on such rivers as may be necessary to prevent erosion from such clearing and snagging; and

(2) to increase the estimated cost of the clearing and snagging on the Lower San Joaquin River, including the activities authorized by paragraph (1), from $5,000,000 to $8,000,000.

The Secretary of the Army, acting through the Chief of Engineers, is directed to continue with planning, design, engineering and construction of the Des Moines Recreational River and Greenbelt project in accordance with the General Design Memorandum dated September 1987 and Public Law 99-591 using funds heretofore, herein, or hereafter appropriated.

The following portion of the Hudson River in New York County, State of New York, is hereby declared not to be part of the federally authorized Channel Deepening Project: that portion of the Hudson River lying to the west of the United States Pierhead Line as it exists on the effective date of this Act, more specifically described as beginning at a point at the intersection of the north side of North Cove and the existing pierhead line, proceeding in a northerly direction along the existing pierhead line to a point formed by the pierhead line and the southerly side of Vesey Street if extended; thence in a westerly direction on a line perpendicular to the existing pierhead line 200 feet to a point; thence southerly on a line parallel to the existing pierhead line to a point on the northerly line of the North Cove if extended; thence in an easterly direction 200 feet to the point and place of beginning. This declaration shall apply to all or any part of the above-described area used or needed for trans-Hudson passenger ferry boat service as such may be operated by or contracted for operation by a bistate agency created by Compact between the States of New York and New Jersey.

The Secretary of the Army shall allocate $2,800,000 heretofore appropriated, and is directed to initiate and complete construction of the breakwater for the Port Austin Harbor project in Michigan in accordance with the provisions for economic justification of the project contained in the River and Harbor Act approved 2 March 1945 (Public Law 14, 79th Congress, 1st Session).

Of funds available to the Army Corps of Engineers, Flood Control and Navigation, Research and Development, $250,000 shall be made available for research to prevent ice jamming and related flooding in the Dump Creek area of the Salmon River in Idaho.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, $20,000,000, to remain available until expended.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $317,704,000, to remain available until expended: *Provided*, That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist. In furtherance of the development of the Atchafalaya Basin Floodway System, Louisiana, in accordance with Public Laws 99-88 and 99-662, the Secretary of the Army is directed to acquire necessary interests in real estate for all features of the project, flood control, developmental control, environmental, and public access, beginning at the North end of the basin and proceeding southerly. With the funds herein provided, the Secretary is further directed to begin to concurrently acquire all real estate interests approved for the project as the acquisition process proceeds in the manner described in the preceding sentence: *Provided further*, That the Secretary is directed to expedite the acquisition, in fee simple, of lands, excluding minerals, for public access in the Atchafalaya Basin Floodway System, Louisiana, as authorized by Public Laws 99-88 and 99-662, and to expend up to 50 per centum of the funds herein provided for this purpose.

Funds provided to the Corps of Engineers are to be used in carrying out advanced engineering and design work on the Helena Harbor, Phillips County, Arkansas, project. The Corps will complete the advanced engineering and design work and be prepared to let a contract for the first phase of the construction not later than October 1, 1988.

The Secretary of the Army shall allocate $180,000 to the Mississippi River East Bank, Warren to Wilkerson Counties, Mississippi, Natchez Area project to complete by May 1988 a reevaluation of alternative plans, submission of a draft reevaluation report/Environmental Impact Statement supplement, coordination of report findings with public and other agencies, and completion and submission of the final report by December 1988.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,400,000,000 to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund, and of which $12,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601): *Provided*, That not to exceed $8,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further*, That none of the funds made available under "Operation and Maintenance, General" shall be used to pay the expenses of the Department of the Army regulatory activities.

The Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1988: Sauk Lake, Minnesota; and Yaquina North Jetty, Oregon.

General Regulatory Functions

For expenses necessary for administration of laws pertaining to preservation of navigable waters, $55,262,000, to remain available until expended.

General Expenses

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $115,200,000, to remain available until expended.

Administrative Provisions

Appropriations in this title shall be available for expenses of attendence by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 225 for replacement only) and hire of passenger motor vehicles.

General Provisions, Corps of Engineers

100 Stat. 1196.

SEC. 101. In section 4(c) of Public Law 99-469, the word "Secretary" is deleted each time it appears and the words "United States" are inserted in lieu thereof.

SEC. 102. The Secretary of the Army is directed to initiate construction and to reimburse non-Federal interests for work completed in conjunction with the North Branch of Chicago River project in Illinois.

SEC. 103. Using funds previously provided in the Energy and Water Development Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), the Secretary of the Army is directed to proceed with development of the Cross-Florida Barge Canal Conservation Management Plan as described in subsection 1114(e) of the Water Resources Development Act, 1986 (Public Law 99-662).

SEC. 104. A project for flood control along the San Timoteo Creek in the vicinity of Loma Linda is authorized for construction as part of the Santa Ana Mainstem including Santiago Creek Project in accordance with plans described in the San Timoteo Interim II of the Santa Ana Basin and Orange County study. For purposes of economic justification the benefits and costs of the San Timoteo Project shall be included together with the benefits and costs of the entire Santa Ana Mainstem, including Santiago Creek. The total costs for the Santa Ana Mainstem, including Santiago Creek, is to be raised by $25,000,000.

100 Stat. 4243.

SEC. 105. Section 1124 of Public Law 99-662 is modified to add the following new subsection:

"(e) The dollar amounts listed in this section are based on October 1985 price levels. Such amounts shall be subject to adjustment pursuant to section 902(2) of this Act. Total contributions to governments in Canada that are authorized by this section, as adjusted pursuant to section 902(2) of this Act, may fluctuate to reflect changes in the rate of exchange for currency between the United States and Canada that occurred between October 1985 and the time contributions are made.".

SEC. 106. The undesignated paragraph under the heading "Puerco River and Tributaries, New Mexico" in section 401(a) of Public Law 99-662 (100 Stat. 4082) is amended by striking out "$4,190,000", "$3,140,000", and "$1,050,000" and inserting in lieu thereof "$7,300,000", "$5,500,000", and "$1,800,000", respectively. 100 Stat. 4111.

SEC. 107. None of the funds made available under "Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil", except as provided for under "General Regulatory Functions", shall be used to pay the expenses of the Department of the Army-Civil regulatory activities.

SEC. 108. The McClellan-Kerr Arkansas River navigation project authorized under the comprehensive plan for the Arkansas River Basin by section 3 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1218), and section 10 of the Flood Control Act of 1946 (60 Stat. 647), is modified to include municipal, industrial and agricultural water supply as authorized project purposes. Withdrawals of water for such purposes may be permitted to the extent that such withdrawals are consistent with applicable State laws and do not interfere with the other authorized purposes.

SEC. 109. The undesignated paragraph under the heading "Noyes, Minnesota, in section 401(d) of Public Law 99-662 (100 Stat. 4131) is amended by striking out "$250,000" and inserting in lieu thereof "$650,000".

SEC. 110. The Chief of Engineers is directed to retain three operational aircraft authorized pursuant to section 101 of the Act of July 27, 1953, 67 Stat. 199, together with their attendant crews, and may only dispose of any of these aircraft if authorized to do so by a future congressional enactment for that purpose. The Chief of Engineers shall provide at least thirty days advance written notification to the Appropriations Committees of the Senate and House of Representatives of any intended use of any of these aircraft for a trip destined outside the United States or its territories or possessions. 33 USC 576 note.

SEC. 111. The section entitled "TRANSFER OF FEDERAL TOWNSITES" in the Supplemental Appropriations Act, 1985, title 1, chapter IV (Public Law 99-88, 99 Stat. 317) as amended by section 1123 of the Water Resources Development Act, 1986 (Public Law 99-662) is further amended as follows: 100 Stat. 4242.

(1) By deleting all that follows the colon in paragraph (7);

(2) By adding a new paragraph at the end of paragraph (7) as follows:

"(8) The Secretary shall, at full Federal expense for a period not to exceed three years from the date of the transfer of the townsite to the municipal corporation, continue to operate and maintain such corporation's electrical distribution system, including street lights, and to provide or assume the cost of electric power, natural gas, and liquified petroleum gas to buildings and facilities owned and operated by the corporation and to public school buildings located within the municipality.".

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $16,590,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended $703,716,000, of which $143,143,000 shall be available for transfers to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $152,498,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation to the heading: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further,* That approximately $5,630,000 in unobligated balances of

Teton Dam Failure Payment of Claims funds provided under Public Laws 94-355 dated July 12, 1976, and 94-438, dated September 30, 1976, shall be available for use on projects under this appropriation: *Provided further,* That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further,* That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further,* That of the amount herein appropriated, such amounts as may be necessary shall be available to enable the Secretary of the Interior to continue work on rehabilitating the Velarde Community Ditch Project, New Mexico, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) for the purposes of diverting and conveying water to irrigated project lands. The cost of the rehabilitation will be nonreimbursable and constructed features will be turned over to the appropriate entity for operation and maintenance: *Provided further,* That of the amount herein appropriated, such amounts as may be required shall be available to continue improvement activities for the Lower Colorado Regional Complex: *Provided further,* That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294): *Provided further,* That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further,* That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acrefeet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.): *Provided further,* That any funds expended under this Act for the purpose of conserving endangered fish species of the Colorado River system shall be charged against the increased amount authorized to be appropriated under the Colorado River Storage Project Act, as provided by section 501(A) of the Colorado River Basin Act of 1968: *Provided further,* That notwithstanding the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294), the James River Comprehensive Report on water resource development proposals may be submitted to Congress at a date after September 30, 1988, but not later than September 30, 1989.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $151,000,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: *Provided further,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable.

43 USC 618d note.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a-421d), and August 6, 1956, as amended (43 U.S.C. 422a-422l), including expenses necessary for carrying out the program, $32,309,000, to remain available until expended: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That during fiscal year 1988 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $31,972,000: *Provided further,* That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver Engineering and Research Center, and offices in the six regions of the Bureau of Reclamation, $51,690,000, of which $1,000,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or the Colorado River development fund are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) and the Act of July 19, 1940 (43 U.S.C. 618a), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the special fund from which derived.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 13 passenger motor vehicles of which 11 shall be for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461-467) and June 27, 1960 (16 U.S.C. 469): *Provided*, That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses" and amounts provided for plan formulation and advance planning investigations, and general engineering and research under the head "General Investigations".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341).

43 USC 377a.

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

None of the funds made available by this or any other Act shall be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.).

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided*, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. In accordance with repayment contract No. 9-07-70-W0363, entered into August 29, 1979, as amended December 18, 1981, for the Farwell Irrigation District, contractual party with the Farwell Unit, Middle Loup Division, Pick-Sloan Missouri Basin Program, and entitled "Contract between the United States of America and the Farwell Irrigation District for Additional Drainage Facilities", the costs of such project allocated to irrigation and drainage shall not be reimbursable. Payments already made under such contract shall be credited against overall payments due the United States.

SEC. 206. Of the appropriations for the Central Utah project, in this or any other Act, not more than $18,500,000 of the total in any one fiscal year may be expended by the Secretary for all administrative expenses: *Provided,* That the Inspector General of the Department of the Interior shall annually audit expenditures by the Bureau of Reclamation to determine compliance with this section: *Provided further,* That none of the Bureau of Reclamation's appropriations shall be used to fund the audit: *Provided further,* That the Bureau of Reclamation shall not delay or stop construction of the project due to this limitation and shall apply all the remaining appropriations to completion of this project, unless continuation of work on the Central Utah project would cause administrative expenses attributable to the Central Utah project to be paid from funds available for other Bureau of Reclamation projects and thereby delay their construction.

SEC. 207. The Secretary of the Interior is directed to use not to exceed $70,000 in fiscal year 1988 for soil classification studies required to complete the integration of the Hilltop Irrigation District as a Federal unit of the Pick-Sloan Missouri River Basin program.

SEC. 208. (a) Notwithstanding title II of the Reclamation Authorization Act of 1975 (Public Law 94-228), the city of Dickinson, North Dakota, is forgiven all obligations incurred by such city under the contract (numbered 9-07-60-WR052) entered into with the Secretary of the Interior or his delegatee.

(b)(1) The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into a new repayment contract with the city of Dickinson the terms of which shall entitle the city of Dickinson to water supply benefits provided by the bascule gate project authorized by title II of the Reclamation Authorization Act of 1975 in consideration for repayment of the costs of the bascule gate project as provided in paragraph (2).

(2) Repayment terms of the new contract shall provide for—

(A) repayment by the city of Dickinson of the capital cost of the bascule gate project of $1,625,000 over a period of 40 years at an interest rate of 7.21 per centum per annum; and

(B) payment of the annual operation, maintenance, and replacement costs of the project facilities.

SEC. 209. (a) Notwithstanding any other provisions of law, the city of Minot, North Dakota, is relieved of all liability for repayment to the United States of the sum of $1,026,489.29 associated with the excess capacity of the Minot Pipeline resulting from enactment of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294).

(b) The relief from liability for repayment granted by subsection (a) shall be effective retroactive to January 1, 1978, the start of the city of Minot's repayment obligation under the 1972 repayment contract with the Bureau of Reclamation.

(c) If the excess capacity referred to in subsection (a) is ever used, the city of Minot shall reimburse the United States for the costs referred to in subsection (a) proportionate to the actual use of the excess capacity.

SEC. 210. (a) The McGee Creek Project of the Bureau of Reclamation shall not be deemed completed until such time as construction of all authorized components of the project are completed, including access roads and recreation areas.

(b) The Bureau of Reclamation shall not transfer title of the project to any other entity or require repayment of the project or permit refinancing of the project until such time as the project is completed according to the terms of (a) above.

SEC. 211. The Secretary is prohibited from transferring the Office of the Commissioner of the Bureau of Reclamation, the Assistant Commissioner for Administration and the Office of Foreign Activities from Washington, D.C. to Denver, Colorado and shall have in the Washington office a minimum of sixty professional staff experienced in the following areas: Budget, Foreign Activities, Contracts and Repayment, Resource Development and Management; Construction; and Congressional and Public Affairs. The Secretary is further prohibited from transferring the Acreage Limitation Branch from Denver, Colorado to Washington, D.C. In addition, the Bureau shall maintain appropriate administrative support personnel for the Washington Office. The Secretary shall submit quarterly reports to the Congress, beginning January 1988, on Washington office reorganization initiatives to reduce overhead and duplication.

Reports.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 21 for replacement only), $1,988,357,000, to remain available until expended; in addition $104,000,000 shall be derived by transfer from Uranium Supply and Enrichment Activities provided in prior years and shall be available until expended; and of which $125,800,000 which shall be available only for the following facilities: the Institute for Human Genomic Studies at the Mount Sinai Medical Center, New York City; the Center for Applied Optics, University of Alabama in Huntsville; the Center for Automation Technology, Drexel University; the Institute for Advanced Physics Research, Boston University; the Multi-Purpose Center, Boston College; the Pediatric Research Center at Children's Hospital, Pittsburgh, Pennsylvania; the Cancer Research Center at the Medical University of South Carolina; the Oregon Health Science University; the Center for Advanced Microstructures and Devices, Louisiana State University; the Proton-Beam Demonstration Cancer Treatment Center, Loma Linda University Medical Center; the Center for Physical and Environmental Science, East Central University, Oklahoma; the Barry M. Goldwater Center for Science and Engineering, Arizona State University; the Institute of Nuclear Medicine, Center for Molecular Medicine and Immunology, University of Medicine and Dentistry, New Jersey; the National Center for Chemical Research, Columbia University; and the Combustion Research Facility, Phase II, Sandia Laboratory, Livermore, California; and funds provided for byproducts utilization activities shall be available only for the following regional projects: Florida Department of Agriculture and Consumer Services; Hawaii Department of Business and Economic Development; Iowa State University; Oklahoma, RedArk Development Authority; Washington, Port of Pasco; State of Alaska: *Provided*, That of the amount appropriated under this heading for the magnetic fusion program, $8,000,000 shall be available to continue research, development, engineering and design only of Project 88-R-92, Compact Ignition Tokamak: *Provided further*, That the Princeton Plasma Physics Laboratory and the Office of Fusion Energy shall submit a report and a 5-year plan based on current budgetary resources allocated for fusion energy research to the Committees on Appropriations of the House and Senate providing detailed information, costs and schedules for the concurrent construction of the Compact Ignition Tokamak project with the continued operation and completion of the Tokamak Fusion Test Reactor project.

Reports.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 26 for replacement only); $950,000,000, to remain available until expended: *Provided*, That revenues received by the Department for the enrichment of uranium and estimated to total $1,301,000,000 in fiscal year 1988, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of section 484, of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1988 so as to result in a final fiscal year 1988 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 22, of which 18 are for replacement only), $804,498,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $360,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) to issue obligations to the Secretary of the Treasury. In paying the amounts determined to be appropriate as a result of the decision in Wisconsin Electric Power Co. v. Department of Energy, 778 F. 2d 1 (D.C. Cir. 1985), the Department of Energy shall pay, from the Nuclear Waste Fund, interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Fund. Funds appropriated pursuant to this Act may be used to provide payments equivalent to taxes to special purpose units of local government at the candidate sites.

42 USC 10101 *et seq.*

Subtitle A of title V, Nuclear Waste Policy Amendments Act of 1987, contained in H.R. 3545, Omnibus Budget Reconciliation Act of 1987 as agreed to and reported by the Committee on Conference on H.R. 3545 is included herein and shall be effective as if it has been enacted into law.

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities, $7,749,364,000, to remain available until expended, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 292 for replacement only including 43 police-type vehicles; and purchase of two aircraft, one of which is for replacement only): *Provided,* That within the funds available within materials production activities, the Secretary of Energy shall prepare and submit to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives, not later than May 1, 1988, an acquisition strategy report for replacement production reactors. Such report shall provide the rationale and description of the recommended acquisition strategy for replacement nuclear materials production capacity that would fulfill the long-term requirements of the United States for tritium

Reports.

and plutonium, including the recommendation of the Nuclear Weapons Council with respect to matters within the responsibility of the Council. Such report also shall include an analysis of whether or not the acquisition strategy should provide for the procurement and construction of two or more replacement production reactors, either concurrently or sequentially. Such report also shall include, but not be limited to, an analysis of the use of alternative reactor technologies at one or more sites based on the most current information including overall program costs and schedules; safety, environmental and licensing features; strategic and national security benefits; and amortization of reactor capital and operating costs through the sale of by-product steam. Such report shall include a comprehensive comparative financial analysis and cost estimate including annual and life cycle costs for research, development, design, construction, operating expenses and revenues and the levelized unit products costs relating to the replacement production reactor alternatives considered. The recommendations of the Secretary shall include a recommendation with respect to the preferred alternatives for achieving replacement nuclear materials production capacity, including the number of production reactors required, the preferred technologies, and the preferred sites, and a time schedule for their acquisition, construction, and operation. The provision of the National Environmental Policy Act (43 U.S.C. 4321, et seq.) shall not apply to any actions taken by the Secretary in the conduct of activities associated with the preparation of such report, including, but not limited to, the formulation of an acquisition strategy or the planning, design, and selection of alternative technologies and sites for replacement production reactors: *Provided further,* That of these funds, $7,500,000 shall be made available for the Hanford Waste Vitrification Plant (Project 88-D-173): *Provided further,* That of the amount appropriated to the Department of Energy in this paragraph, $121,000,000 may be obligated only for the verification and control technology program of the Department of Energy: *Provided further,* That none of the funds made available by this Act may be used for the operation of the N-Reactor at the Hanford Reservation, Washington, unless the Secretary of Energy makes a specific determination and submits a certification in writing to the Congress that—

(1) the further operation of the N-Reactor is necessary to meet national security requirements;

(2) the Department will fully comply with the report of the National Academy of Sciences as described in Public Law 100-180;

(3) the Department plan for the N-Reactor is consistent with the reports of the Roddis panel as described in Public Law 100-180; and

(4) the N-Reactor is safe to operate.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000) $395,513,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total $233,896,000 in fiscal year 1988 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1988 so as to result in a final fiscal year 1988 appropriation estimated at not more than $161,617,000.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,026,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for fish passage improvements at the Umatilla River Diversion and for the Ellensburg Screen Fish Passage Facilities. Expenditures are also approved for official reception and representation expenses in an amount not to exceed $2,500.

During fiscal year 1988, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $27,400,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $16,648,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $4,625,000 in collections from the Department of Defense from power purchases and not to exceed $1,721,000 in collections from non-Federal entities for construction projects in fiscal year 1988, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, the purchase of passenger motor vehicles (not to exceed 3 for replacement only), $242,512,000, to remain available until expended, of which $235,268,000, shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $7,003,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $2,000); $100,000,000, of which $3,000,000 shall remain available until expended and be available only for contractual activities: *Provided,* That hereafter and notwithstanding any other provision of law, not to exceed $100,000,000 of revenues from licensing fees, inspection services, and other services and collections in fiscal year 1988, may be retained and used for necessary expenses in this account, and may remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1988, so as to result in a final fiscal year 1988 appropriation estimated at not more than $0.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $72,000, to remain available until expended: *Provided,* That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft;

purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

Contracts.
Public information.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) In any regulations issued pursuant to section 1534 of the Defense Authorization Act for 1986, the Secretary of Energy may not disallow the following costs associated with the activities of contractor personnel from the Department of Energy National Laboratories (or Department of Energy personnel of the Department of Energy National Laboratories):

(1) Costs of providing to Congress or a State legislature, in response to a request (written or oral, prior or contemporaneous) from Congress or a State legislature, information or expert advice of a factual, technical, or scientific nature, with respect to:

(A) topics directly related to the performance of the contract; or

(B) proposed legislation; irrespective of whether such information or advice was requested or supplied through the Department of Energy.

(2) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.

(b) No part of any appropriation made in this title shall be obligated or expended to influence, either directly or indirectly, any appropriation or legislation before Congress, or for any publicity or propaganda purpose not specifically authorized by Congress: *Provided*, That this provision shall not apply to:

(1) the communication of departmental or agency views to the Congress;

(2) the conduct of normal legislative liaison activities; or

(3) the costs described in subsection (a).

SEC. 306. No funds appropriated or made available under this or any other Act shall be used by the executive branch for studies, reviews, to solicit proposals, to consider unsolicited proposals, undertake any initiatives or draft any proposals to transfer out of Federal ownership, management or control in whole or in part, the facilities, assets, and functions of the uranium supply and enrichment program, including inventories, until such activities have been specifically authorized in accordance with terms and conditions established by an Act of Congress hereafter enacted: *Provided*, That this provision shall not apply to the authority granted to the Department of Energy under section 161g of the Atomic Energy Act of 1954, as amended, under which it may sell, lease, grant, and dispose of property in furtherance of Atomic Energy Act activities or to the authority of the Administrator of the General Services Administration pursuant to the Federal Property and Administrative Service Act of 1944 to sell or otherwise dispose of surplus property.

SEC. 307. Within three months following the date of enactment of this Act, the Federal Energy Regulatory Commission shall provide the Committee on Appropriations of the House and Senate with a report describing the policies followed in implementing the Commission's responsibilities under the National Environmental Policy Act. This report shall include a description of the steps the Commission has taken to ensure that environmental reviews are conducted efficiently and in a timely manner, the willingness of the Commission to utilize the technical expertise of other Federal and State agencies, and the Commission's environmental authority regarding nonjurisdictional facilities. Reports.

SEC. 308. The Federal Energy Regulatory Commission is authorized to extend the time period required for commencement of construction of Project No. 4506 for an additional two years upon application by the licensee to the Federal Energy Regulatory Commission if the Federal Energy Regulatory Commission determines that an extension is warranted under the standard set forth in section 13 of the Federal Power Act and is in the public interest.

SEC. 309. None of the funds appropriated by this Act or any other Act may be expended by the Department of Energy or the Department of Justice or any of their component agencies to prosecute any action or to enforce any judgment against any individual corporate shareholder, officer or employee for restitution under section 209 of the Economic Stabilization Act of 1970, as amended, in any case decided by the Temporary Emergency Court of Appeals on May 7, 1987, based upon the role of such individual as a central figure in any statutory or regulatory violation, except for the actual dollar amount personally received by such individual from such violation and any interest assessed on such amount. The prohibition in this section shall apply only until October 1, 1988.

SEC. 310. (a) The amendments made by section 643(b) of the Energy Security Act (Public Law 96-294) and any regulations issued to implement such amendment shall apply to qualifying small power production facilities (as such term is defined in the Federal 16 USC 824a-3 note.

Power Act) using solar energy as the primary energy source to the same extent such amendments and regulations apply to qualifying small power production facilities using geothermal energy as the primary energy source, except that nothing in this Act shall preclude the Federal Energy Regulatory Commission from revising its regulations to limit the availability of exemptions authorized under this Act as it determines to be required in the public interest and consistent with its obligations and duties under section 210 of the Public Utility Regulatory Policies Act of 1978.

(b) The provisions of subsection (a) shall apply to a facility using solar energy as the primary energy source only if either of the following is submitted to the Federal Energy Regulatory Commission during the two-year period beginning on the date of enactment of this Act:

(1) An application for certification of the facility as a qualifying small power production facility.

(2) Notice that the facility meets the requirements for qualification.

SEC. 311. None of the funds appropriated by this Act or any other Act may be expended by the Federal Energy Regulatory Commission for the purpose of issuing a certificate of public convenience and necessity pursuant to the application made by the Iroquois Gas Transmission System under the Commission's optional expedited certificate procedures (Docket No. CP86-523 et al.) until the Commission has considered, in accordance with applicable law, the environmental impacts.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

40 USC app. 401 note.

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, except expenses authorized by section 105 of said Act, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $107,000,000: *Provided*, That after the date of enactment of this resolution, appropriations for Appalachian regional programs in this or any other Act may be used for the purposes of the Appalachian Regional Development Act without regard to section 224(b) (2), (3), and (4) of that Act and funds in energy enterprise loan funds may be reapproved by the Commission for similar uses.

40 USC app. 224 note.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $203,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $263,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $379,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $392,800,000, to remain available until expended: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs including criminal history checks under section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $196,400,000 in fiscal year 1988 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1988 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorizatior programs, so as to result in a final fiscal year 1988 appropriation estimated at not more than $196,400,000.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $197,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expense of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $249,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $103,000,000, to remain available until expended: *Provided,* That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code: *Provided further,* That the official of the Tennessee Valley Authority referred to as the "inspector general of the Tennessee Valley Authority" is authorized, during the fiscal year ending September 30, 1988, to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and other documentary evidence necessary in the performance of the audit and investigation functions of that official, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided further,* That procedures other than subpoenas shall be used by the inspector general to obtain documents and evidence from Federal agencies.

16 USC 831b note.

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act. This prohibition bars payment to a party intervening in an administrative proceeding for expenses incurred in appealing an administrative decision to the courts.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act for Power Marketing Administrations or the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund or the Tennessee Valley Authority Fund, may be used to pay the costs of procuring extra high voltage (EHV) power equipment unless contract awards are made for EHV equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: *Provided*, That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further*, That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further*, That this section shall not apply to procurement of domestic end product as defined in 48 C.F.R. sec. 25.101: *Provided further*, That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

SEC. 508. None of the funds in this Act may be used to construct or enter into an agreement to construct additional hydropower units at Denison Dam—Lake Texoma.

SEC. 509. In honor of Ernest Frederick Hollings, the building located at 83 Meeting Street in Charleston, South Carolina, shall hereafter be known and designated as the "Hollings Judicial Center": *Provided further*, That the lock and dam on the Tombigbee

River in Pickens County, Alabama, commonly known as the Aliceville Lock and Dam, and the resource management and visitor center at Aliceville Lake on the Tennessee-Tombigbee Waterway shall hereafter be known and designated as the "Tom Bevill Lock and Dam" and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway", respectively. Any reference in a law, map, regulation, document, or paper of the United States to such lock and dam and any reference in a law, map, regulation, document, or paper of the United States to such resource management and visitor center shall be held to be a reference to the "Tom Bevill Lock and Dam" and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway", respectively.

This Act may be cited as the "Energy and Water Development Appropriation Act, 1988".

(e) Such amounts as may be necessary for programs, projects or activities provided for in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988.

AN ACT

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock, $40,176,393 for the General and Selective Capital Increases, to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $437,320,185.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $915,000,000, for the United States contribution to the replenishments, to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $20,300,000, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE MULTILATERAL INVESTMENT GUARANTEE AGENCY

For payment to the Multilateral Investment Guarantee Agency by the Secretary of the Treasury, for the paid-in share of the capital stock, $44,403,116, to remain available until expended: *Provided*, That no such payment may be made prior to April 30, 1988: *Provided further*, That no such payment may be made on or after April 30, 1988, unless the Secretary of the Treasury certifies and reports to the Congress that the United States Director of the Agency has proposed and actively sought the adoption by the Agency of the policies and procedures specified in section 405 of H.R. 3750, as enacted herein: *Provided further*, That no such payment may be made on or after April 30, 1988, unless the Secretary of the Treasury certifies and reports to the Congress that the Board has adopted those policies and procedures, or substantially similar policies and procedures, or that the United States Director of the Agency will continue to propose and actively seek the adoption by the Agency of those policies and procedures until those policies and procedures, or substantially similar policies and procedures, have been adopted by the Board and that the failure to make such payment is likely to make the adoption of those policies and procedures more difficult to achieve.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The Secretary of the Treasury may subscribe without fiscal year limitation to the callable portion of the shares of capital stock in an amount not to exceed $177,612,464.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the increase in the resources of the Fund for Special Operations, $25,732,371, to remain available until expended; and $31,600,000, for the United

States share of the increases in paid-in capital stock to remain available until expended; and $1,303,000 for the United States share of the capital stock of the Inter-American Investment Corporation, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code: *Provided further,* That the United States Governor of the Inter-American Development Bank is hereby authorized to agree to, and to accept, the amendments to the Articles of Agreement in the proposed resolution entitled "Merger of Inter-regional and Ordinary Capital Resources".

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $119,403,576.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $15,057,220, to remain available until expended; and for the United States contribution to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $28,000,000, to remain available until expended: *Provided,* That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $276,503,941.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $75,000,000, for the United States contribution to the fourth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $8,999,371, to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $134,918,184.

AUTHORIZATION OF APPROPRIATIONS

There is hereby enacted into law H.R. 3750, as introduced in the House of Representatives on December 11, 1987. Section 102 of H.J. Res. 395 shall not apply with respect to provisions enacted by this paragraph.

22 USC 262m—262p-5, 283z-4, 284-r, 285z, 286e-5a, 290i-10, 290k—290k-11.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $244,648,000: *Provided*, That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further*, That the total amount of funds appropriated under this heading shall be made available only as follows: $110,000,000 for the United Nations Development Program; $54,400,000 for the United Nations Children's Fund, which amount shall be obligated and expended no later than 30 days from the date of enactment of this Act; $980,000 for the World Food Program; $980,000 for the United Nations Capital Development Fund; $220,000 for the United Nations Voluntary Fund for the Decade for Women; $2,000,000 for the International Convention and Scientific Organization Contributions; $1,960,000 for the World Meteorological Organization Voluntary Cooperation Program; $21,854,000 for the International Atomic Energy Agency; $7,840,000 for the United Nations Environment Program; $784,000 for the United Nations Educational and Training Program for Southern Africa; $245,000 for the United Nations Trust Fund for South Africa; $110,000 for the United Nations Institute for Namibia; $170,000 for the Convention on International Trade in Endangered Species; $220,000 for the World Heritage Fund; $90,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $150,000 for the UNIDO Investment Promotion Service; $12,000,000 for the Organization of American States; and $30,000,000 for the International Fund for Agricultural Development, of which up to $10,000,000 may be made available for the Special Program for Sub-Saharan African Countries Affected by Drought and Desertification: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1988, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 103, $488,715,000: *Provided,* That up to $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: *Provided further,* That not less than $8,000,000 shall be provided for the Vitamin A Deficiency Program: *Provided further,* That, notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this heading shall be made available, and remain available until expended, for agricultural activities in Poland which are managed by the Polish Catholic Church or other nongovernmental organizations: *Provided further,* That not less than $2,000,000 of the funds appropriated under this heading shall be made available only for the North American Waterfowl Plan, which shall not be included in determining compliance with section 119(c) of the Foreign Assistance Act of 1961.

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $197,940,000: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning;

and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

HEALTH, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(c), $119,000,000.

INTERNATIONAL AIDS PREVENTION AND CONTROL PROGRAM

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $30,000,000, which shall be made available only for activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided,* That of the funds made available under this heading $15,000,000 shall be made available to the World Health Organization for the Special Program on AIDS, including activities implemented by the Pan American Health Organization.

CHILD SURVIVAL FUND

For necessary expenses to carry out the provisions of section 104(c)(2), $66,000,000.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 105, $117,000,000: *Provided,* That not less than $42,000,000 of the funds appropriated under this heading and under the heading "Sub-Saharan Africa, Development Assistance" shall be available only for programs in basic primary and secondary education: *Provided further,* That $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute: *Provided further,* That not less than $1,250,000 of the funds appropriated under this heading shall be made available for the Center for Inter-American Leadership: *Provided further,* That not less than $10,000,000 of the funds appropriated under this heading shall be available only for the International Student Exchange Program.

PRIVATE SECTOR, ENVIRONMENT, AND ENERGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $120,709,000: *Provided,* That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: *Provided further,* That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project: *Provided further,* That not less than $1,500,000 shall be made available only for rural electrification activities for the Caribbean.

SCIENCE AND TECHNOLOGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $8,662,270.

MICRO-ENTERPRISE DEVELOPMENT

Of the funds appropriated by this Act to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $50,000,000 shall be made available for programs of credit and other assistance for micro-enterprises in developing countries: *Provided*, That local currencies which accrue as a result of assistance provided to carry out the provisions of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 may be used for assistance for micro-enterprises: *Provided further*, That such local currencies which are used for this purpose shall be in lieu of funds reserved under this heading and shall reduce the amount reserved for assistance for micro-enterprises by an equal amount.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 and section 121 of the Foreign Assistance Act of 1961, $500,000,000, for assistance only for Sub-Saharan Africa, which shall be in addition to any amounts otherwise made available for such purposes: *Provided*, That any of the funds which are appropriated under this heading may be used for assistance for Sub-Saharan Africa to carry out any economic development assistance activities under the Foreign Assistance Act of 1961: *Provided further*, That assistance made available under this heading shall be used to help the poor majority in Sub-Saharan Africa through a process of long-term development and economic growth that is equitable, participatory, environmentally sustainable, and self-reliant: *Provided further*, That these objectives may, in part, be achieved through the integration of women in the development process, appropriate consultation with private voluntary organizations, African and other organizations with a local perspective on the development process, and inclusion of the perspectives and participation of those affected by the provision of assistance: *Provided further*, That assistance made available under this heading shall be provided in accordance with the policies contained in section 102 of the Foreign Assistance Act of 1961: *Provided further*, That assistance made available under this heading should be provided, when consistent with the objectives of such assistance, through African, United States and other private and voluntary organizations which have demonstrated effectiveness in the promotion of local grassroots activities on behalf of long-term development in Sub-Saharan Africa: *Provided further*, That assistance made available under this heading should be used to help overcome shorter-term constraints to long-term development; to promote reform of sectoral economic policies to support the critical sector priorities of agricultural production and natural resources, health, voluntary family planning services, education, and income generating opportunities; to bring about appropriate sectoral restructuring of the Sub-Saharan African economies; to support reform in public administration and finances and to establish a favorable environment for individual enterprise and self-sustaining development: *Provided further*, That assisted policy reforms should take into account the need to protect vulnerable groups: *Provided further*, That assistance made available under this heading shall be used to increase agricultural production in ways which protect and restore the natural resource base, especially food production; to maintain and improve basic transportation and communication networks; to maintain and restore the renewable natural resource base in ways which increase agricultural production; to improve health conditions with special emphasis on meeting the health needs of mothers and children, including the establishment of self-sustaining primary health care systems that give priority to preventive care; to provide increased access to voluntary family planning services; to improve basic literacy and mathematics especially to those outside the formal educational system and to improve primary education; and to develop income-generating opportunities for the unemployed and underemployed in urban and rural areas: *Provided further,* That the Administrator of the Agency for International Development should target the equivalent of 10 percent of the funds appropriated under this heading for each of the following: (1) maintaining and restoring the renewable natural resource base in ways which increase agricultural production, including components of agriculture activities which are consistent with this objective, (2) health activities, and (3) voluntary family planning: *Provided further,* That local currencies generated by the sale of imports or foreign exchange by the government of a country in Sub-Saharan Africa from funds appropriated under this heading shall be deposited in a special account established by that government: *Provided further,* That these local currencies shall be available only for use, in accordance with an agreement with the United States, for development activities which are consistent with the policy directions of section 102 of the Foreign Assistance Act of 1961 and for necessary administrative requirements of the United States Government: *Provided further,* That in order to carry out the purposes of this heading, section 604(a) of the Foreign Assistance Act of 1961, and similar provisions of law, shall not apply with respect to the implementation of assistance activities consistent with the purposes of this heading: *Provided further,* That the funds made available under this heading shall be provided only on a grant basis.

SOUTHERN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $50,000,000, which shall be made available, without regard to section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961, only to assist sector projects supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the nine member states forming that regional institution: *Provided,* That at least 50 percent of that amount shall be made available for the transportation sector and the remaining amount shall be made available for one or more of the following sectors: manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives): *Provided further,* That amounts made available under this heading shall be in addition to any amounts otherwise made available for such purposes and shall be in addition to amounts made available for Africa under the heading "Sub-Saharan Africa, Development Assistance": *Provided further,* That none of the funds appropriated under this heading may be made available for activities in Angola: *Provided further*, That none of the funds appropriated under this heading may be made available for activities in Mozambique unless the President certifies that it is in the national interest of the United States to do so.

PHILIPPINES, DEVELOPMENT ASSISTANCE

Of the aggregate of the funds appropriated by this Act to carry out sections 103 through 106 of the Foreign Assistance Act of 1961, not less than $40,000,000 shall be made available only for the Philippines for project and sector assistance primarily in support of the Government of the Philippines' efforts to promote economic recovery and attain sustained growth through increased rural productivity in both farm and off-farm enterprises, and other activities consistent with the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961: *Provided*, That of the funds made available for the Philippines under section 103 of the Foreign Assistance Act of 1961, as amended, not less than $1,000,000 shall be made available to fund technical assistance to strengthen nonprofit private organizations and cooperatives in conjunction with projects using local currencies generated by sale of Public Law 480 and section 416 commodities.

PRIVATE AND VOLUNTARY ORGANIZATIONS

22 USC 2151u note.

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided*, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

PRIVATE SECTOR REVOLVING FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, not to exceed $9,000,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1988, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $12,000,000.

LOAN ALLOCATION, DEVELOPMENT ASSISTANCE

In order to carry out the provisions of part I, the Administrator of the agency responsible for administering such part may furnish loan assistance pursuant to existing law and on such terms and conditions as he may determine: *Provided*, That to the maximum extent practicable, loans to private sector institutions, from funds made available to carry out the provisions of sections 103 through 106, shall be provided at or near the prevailing interest rate paid on

Treasury obligations of similar maturity at the time of obligating such funds: *Provided further,* That amounts appropriated to carry out the provisions of chapter 1 of part I which are provided in the form of loans shall remain available until September 30, 1989.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, $40,000,000.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $25,000,000, to remain available until expended: *Provided,* That not less than $1,000,000 shall be made available only for assistance for children who have become orphans as a result of drought and famine in Sub-Saharan Africa.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $35,132,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $406,000,000: *Provided,* That not more than $15,000,000 of this amount shall be for Foreign Affairs Administrative Support: *Provided further,* That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1988 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this proviso, economically and socially disadvantaged individuals shall be deemed to include women: *Provided further,* That the Administrator of the Agency for International Development shall submit to the Committees on Appropriations reports assessing the management and performance of the following offices within the Agency: (1) Bureau for Science and Technology, Directorate for Human Resources, (2) Bureau for Science and Technology, Directorate for Health, (3) Bureau for Food for Peace and Voluntary Assistance, Office of Private and Voluntary Cooperation, (4) Office of the Science Advisor, (5) Bureau for Program and Policy Coordination, Office of Economic Affairs, (6) Bureau for Program and Policy Coordination, Center for Development Information and Evaluation, (7) Bureau for Asia and Near East, Office of Project Development, (8) Bureau for Private Enterprise, and (9) Bureau for Africa, Office of

Reports.

Reports. Development Planning: *Provided further,* That such reports shall assess, among other things, the validity of the goals and objectives of the office or directorate, how well these goals and objectives are being achieved, the performance of the office or directorate in providing services, as appropriate, to other bureau offices and/or to the Agency's overseas missions, and, given competing demands being placed on overall Agency resources, whether appropriate personnel and funding resources are being made available for the office or directorate: *Provided further,* That such reports shall be submitted to the Committees on Appropriations by April 15, 1988: *Provided further,* That section 636(c) of the Foreign Assistance Act of 1961 is amended by striking out "$3,000,000" and inserting in lieu thereof "$6,000,000": *Provided further,* That notwithstanding any other provision of law, none of the funds appropriated under this heading or under the heading "Operating Expenses of the Agency for International Development Office of the Inspector General" shall lapse as a result of such funds not being used for contributions prescribed by the Federal Employees Retirement System Act of 1986, and such funds shall be made available for other purposes consistent with the purposes of such headings.

Reports.

22 USC 2396.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $23,970,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided,* That up to three percent of the amount made available under the heading "Operating Expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further,* That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to another country: *Provided further,* That section 103(b) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 is amended (1) by striking "; and" at the end of the first paragraph, (2) by striking the period at the end of the second paragraph and inserting in lieu thereof "; and", and (3) by inserting the following paragraph at the end thereof:

22 USC 4802.

"(3) establish, notwithstanding any other provision of law, appropriate overseas staffing levels of the Regional Offices of the Inspector General of the Agency for International Development in effective consultation with the Inspector General of the Agency: *Provided,* That the authority of the Secretary of State shall be exercised only by the Secretary and shall not be delegated to a subordinate officer of the Department of State: *Provided further,* That the Inspector General must report to the appropriate committees of both Houses of the Congress within thirty days the denial by the Secretary of State of a request by the Inspector General to increase or reduce an existing position level of a regional office: *Provided further,* That the total number of positions authorized for the Office of the Inspector General in Washington and overseas shall be determined by the

Inspector General within the limitation of the appropriations level provided.".

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

During the fiscal year 1988, total commitments to guarantee loans shall not exceed $125,000,000 of contingent liability for loan principal: *Provided*, That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject only to the availability of qualified applicants for such guarantees: *Provided further*, That section 223(e)(2) of the Foreign Assistance Act of 1961 is amended by striking out "$40,000,000" and inserting in lieu thereof "$100,000,000", and pursuant to such section borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1988: *Provided further*, That section 222(a) of the Foreign Assistance Act of 1961 is amended by striking out "1988" and inserting in lieu thereof "1990".

22 USC 2183.

22 USC 2182.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $3,188,320,000: *Provided*, That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1987, whichever is later: *Provided further*, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not more than $115,000,000 may be provided as a cash transfer with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further*, That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further*, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further*, That of the funds appropriated under this heading $220,000,000 only shall be available for Pakistan: *Provided further*, That not less than $124,000,000 of the funds appropriated under this heading shall be available only for the Philippines: *Provided further*, That not less than an additional $50,000,000 of the funds appropriated under this heading shall be available only for the Philippines to assist in the implementation of agrarian reform in the Philippines if (1) the Government of the Philippines initiates an effective agrarian reform program and requests assistance from the United States for that program, and (2) a substantial majority of the resources for the implementation of that program will be provided by the Government of the Philippines or other non-United States donors, or both: *Provided further*, That if the conditions on agrarian reform in the Philippines are not met by August 31, 1988, these funds may be made available for assistance under this heading for

President of U.S.

other countries or programs: *Provided further,* That not less than $20,000,000 of the funds appropriated under this heading shall be available only for Morocco: *Provided further,* That not less than $10,000,000 of the funds appropriated under this heading shall be available only for Tunisia: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be available only for Cyprus: *Provided further,* That of the funds appropriated under this heading $35,000,000 only shall be available for Ireland: *Provided further,* That of the funds appropriated under this heading $185,000,000 only shall be available for El Salvador, $80,000,000 only shall be available for Guatemala, $90,000,000 only shall be available for Costa Rica, and $85,000,000 only shall be available for Honduras: *Provided further,* That of the funds appropriated under this heading for El Salvador, 10 percent of such funds may not be obligated until enactment of the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989", and may be obligated only if, by the date of enactment of such Act, the accused murderers of United States marines in El Salvador have not been released from prison as a result of an amnesty program: *Provided further,* That not less than $18,000,000 of the funds appropriated under this heading shall be made available for Jordan, of which a substantial proportion of these funds shall be in support of the development program for the West Bank: *Provided further,* That of the funds appropriated under this heading, not less than $90,000,000 shall be available for Sub-Saharan Africa: *Provided further,* That notwithstanding section 660 of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this heading may be made available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further,* That a report of the investigation shall be provided to the Congress: *Provided further,* That $20,000,000 of the funds appropriated under this heading shall be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961, of which $300,000 shall be made available for programs for Haiti and not less than $2,000,000 shall be made available for programs for Guatemala:

22 USC 2346 note.

Provided further, That if funds made available under this heading are provided to a foreign country as cash transfer assistance, that country shall be required to maintain these funds in a separate account and not commingle them with any other funds: *Provided further,* That such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): *Provided further,* That all local currencies that may be generated with such funds provided as a cash transfer shall be deposited in a special account to be used in accordance with section 609 of the

President of U.S.

Foreign Assistance Act of 1961: *Provided further,* That at least 15 days prior to obligating any such cash transfer assistance to a foreign country under this heading, the President shall submit a notification to the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by the cash transfer assistance): *Provided further,* That not more than $5,000,000 of the funds made available under this heading may be available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $5,000,000 and so notifies the Committees on Appropriations through the regular notification procedures: *Provided further,* That notwithstanding any other provision of law, none of the funds appropriated under this heading may be used for tied aid credits without the prior approval of the Administrator of the Agency for International Development: *Provided further,* That $25,000,000 of the funds appropriated under this heading shall be made available for earthquake relief, rehabilitation, and reconstruction assistance for El Salvador in accordance with section 491 of the Foreign Assistance Act of 1961, which amount shall be accounted for separately and, of which amount, not less than $2,000,000 shall be available for reconstruction and rehabilitation of the National University of El Salvador and other institutions of higher education: *Provided further,* That the Office of the Inspector General of the Agency for International Development shall monitor the use of funds made available under this heading for earthquake relief, rehabilitation, and reconstruction assistance for El Salvador and shall provide, by April 15, 1988, a detailed accounting to the Committees on Appropriations of the uses of the funds made available for El Salvador during fiscal year 1987 for earthquake relief, rehabilitation, and reconstruction: *Provided further,* That $1,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, only for the support of the independent Polish trade union "Solidarity": *Provided further,* That of the funds appropriated under this heading not less than $1,000,000 shall be made available, notwithstanding any other provision of law, only for the promotion of democratic activities in Chile leading to a transition to democracy: *Provided further,* That funds made available under this heading shall remain available until September 30, 1989.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $7,000,000.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $13,000,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1988 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $23,000,000.

During the fiscal year 1988, total commitments to guarantee loans shall not exceed $200,000,000 of contingent liability for loan principal.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $146,200,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further,* That section 15(d)(4) of the Peace Corps Act is amended (1) by striking out "$2,500" and inserting in lieu thereof "the applicable cost limitation described in section 636(a)(5) of the Foreign Assistance Act of 1961"; and (2) by inserting "*Provided further,* That the provisions of section 1343 of title 31, United States Code, shall not apply to the purchase of vehicles for the transportation, maintenance, or direct support of volunteers overseas:" after "section 7(c):": *Provided further,* That notwithstanding the provisions of section 7(a)(2)(A) of the Peace Corps Act (22 U.S.C. 2506(a)(2)(A)), the time-limited appointment as a member of the Foreign Service of an individual (1) who on April 1, 1987, held such appointment pursuant to section 601(c) of the International Security and Development Cooperation Act of 1981 (Public Law 97-113; 95 Stat. 1540), and (2) who previously held an appointment for the duration of operations under the Peace Corps Act pursuant to section 5(b) of Public Law 89-134 (79 Stat. 551), shall, effective on the date of the enactment of this Act, be deemed to be an appointment for the duration of operations under the Peace Corps Act: *Provided further,* That the Peace Corps Act is amended by inserting after section 17 (22 U.S.C. 2516) the following new section:

22 USC 2514.

"ACTIVITIES PROMOTING AMERICANS' UNDERSTANDING OF OTHER PEOPLES

22 USC 2517.

"SEC. 18. In order to further the goal of the Peace Corps, as set forth in section 2 of this Act, relating to the promotion of a better understanding of other peoples on the part of the American people, the Director, utilizing the authorities under section 10(a)(1) and other provisions of law, shall, as appropriate, encourage, facilitate, and assist activities carried out by former volunteers in furtherance of such goal and the efforts of agencies, organizations, and other individuals to support or assist in former volunteers' carrying out such activities.".

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $98,750,000: *Provided*, That not less than $15,000,000 of the funds appropriated under this heading shall be available for narcotics interdiction and control programs for Bolivia: *Provided further*, That in addition to amounts made available pursuant to the previous proviso, not less than $7,000,000 of the funds appropriated under this heading shall be available for Latin America regional programs.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $346,450,000: *Provided*, That not less than $25,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further*, That not less than $8,000,000 shall be available for the construction of educational facilities for North African Jewish refugees in France: *Provided further*, That not less than $114,547,500 shall be available for the refugee admissions program, including AIDS screening: *Provided further*, That not less than $1,500,000 shall be available for education programs at refugee camps in Thailand: *Provided further*, That funds appropriated under this heading shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further*, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further*, That of the funds appropriated under this heading $5,000,000 shall be available only for costs of the expedited resettlement of Vietnamese Amerasians eligible for refugee benefits, or, to the extent that any of such funds are not required for this purpose, they may be applied to admissions expenditures for Vietnamese Amerasians and their family members and other related Orderly Departure Program expenses: *Provided further*, That not more than $8,000,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further*, That funds appropriated under this heading for refugees resettling in Israel and for educational facilities for North African Jewish refugees shall be made available notwithstanding any other provision of law: *Provided further*, That H.R. 3770, as introduced in the House of Representatives on December 15, 1987, is hereby enacted into law; section 102 of H.J. Res. 395 shall not apply with respect to provisions enacted by this proviso.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $9,840,000.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $700,750,000: *Provided*, That of the funds appropriated under this heading not less than $125,000,000 shall be made available only for the Philippines: *Provided further*, That $40,000,000 shall be made available only for Morocco: *Provided further*, That up to $30,000,000 shall be made available only for Tunisia: *Provided further*, That of the funds appropriated under this heading not less than $7,000,000 shall be made available only for Guatemala: *Provided further*, That none of the funds appropriated or otherwise made available pursuant to this Act may be used for the procurement by Guatemala of any weapons or ammunition: *Provided further*, That $156,000,000 only shall be available for Turkey, and $30,000,000 only shall be available for Greece: *Provided further*, That of the funds appropriated under this heading not more than $28,000,000 shall be used for general costs of administering the Military Assistance program: *Provided further*, That not more than $2,400,000 of the funds appropriated under this heading shall be made available for Haiti; any material assistance provided from such funds shall be limited to nonlethal items such as transportation and communications equipment and uniforms: *Provided further*, That funds made available under this heading for Haiti shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further*, That of the funds appropriated under this heading $10,000,000 shall be used for the purposes of section 506(c) of the Foreign Assistance Act of 1961 to make reimbursement for the cost of defense articles, defense services and/or defense training provided to the Philippines pursuant to the President's determination of September 16, 1986, or for an additional amount for use for the general costs of administering the Military Assistance program if the Secretary of Defense so directs in writing: *Provided further*, That, after September 30, 1989, none of the funds appropriated under this heading shall be made available for the purposes of section 503(a)(3) of the Foreign Assistance Act of 1961: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That section 514 of the Foreign Assistance Act of 1961 is amended (1) by amending subsection (b)(2) to read as follows: "(2) The value of such additions to stockpiles in foreign countries shall not exceed $116,000,000 for fiscal year 1988.", and (2) by amending subsection (c) by inserting ", Thailand," after "Korea": *Provided further*, That funds appropriated under this heading shall remain available until September 30, 1990. 22 USC 2321h.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $47,400,000.

FOREIGN MILITARY CREDIT SALES

For expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,049,000,000, of which not less than $1,800,000,000 shall be available only for Israel, not less than $1,300,000,000 shall be available only for Egypt, $260,000,000 only shall be available for Pakistan, not less than $12,000,000 shall be available only for Morocco, $334,000,000 only shall be available for Turkey, and not less than $313,000,000 shall be available only for Greece: *Provided*, That to the extent that the Government of Israel requests that funds be used for such purposes, credits made available for Israel under this heading shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapon systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $400,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further*, That Israel and Egypt shall be released from their contractual liability to repay the United States Government with respect to all credits provided under this heading, and Pakistan shall be released from such liability with respect to $30,000,000 of the credits provided under this heading, and Turkey shall be released from such liability with respect to $156,000,000 of the credits provided under this heading: *Provided further*, That during fiscal year 1988, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $4,049,000,000: *Provided further*, That any funds made available under this heading, except as otherwise specified, may be made available at concessional rates of interest, notwithstanding section 31(b)(2) of the Arms Export Control Act: *Provided further*, That the concessional rate of interest on foreign military credit sales loans shall be not less than 5 percent per year: *Provided further*, That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services.

FOREIGN MILITARY SALES DEBT REFORM

22 USC 2764 note.

(a) REFINANCING.—Notwithstanding any other provision of law, the President is authorized during fiscal years 1988 through 1991 to transfer existing United States guaranties of outstanding Foreign Military Sales (FMS) credit debt, or to issue new guaranties, either of which would be applied to loans, bonds, notes or other obligations made or issued (as the case may be) by private United States financial institutions (the private lender) to finance the prepayment at par of the principal amounts maturing after September 30, 1989 of existing FMS loans bearing interest rates of ten percent or higher, and arrearages thereon. The loans, bonds, notes or other obligations are hereinafter referred to as the "private loan": *Pro-*

vided, That such guaranties which are transferred or are made pursuant to paragraph (a) shall cover no more and no less than ninety percent of the private loan or any portion or derivative thereof plus unpaid accrued interest and arrearages, if any, outstanding at the time of guaranty transfer or extension: *Provided further,* That the total amount of the guaranty of the private loan cannot exceed ninety percent of the outstanding principal, unpaid accrued interest and arrearages, if any, at any time: *Provided further,* That of the total amount of the private loan, the ninety percent guaranteed portion of the private loan cannot be separated from the private loan at any time: *Provided further,* That no sums in addition to the payment of the outstanding principal amounts maturing after September 30, 1989 of the loan (or advance), plus unpaid accrued interest thereon, and arrearages, if any, shall be charged by the private lender or the Federal Financing Bank as a result of such prepayment against the borrower, the guarantor, or the Guaranty Reserve Fund (GRF), except that the private lender may include, in the interest rate charged, a standard fee to cover costs, such fee which will be set at prevailing market rates, and no guaranty fee shall be charged on guarantees transferred or issued pursuant to this provision: *Provided further,* That the terms of guaranties transferred or issued under this paragraph shall be exactly the same as the existing loans or guarantees, except as modified by this paragraph and including but not limited to the final maturity and principal and interest payment structure of the existing loans which shall not be altered, except that the repayments of the private loan issued debt may be consolidated into two payments per year: *Provided further,* That the private loan or guarantees transferred or issued pursuant to this paragraph shall be fully and freely transferable, except that any guaranty transferred or extended shall cease to be effective if the private loan or any derivative thereof is to be used to provide significant support for any non-registered obligation: *Provided further,* That for purposes of sections 23 and 24 of the Arms Export Control Act (AECA), the term "defense services" shall be deemed to include the refinancing of FMS debt outstanding at the date of the enactment of this Act: *Provided further,* That not later than ninety days after the enactment of this Act, the Secretary of the Treasury (Secretary) shall issue regulations to carry out the purposes of this heading and that in issuing such regulations, the Secretary shall (1) facilitate the prepayment of loans and loan advances hereunder, (2) provide for full processing of each application within thirty days of its submission to the Secretary, and (3) except as provided in section 24(a) of the AECA, impose no restriction that increases the cost to borrowers of obtaining private financing for prepayment hereunder or that inhibits the ability of the borrower to enter into prepayment arrangements hereunder: *Provided further,* That the Secretary of State shall transmit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate, a copy of the text of any agreement entered into pursuant to this section not more than thirty days after its entry into force, together with a description of the transaction.

(b) INTEREST RATE REDUCTION.—Notwithstanding any other provision of law, there is hereby appropriated such sums as may be necessary, but not more than $270,000,000, to be made available after October 1, 1988 to the Secretary of Defense for the Defense

Security Assistance Agency for deposit into a new account, to remain available until expended: *Provided*, That the funds shall be used solely for the purpose of lowering the interest rate on Foreign Military Sales (FMS) credits which were financed through the Federal Financing Bank (FFB) for countries which do not refinance one or more FFB loans pursuant to paragraph (a) of this heading, and which loans have interest rates exceeding ten percent, down to an interest rate of ten percent for the remaining life of such loans: *Provided further*, That these funds shall be available only subject to a Presidential budget request: *Provided further*, That it is the intent of the Congress that these funds shall be available to all countries having FMS credits from the FFB that carry interest rates in excess of ten percent.

(c) ARREARAGES.—(1) None of the funds provided pursuant to the Arms Export Control Act (relating to Foreign Military Sales credits) or pursuant to chapter 2 of part II of the Foreign Assistance Act (relating to the Military Assistance program) shall be made available to any country for which one or more loans is refinanced pursuant to paragraph (a) of this heading and which is in default for a period in excess of ninety days in payment of principal or interest on (A) any loan made to such country guaranteed by the United States pursuant to paragraph (a) of this heading, and (B) any other loan issued pursuant to the Arms Export Control Act outstanding on the date of enactment of this provision.

President of U.S.

(2) In conjunction with any interest rate reduction pursuant to the authority provided in paragraph (b) of this heading, the President shall require the country to commit in writing that within two years of the effective date of the interest rate reduction it will be no more than ninety days in arrears on the repayment of principal and interest on all loans for which the interest rate is thus reduced and will remain no more than ninety days in arrears for the remaining life of all such loans. None of the funds provided pursuant to the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act shall be made available to any country during any period in which it fails to comply with such commitment.

(d) PURPOSES AND REPORTS.—The authorities of paragraphs (a) and (b) of this heading may be utilized by the President in efforts to negotiate base rights and base access agreements, and for other bilateral foreign policy matters: *Provided further*, That the Secretaries of Defense, State, and Treasury shall transmit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate a joint report detailing the United States financial and foreign policy purposes served by implementation of this authority on a country by country basis not later than March 1, 1989, and a second joint report not later than August 1, 1989.

GUARANTY RESERVE FUND

There are hereby appropriated $532,000,000 to be made available to the Guaranty Reserve Fund for payment to the Federal Financing Bank subject to claims under guarantees issued under the Arms Export Control Act: *Provided*, That if during fiscal year 1989 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) or pursuant to this Act, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

FOREIGN MILITARY CREDIT SALES

(RESCISSION)

Of the funds made available in fiscal years 1985 and 1986 for expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $32,000,000 is rescinded.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $236,865,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1988: *Provided,* That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $31,689,000: *Provided,* That, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1988: *Provided further,* That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

Contracts.

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1988 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $690,000,000: *Provided,* That at the discretion of the Chairman of the Export-Import Bank, up to $110,000,000 of that amount may be available, subject to the regular notification procedures of the Appropriations Committees of the Senate and House of Representatives, as tied-aid credits in accordance with the provisions of the Export-Import Bank Act Amendments of 1986: *Provided further,* That there is appropriated to the Export-Import Bank of the United States an amount equal to the grant amount of tied-aid credits which are made available from time to time, but not to exceed $110,000,000, which shall be subject to the limitation on gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That during the fiscal year 1988, total commitments to guarantee loans shall not exceed $10,000,000,000 of contingent liability for loan principal: *Provided further,* That the direct loan and guaranty authority provided under this heading shall remain available until September 30, 1989.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $19,500,000 (to be computed on an accrual basis) shall be available during fiscal year 1988 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $25,000,000: *Provided,* That of this amount up to $5,000,000 may be used for joint financing with individual State trade promotion organizations of activities directed at the expansion of trade with developing and middle income countries, including such activities as trade fairs, seminars, targeting and feasibility studies, and activities directed at enhancing the use of exports from the United States in bilateral and multilateral projects.

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1988, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" shall not exceed $200,000,000 of contingent liability for loan principal.

TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

PROHIBITION OF BILATERAL FUNDING FOR MULTILATERAL PROGRAMS

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

AID ENTERTAINMENT EXPENSES

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $11,500 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $115,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the total funds made available by this Act under the headings "Military Assistance" and "Foreign Military Credit Sales", not to exceed $2,875 shall be available for entertainment expenses and not to exceed $75,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,875 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,600 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,300 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 510. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, Iran, or Syria.

MILITARY COUPS

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided,* That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the prior written approval of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 515. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1988, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both

Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

FINANCIAL INSTITUTIONS—NAMES OF BORROWERS

Loans.

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

FINANCIAL INSTITUTIONS—DOCUMENTATION

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

SEC. 521. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

SURPLUS COMMODITIES

22 USC 262h.

SEC. 522. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 523. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Agriculture, rural development, and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "International AIDS Prevention and Control Program", "Education and human resources development, Development Assistance", "Private Sector, Environment, and Energy, Development Assistance", "Science and technology, Development Assistance", "Sub-Saharan Africa, Development Assistance", "Southern Africa, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Military Assistance", "Foreign Military Credit Sales", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961 or of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further,* That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year.

CONSULTING SERVICES

Contracts.
Public information.

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PROHIBITION ON ABORTION LOBBYING

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

NARCOTICS CONTROL REPORTING

SEC. 526. None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1987, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 527. Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

UNITED NATIONS VOTING RECORD

President of U.S.
Reports.
22 USC 2414a.

SEC. 528. (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

(c) The report required by subsection (a) of this section shall be in the identical format as the "Report to Congress on Voting Practices in the United Nations" which was submitted pursuant to Public Law 99-190 and Public Law 98-164 on June 6, 1986.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 529. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 530. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUNDS FOR ISRAEL

SEC. 531. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of

Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

CEILINGS AND EARMARKS

SEC. 532. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

NOTIFICATION REQUIREMENT ON FUNDING FOR LEBANON

SEC. 533. None of the funds appropriated or otherwise made available pursuant to this Act for the "Economic Support Fund" or for "Foreign Military Credit Sales" shall be obligated or expended for Lebanon except as provided through the regular notification procedures of the Committees on Appropriations.

LIMITATIONS RELATED TO DRUG CONTROL IN JAMAICA, PERU, AND BOLIVIA

SEC. 534. (a) In making determinations with respect to Peru and Jamaica pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on drug control and whether the added provision of assistance for that country is in the national interest of the United States.

(b) In making determinations with respect to Bolivia pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961, the President shall take into account (1) the extent to which the Government of Bolivia has engaged in narcotics interdiction operations which have significantly disrupted the illicit coca industry in Bolivia or has continued to cooperate with the United States in such operations; and (2) whether Bolivia has either met the eradication targets for the calendar year 1985 contained in its 1983 narcotics agreements with the United States or has adopted a plan to eliminate illicit narcotics cultivation, production, and trafficking countrywide, and has entered into an agreement of cooperation with the United States for implementing that plan for 1988 and beyond and is making substantial progress toward the plan's objectives, including substantial eradication of illicit coca crops and effective use of United States assistance.

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

SEC. 535. (a) During the fiscal year 1988, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control

Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least 15 days in advance.

(b) During the fiscal year 1988, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

GUATEMALA—RESETTLEMENT PROGRAM

SEC. 536. Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.

ENVIRONMENTAL CONCERNS

22 USC 262*l*.

SEC. 537. (a) It is the policy of the United States that participation in international financial institutions is predicated on the implementation of programs to promote environmentally sustainable economic growth and sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks (MDB's) to continue to vigorously promote a commitment of these institutions to—

(1) add appropriately trained professional staff with expertise, and rigorously strengthen existing staffs' training in ecology and related areas;

(2) develop and implement management plans to ensure systematic environmental review of all projects;

(3) fully inform and involve host country environmental and health officials (Federal and local) and nongovernmental environmental and indigenous peoples organizations at all stages of the project cycle in environmentally sensitive projects as well as in policy based lending to ensure the active participation of local communities and non-governmental organizations in the planning of projects that may adversely affect them;

(4) substantially increase the proportion of lending supporting environmentally beneficial projects and project components, including but not limited to technical assistance for environmental ministries and institutions, resource rehabilitation projects and project components, protection of indigenous peoples, and appropriate light capital technology projects. Other examples of such projects include small scale mixed farming and multiple cropping, agroforestry, programs to promote kitchen gardens, watershed management and rehabilitation, high yield wood lots, integrated pest management systems, dune stabilization programs, programs to improve energy efficiency, energy efficient technologies such as small scale hydro projects, solar, wind and biomass energy systems, rural and mobile telecommunications systems, and improved efficiency and management of irrigation systems; and

(5) conduct analyses of the comparative costs of new generating facilities with the cost of increasing energy efficiency in the project service area.

(b) The Secretary of the Treasury shall instruct the United States Executive Directors of the MDB's and, where appropriate, the International Monetary Fund (IMF) to—

Loans.

(1) promote the requirement that all country lending strategies, policy based loans and adjustment programs contain analyses of the impact of such activities on the natural resources, potential for sustainable development, and legal protections for the land rights of indigenous peoples;

(2) promote the establishment of programs of policy-based lending in order to improve natural resource management, environmental quality, and protection of biological diversity;

(3) seek a commitment of these institutions to promote the conservation of wetlands, tropical forests, and other unique biological and highly productive ecosystems.

(c) The Secretary of the Treasury shall undertake an analysis of potential initiatives, to be implemented through the MDB's, the IMF and other existing or newly created institutions, to enable developing countries to repay portions of their outstanding debt through investments in conservation of tropical forests, wetlands and other conservation activities. The Secretary of the Treasury shall report his findings and implementation plan (including projected timetable) for such "debt for conservation" initiatives including, but not limited to conservation exchanges, to the Committees on Appropriations by April 1, 1988. Initiatives to be considered shall include, but not be limited to—

Reports.

(1) the operation of mechanisms to purchase, at market discounts, developing country debt in exchange for domestic currency investments in conservation at the full par value of the purchased debt;

(2) the operation of mechanisms to reschedule substantial amounts of developing country debt to longer term maturities with reduced interest rates in exchange for borrower country conservation investment in local currencies; and

(3) the establishment of programs by the World Bank and IMF to encourage the private purchase of developing country debt at discount rates in exchange for local currency conservation investments at the full par value of such debt.

(d) In order to promote sustainable and non-chemical dependent agriculture, the Secretary of the Treasury shall instruct the United States Executive Directors of the MDB's to initiate discussions with other directors of the MDB's to propose that policies be established that integrated pest management and biological control of pests be a preferential and priority approach to pest management on all bank sponsored agricultural projects.

(e) The Secretary of the Treasury shall instruct the United States Executive Director to the International Monetary Fund to promote the requirement that the IMF conduct an in-depth analysis of the impact of its adjustment policies and conditionality of its lending facilities on the environment, public health, natural resources and indigenous people.

(f) No later than March 30, 1988, the Secretary of State and the Administrator of the Agency for International Development shall initiate discussions with other donor nations, to explore ways in which said donor nations can support the addition of professionals trained in environmental and socio-cultural impact analysis to the Inter-American Development Bank, Asian Development Bank and African Development Bank. On the basis of such discussions the Secretary of State and the Administrator of the Agency for International Development shall provide resources, including professional staff on loan, and/or financial support, to ensure with other donor nations the addition of sufficient staff trained in environmental and socio-cultural impact analysis to each of the above named regional development banks.

(g) The Secretary of the Treasury and the Secretary of State, in cooperation with the Administrator of the Agency for International Development, shall conduct bilateral and multilateral discussions with other members of the MDB's to further strengthen the environmental performance of each bank. These discussions shall include, but not be limited to organizational, administrative and procedural arrangements to remove impediments to the efficient and effective management of assistance programs necessary to protect and ensure the sustainable use of natural resources and to carry out such assistance programs in consultation with affected local communities.

(h) The Administrator of the Agency for International Development, in consultation with the Secretaries of Treasury and State, shall continue, and work to enhance, the operation of the "early warning system", by—

(1) instructing overseas missions of the Agency for International Development and embassies of the United States to analyze the impacts of Multilateral Development Bank loans well in advance of a loan's approval. Such reviews shall address the economic viability of the project; adverse impacts on the environment, natural resources, public health, and indigenous peoples; and recommendations as to measures, including alternatives, that could eliminate or mitigate adverse impacts. If not classified under the national security system of classification, such information shall be made available to the public;

Public information.

Loans.

(2) compiling a list of proposed Multilateral Development Bank loans likely to have adverse impacts on the environment, natural resources, public health, or indigenous peoples. The list shall contain the information identified in paragraph (1), shall be updated in consultation with interested members of the public, and shall be made available to the Committees on Appropriations by April 1, 1988 and semiannually thereafter; and

(3) creating a cooperative mechanism for sharing information collected through the "early warning system" with interested donor and borrowing nations and encouraging the Multilateral Development Banks to institute a similar system.

(i) If a review required by subsection (h) identifies adverse impacts to the environment, natural resources, or indigenous peoples, the Secretary of the Treasury shall instruct the United States Executive Director of the appropriate MDB to seek changes to the project necessary to eliminate or mitigate those impacts.

Reports.

(j) The Committee on Health and Environment of the Agency for International Development, called for in section 539(i) of the Foreign Assistance and Related Programs Appropriations Act, 1987, shall report its findings to the Committees on Appropriations by February 1, 1988.

Reports. (k) The Secretary of State, in consultation with the Secretary of the Treasury, the Administrator of the Agency for International Development, other appropriate Federal agencies, and interested members of the public, shall prepare and submit to the Committees on Appropriations and the appropriate authorizing committees by August 1, 1988, a report on a comprehensive strategy for maximizing the use of foreign assistance provided by the United States through multilateral and bilateral development agencies to address natural resources problems, such as desertification, tropical deforestation, the loss of wetlands, soil conservation, preservation of wildlife and biological diversity, estuaries and fisheries, croplands and grasslands. The report shall include, but not be limited to—

(1) an identification of the multilateral and bilateral agencies funded in part or in whole by the United States Government, whose activities have, or could have, a significant impact on sustainable natural resource use, and the rights and welfare of indigenous people, in the developing countries;

(2) a description of the internal policies and procedures by which each of these agencies addresses these issues, as well as a description of their own organizational structures for doing so;

(3) an assessment of how the funds contributed by the United States to these agencies can best be used in the future to address these issues.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 538. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

SEC. 539. Not less than $45,000,000 of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

CAMBODIAN NON-COMMUNIST RESISTANCE FORCES

President of U.S.

SEC. 540. The President shall make available to the Cambodian non-Communist resistance forces not more than $5,000,000 of the funds appropriated by this Act for "Military Assistance" and for the "Economic Support Fund", notwithstanding any other provision of law: *Provided*, That funds appropriated by this Act for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

PRIVATE VOLUNTARY ORGANIZATIONS-DOCUMENTATION

SEC. 541. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

EL SALVADOR—INVESTIGATION OF MURDERS

SEC. 542. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January, 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January, 1981, murders.

REFUGEE RESETTLEMENT

SEC. 543. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Credit Sales", "Military Assistance", "International Military Education and Training", the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

IMMUNIZATIONS FOR CHILDREN

SEC. 544. (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not

been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

ETHIOPIA—FORCED RESETTLEMENT, VILLAGIZATION

SEC. 545. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SUDAN, ECUADOR AND JAMAICA NOTIFICATION REQUIREMENTS

SEC. 546. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Jamaica or for Ecuador except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 547. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund; Military Assistance; and Foreign Military Credit Sales, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the functional development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961, as amended.

CHILD SURVIVAL ACTIVITIES

SEC. 548. Of the funds made available by this Act and appropriated for the "Child Survival Fund" and "Health, Development Assistance", up to an additional $5,000,000 may be used to reimburse United States Government agencies, agencies of State governments, and institutions of higher learning for the full cost of up to thirty employees detailed or assigned, as the case may be, to the Agency for International Development for the purpose of carrying out child survival activities: *Provided,* That personnel which are detailed or assigned for the purposes of this section shall not be included within any personnel ceiling applicable to any United

States Government agency during the period of detail or assignment.

COUNTRIES WITH ILLICIT DRUG PRODUCTION—TRANSFER OF FUNDING

SEC. 549. If any funds appropriated by this Act for "Economic Support Fund", "Military Assistance", "International Military Education and Training", or "Foreign Military Credit Sales" are not used for assistance for the country for which those funds were allocated because that country has not taken adequate steps to halt illicit drug production or trafficking, those funds shall be reprogrammed for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking.

INTER-AMERICAN DEVELOPMENT BANK—COORDINATION OF PROJECTS

SEC. 550. The Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to work with the representatives, and with the ministries from which they receive their instructions, of other donor nations to the Inter-American Development Bank, to develop a coordinated economic development program for the assistance activities of the Bank. Such program should be developed in cooperation with the Department of State and the Agency for International Development to ensure that the bilateral economic assistance programs of the United States are effectively coordinated with the activities of the Inter-American Development Bank.

CHILE—LOANS FROM MULTILATERAL DEVELOPMENT INSTITUTIONS

SEC. 551. (a) It is the sense of Congress that pursuant to section 701 of the International Institutions Act of 1977, the United States Government should oppose all loans to Chile from multilateral development institutions, except for those for basic human needs, until—

(1) the Government of Chile has ended its practice and pattern of gross abuse of internationally recognized human rights;

(2) significant steps have been taken by the Government of Chile to restore democracy, including—

(A) the implementation of political reforms which are essential to the development of democracy, such as the legalization of political parties, the enactment of election laws, the establishment of freedom of speech and the press, and the fair and prompt administration of justice; and

(B) a precise and reasonable timetable has been established for the transition to democracy.

(b) Except as otherwise specified in this Act, none of the funds made available by this Act for the "Economic Support Fund" or for title III shall be obligated or expended for Chile.

COMMODITY COMPETITION

SEC. 552. None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this section shall not prohibit:

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

PROHIBITION OF FUNDING RELATED TO COMPETITION WITH UNITED STATES EXPORTS

SEC. 553. None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, 19 U.S.C. 1202, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 554. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

ASSISTANCE FOR LIBERIA

SEC. 555. (a) Funds appropriated by this Act under the heading "Military Assistance" or "Economic Support Fund" may be made available for assistance for Liberia only if—

(1) the Administrator of the Agency for International Development certifies to the Congress that the Government of Liberia—

(A) has taken significant steps to: reduce extra-budgetary expenditures; reduce borrowing from any source (whether local or foreign) in anticipation of future tax receipts, profit sharing, maritime revenues, or other revenues; reduce the use of off-shore funds for the financing of domestic expenditures; and reduce the extent to which public expenditures exceed allocations; and

(B) has ceased diverting and misusing United States assistance, and has paid all amounts owed to the local currency accounts (established pursuant to the Agricultural Trade Development and Assistance Act of 1954) for the shortfalls in its payments for the fiscal years 1983 and 1984; and

(2) the Secretary of State certifies to the Congress that the Government of Liberia is making significant progress toward—

(A) permitting all political parties to freely organize, assemble, and disseminate their views as provided for by the Liberian constitution;

(B) respecting constitutional guarantees of freedom of the press and freedom of speech;

(C) maintaining the independence of the legislative branch in accordance with the Liberian constitution;

(D) establishing and maintaining an independent judiciary;

(E) providing full access to all political prisoners by internationally respected human rights organizations for the purpose of investigating human rights abuses; and

(F) improving the human rights situation.

(b) None of the funds appropriated in this Act shall be obligated or expended for Liberia except as provided through the regular notification procedures of the Committees on Appropriations.

(c) The requirements of this section are in addition to any other statutory requirements applicable to assistance for Liberia.

RECIPROCAL LEASING

SEC. 556. Section 61(a) of the Arms Export Control Act is amended by striking out "1987" and inserting in lieu thereof "1988". 22 USC 2796.

ASSISTANCE FOR PAKISTAN

SEC. 557. Section 620E(d) of the Foreign Assistance Act of 1961 is amended by striking out "September 30, 1987" and inserting in lieu thereof "April 1, 1990". 22 USC 2375.

LIMITATION ON DEFENSE EQUIPMENT DRAWDOWN

SEC. 558. Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided*, That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 559. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on

Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section.

AUTHORIZATION REQUIREMENT

SEC. 560. Funds appropriated or otherwise made available by this Act may be obligated and expended notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided*, That of the funds appropriated by this Act under the headings "Military Assistance", "Economic Support Fund", and "Foreign Military Credit Sales" (excluding loans for which liability for repayment is released pursuant to this Act), not more than 33⅓ percent of amounts remaining unobligated for each respective account on the date of enactment of this Act may be obligated prior to April 1, 1988, unless an Act authorizing appropriations for such account has been enacted.

NOTIFICATION CONCERNING EL SALVADOR

SEC. 561. (a) The Congress expects that—

(1) the Government of El Salvador and the armed opposition forces and their political representatives will be willing to pursue a dialogue for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections;

(2) the elected civilian government will be in control of the Salvadoran military and security forces, and those forces will comply with applicable rules of international law and with Presidential directives pertaining to the protection of civilians during combat operations, including Presidential directive C-111-03-984 (relating to aerial fire support);

(3) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in ending the activities of the death squads;

(4) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in establishing an effective judicial system; and

(5) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in implementing the land reform program.

President of U.S.

(b) REPORTS.—On April 1, 1988, and September 30, 1988, the President shall report to the Speaker of the House of Representatives, the Committees on Appropriations and the chairman of the Committee on Foreign Relations of the Senate on the extent to which the objectives described in subsection (a) are being met. With respect to the objective described in paragraph (4) of that subsection, each report shall specify the status of all cases presented to the Salvadoran courts involving human rights violations against civilians by members of the Salvadoran security forces, including military officers and other military personnel and civil patrolmen.

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

22 USC 2373.

SEC. 562. Section 620C of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(e)(1) Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this provision shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus.

"(2) The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this subsection.".

President of U.S. Reports.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

22 USC 2395a note.

SEC. 563. The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided*, That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements.

MIDDLE EAST REGIONAL COOPERATION

SEC. 564. Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than $5,000,000 from funds appropriated under the heading "Economic Support Fund": *Provided*, That of this amount not less than $500,000 shall be made available for scholarships for support of Israeli students studying in institutions of higher education in Arab countries and not less than $500,000 shall be made available for scholarships for support of Arab students studying in institutions of higher education in Israel: *Provided further*, That such scholarships shall be called "Arab-Israeli Peace Scholarships".

ASSISTANCE FOR THE PEOPLE OF LEBANON

SEC. 565. The Congress recognizes that the people of Lebanon have suffered greatly during much of the past two decades from the effects of natural disasters and civil strife. The Congress further recognizes that assistance provided through nongovernmental organizations has had a significant impact in mitigating the adverse consequences of these unfortunate events on the Lebanese people. Therefore, up to $5,000,000 of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be made available to provide assistance for the people of Lebanon. Such assistance shall be made available only through the United Nations Children's Fund, indigenous nongovernmental organizations, or international organizations, and shall be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961.

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

SEC. 566. It is the Sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the Sense of the Congress, that the Asian Development Bank should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

SEC. 567. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, or (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987.

EARMARKS

SEC. 568. Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations.

HAITI

SEC. 569. (a) SUSPENSION OF ASSISTANCE.—During fiscal year 1988, none of the funds made available by this Act or by any other Act or joint resolution may be obligated or expended to provide United States assistance (including any such assistance appropriated and previously obligated) for Haiti (other than the assistance described in subsection (b) of this section) unless the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the provisional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

(b) EXCEPTIONS.—The term "United States assistance" does not include—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies;

(2) assistance which involves the donations of food or medicine;

(3) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961);

(4) assistance for refugees;

(5) assistance under the Inter-American Foundation Act;

(6) assistance necessary for the continued financing of education for Haitians in the United States; or

(7) assistance provided in order to enable the continuation of migrant and narcotics interdiction operations.

(c) OTHER SANCTIONS.—It is the sense of the Congress that, in order to further encourage the Government of Haiti to adhere to the constitutionally mandated transition to democracy, the President should—

(1) suspend Haiti's eligibility for benefits under the Caribbean Basin Economic Recovery Act; and

(2) seek international cooperation to encourage such adherence by the Government of Haiti through the imposition of an international arms embargo and comprehensive trade and financial sanctions.

ASSISTANCE FOR PANAMA

22 USC 2151 note.

SEC. 570. (a) Unless the President certifies to Congress that—

(1) the Government of Panama has demonstrated substantial progress in assuring civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from non-military activities and institutions;

(2) the Government of Panama is conducting an impartial investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a satisfactory agreement has been reached between the governing authorities and representatives of the opposition forces on conditions for free and fair elections; and

(4) freedom of the press and other constitutional guarantees, including due process of law, are restored to the Panamanian people;

then no United States assistance (including any such assistance appropriated and previously obligated) shall be obligated or expended for Panama in this fiscal year and any fiscal year thereafter, and none of the funds appropriated or otherwise made available in this Act, or any other Act, shall be used to finance any participation of the United States in joint military exercises conducted in Panama during the period January 1, 1988, through December 31, 1988.

(b) It is the sense of the Congress that if the conditions described in paragraphs (1) through (4) of subsection (a) have been certified as having been met, then not only will United States assistance be restored, but increased levels of such assistance should be considered for Panama.

(c) For purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

(2) sales, credits, and guarantees under the Arms Export Control Act;

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities;

(5) financing under the Export-Import Bank Act of 1945; and

(6) assistance provided by the Central Intelligence Agency or assistance provided by any other entity or component of the United States Government if such assistance is carried out in connection with, or for purposes of conducting, intelligence or intelligence-related activities except that this shall not include activities undertaken solely to collect necessary intelligence;

except that the term "United States assistance" does not include (A) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies, (B) assistance which involves the donations of food or medicine, (C) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961), (D) assistance for refugees, (E) assistance under the Inter-American Foundation Act, (F) assistance necessary for the continued financing of education for Panamanians in the United States, or (G) assistance made available for termination costs arising from the requirements of this section.

(d) The Secretary of Treasury shall instruct the United States Executive Directors to the Multilateral Development Banks (the International Bank for Reconstruction and Development, the International Finance Corporation, and the Inter-American Development Bank) to vote against any loan to Panama, unless the President has certified in advance that the conditions set forth in subsection (a) of this section have been met.

ELIMINATION OF THE SUGAR QUOTA ALLOCATION OF PANAMA

7 USC 3602 note.

SEC. 571. (a) IN GENERAL.—Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of Panama may be imported into the United States after the date of enactment of this Act during any period for which a limitation is imposed by authorities provided under any other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States: *Provided*, That such products may be imported after the beginning of the last week of any quota year if the President certifies that for the entire duration of the quota year, freedom of the press and other consitutional guarantees, including due process of law, have been restored to the Panamanian people.

(b) REALLOCATION OF QUOTA AMOUNTS.—For any quota year for which the President does not certify for the entire duration of the quota year, freedom of the press and all other constitutional guarantees, including due process of law, have been restored to the Panamanian people, no later than the last week of such quota year, the United States Trade Representative shall reallocate among other foreign countries the quantity of sugar, sirup, and molasses products of Panama that could have been imported into the United States before the date of enactment of this Act under any limitation imposed by other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States during any period.

(c) CONFORMING AMENDMENTS TO TARIFF SCHEDULES.—

(1) Paragraph (c)(i) of headnote 3 of subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States is amended by striking out the item relating to Panama in the table.

(2) Paragraph (c) of headnote 3 of subpart A of part 10 of schedule 1 of the Tariff Schedules of the United States is amended by adding at the end thereof the following new subparagraph:

"(iii) Notwithstanding any authority given to the United States Trade Representative under paragraphs (e) and (g) of this headnote, no allocation may be made to Panama of any portion of any limitation imposed under any paragraph of this headnote on the quantity of sugars, sirups, and molasses described in items 155.20 and 155.30 which may be entered.".

(d) CERTIFICATION.—The provisions of subsections (a) and (b), and the amendments made by subsection (c) of this section, shall cease to apply if the President certifies to Congress pursuant to section 570(a) [12] of this Act.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 572. Section 23(a) of the Arms Export Control Act is amended by adding at the end the following: "Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of this section may be used to provide financing to Israel and Egypt for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under this Act.".

STINGERS IN THE PERSIAN GULF REGION

SEC. 573. (a) PROHIBITION.—Except as provided in subsection (b), no Stinger antiaircraft missiles may be provided, directly or indirectly, by sale, lease, grant or otherwise, during fiscal year 1988 to any country in the Persian Gulf region.

(b) EXCEPTION.—Notwithstanding the prohibition in subsection (a), such missiles may be provided to Bahrain if the President certifies to Congress that—

(1) such missiles are needed by the recipient country to counter an immediate air threat and/or to contribute to the protection of United States personnel, facilities or operations;

(2) no other appropriate system is available from the United States;

(3) the recipient agrees to safeguards as required in the Letter of Offer and Acceptance by the United States Government to protect against diversion; and

(4) the recipient country has agreed to a United States buyback of all the remaining missiles and components which have not been destroyed or fired in order to return them to the possession and control of the United States when another United States air defense system which meets the military requirements can be made available or not more than 18 months from the enactment of this legislation.

President of U.S.

(c) REPORT.—Not later than 3 months after the date of enactment of this Act, the President shall submit to the Congress a report which assesses the global threat caused by the proliferation of man-portable ground-to-air missiles with advanced technology comparable to that of the Stinger missile, without regard to the country of origin of those missiles. This report shall give special emphasis to the danger of such missiles being used in acts of terrorism. Further, that the President review and report every 3 months on the conditions and timing under which the appropriate system may be delivered and the means for subsequent recovery of any Stinger missiles sold under the authority of this provision.

---

[12] Original copy read "569(a)".

President of U.S.

(d) NOTIFICATION.—Before issuing any letter of offer to sell or provide Stinger missiles (without regard to the amount of the sale or transfer) the President shall notify the Speaker of the House of Representatives and the Majority Leader of the Senate. Any such notification shall contain the information required in a certification under section 36(b) of the Arms Export Control Act.

HUMAN RIGHTS IN CUBA

SEC. 574. (a) The Congress finds that—

(1) the United Nations was established in 1945 for, among other purposes, the promotion and encouragement of respect for human rights and fundamental freedoms for all;

(2) the United Nations Human Rights Commission was established by the Economic and Social Council in 1946 to investigate and make recommendations concerning the violation of human rights and fundamental freedoms;

(3) the Government of Cuba has engaged in systematic and flagrant abuses of basic human rights and freedoms so offensive that they demand universal condemnation, including—

(A) the arbitrary arrest and prolonged imprisonment of individuals accused of political opposition to the Government of Cuba for engaging in such activities as the open or private expression of political opinions or religious beliefs, the attempt to form independent labor unions, the possession, reproduction, or intended distribution of religious or political literature, including the Universal Declaration of Human Rights, or even the professional representation by legal counsel of those so accused;

(B) the murder of political prisoners while in custody or the execution of individuals sentenced to death for political offenses;

(C) the reported systematic use of physical and psychological torture and the degrading and abusive treatment of political prisoners, especially the plantados—those who refuse out of conscience to participate in so-called political rehabilitation programs;

(D) the institutionalized use of a network of neighborhood informants organized by political "block committees" or so-called "Committees for the Defense of the Revolution" to repress the exercise of any freedom of expression and to otherwise control the behavior of citizens through intimidation;

(E) the repression of the independent Committee for Human Rights in Cuba for its attempt to register as a legal organization under the laws of the State, and the reported arrest, disappearance, or death of members of the Committee, and the continuing persecution of its president who has had to seek the safety of a foreign embassy out of fear for his life and continues to be deprived of the right to leave Cuba or to be reunited with his family; and

(F) the expulsion from Cuba of foreign journalists for having attempted to interview Cuban citizens and report objectively on the human rights situation in that country; and

(4) the Congress further recognizes that the United Nations has consistently failed to address the violation of fundamental human rights and freedoms in Cuba.

(b) It is the sense of Congress that—

(1) the United Nations and the United Nations Human Rights Commission have acted selectively and inconsistently in addressing violations of basic human rights in various countries;

(2) the United Nations General Assembly and the United Nations Human Rights Commission have failed to responsibly address the deplorable human rights situation in Cuba despite overwhelming evidence of the continuing disregard and systematic abuse of the most basic human rights by the Government of Cuba;

(3) the President, the Secretary of State, and the Permanent Representative of the United States to the United Nations are to be commended for their efforts to place Cuba on the human rights agenda of the United Nations and are strongly encouraged to continue in their efforts to bring this issue to the attention of the United Nations;

(4) the following countries are to be commended for their courageous vote in favor of considering human rights violations in Cuba, particularly in light of the thinly veiled threats of the Cuban delegation: Austria, Australia, Belgium, Costa Rica, France, Gambia, the Federal Republic of Germany, Iceland, Italy, Japan, Lesotho, Liberia, Norway, the Philippines, Somalia, Togo, and the United Kingdom;

(5) member states of the United Nations Human Rights Commission interested in democracy in the region, particularly Mexico, Spain, Peru, Venezuela, Argentina, and Colombia, should support the United States resolution on Cuban human rights at the next session of the United Nations Human Rights Commission, and that the United States should take into account this vote in determining United States bilateral and other assistance to all countries which are members of the Commission;

(6) the United States should continue to emphasize how other countries vote on fundamental issues such as human rights when determining financial support for the United Nations, including the contribution to the Human Rights Commission; and

(7) the United Nations Human Rights Commission, which will hold its forty-fourth session in Geneva, Switzerland, in 1988 should include among the highest priorities of its human rights agenda consideration of human rights violations in Cuba.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 575. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

Loans.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 576. Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1988—

(1) shall not be obligated or expended for assistance to a country listed in section 6(j) of the Export Administration Act of 1979 on the date of enactment of this Act or placed on that list thereafter,

(2) if obligated before such date as assistance for such country, shall not disbursed, and

(3) if expended before such date for assistance to be delivered to such country from the United States or by United States nationals, then no such delivery shall be made,

unless such assistance is for humanitarian purposes.

UNITED STATES POLICY TOWARD CHILE

SEC. 577. (a) The Congress finds that—

(1) genuine democracy and internal stability best guarantee the long-term security and economic well-being of Chile;

(2) the 14-year period of military rule under General Augusto Pinochet has been a deviation from the traditional, apolitical role of the Chilean Armed Forces which had proudly carried out its security responsibilities as an arm of democratic governments for approximately 150 years, thus fundamentally assisting Chile to be a Latin American model of democracy;

(3) continued rule by a military leader after 1989 will be likely to bolster the position of the Communists, enhance the appeal of the Communist opposition's more radical and violent approach to political activity, and further the growing political polarization in Chile;

(4) the United States Government has actively supported a democratic transition in Chile, condemned violence from all sides, urged dialog between the government and democratic opposition leaders leading to a broad consensus on a transition to full democracy, and has also promoted increased respect for human rights in Chile;

Orlando Letelier.
Ronni Karpen Moffitt.
Carmen Gloria Quintana.
Rodrigo Rojas de Negri.

(5) the United States has voiced legitimate concern regarding the failure of the Chilean Government to cooperate with the prosecution of those indicted for the 1976 assassination of former Chilean diplomat Orlando Letelier and American citizen Ronni Moffitt, and to bring to justice those members of government security forces reported to have beaten and set on fire Carmen Gloria Quintana and Rodrigo Rojas de Negri;

(6) on August 1, 1978, a United States Federal grand jury indicted three members of the Chilean intelligence service,

Manuel Contreras. Armando Fernandez Larios. Pedro Espinoza.

General Manuel Contreras, Captain Armando Fernandez Larios, and Colonel Pedro Espinoza, for conspiracy in the September 21, 1976, murders of Orlando Letelier and Ronni Karpen Moffitt; Armando Fernandez Larios affirmed the grand jury indictment in his February 4, 1987, testimony before the United States District Court in Washington, District of Columbia;

(7) free elections and democratic government are conditions which lead to public accountability and thus to observance of human rights in Chile and all other countries;

(8) the Universal Declaration of Human Rights determines free elections to be a basic human right and states that the "will of the people shall be the basis of government; this will shall be expressed in equal suffrage and shall be held by secret vote or by equivalent voting procedures";

(9) the United States believes that a free, fair and open election which offers a clear choice of candidates and political views is the best formula for choosing democratic leaders and insuring a peaceful transition to democracy in Chile; and

(10) the United States, in view of longstanding friendly ties between the American and Chilean people, recognizes that only the Chilean people can bring about a transition to democracy but wishes to encourage a situation in which a return to fully functioning democracy will occur in the near future and in which the Chilean people will have the opportunity to elect democratically their own leaders.

(b) The Congress hereby—

(1) looks forward to the early return of the Chilean Armed Forces to its traditional role as a pillar of strength in the support of democracy in Chile; and

(2) calls upon the Government of Chile to make appropriate compensation to the members of the Letelier and Moffitt families and urges the Chilean Government to make available for trial in the United States or bring to justice in Chile Manuel Contreras and Pedro Espinoza for their involvement in the assassination and subsequent coverup of their role in the 1976 car bombing of Orlando Letelier and Ronni Karpen Moffitt; and

(3) strongly urges that the Government of Chile takes steps to—

(A) assure that military rule in Chile ends at least by 1989;

(B) ensure that the next democratically elected president of Chile is chosen from civilian candidates who offer a clear choice of political views;

(C) facilitate and assure voting procedures for the electoral process which are genuinely fair and based upon universal and equal suffrage with broad participation and which ensure that the vote will be accurately counted and subject to independent verification;

(D) in accord with past Chilean traditions, such clear and agreed upon procedures should be established well in advance of any electoral act so that all Chileans can be confident that the vote will be accurately counted and subject to independent verification; and

(E) ensure that prior to any electoral process, freedom of assembly and expression are fully restored and nonviolent government opponents are given early and fair access to every means of communication, including television.

ASSISTANCE FOR IMPLEMENTATION OF REGIONAL PEACE AGREEMENT

SEC. 578. Notwithstanding any other provision of law, unobligated balances of funds appropriated by the Supplemental Appropriations Act, 1985 (Public Law 99-88) under the heading "Assistance for Implementation of a Contadora Agreement" shall be used only to facilitate, through support for such activities as verification and monitoring, the regional peace initiative signed in Guatemala City on August 7, 1987.

ADMINISTRATION OF JUSTICE

22 USC 2346c.

SEC. 579. (a) Section 534(b)(3) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(3) notwithstanding section 660 of this Act—

"(A) programs to enhance professional capabilities to carry out investigative and forensic functions conducted under judicial or prosecutorial control;

"(B) programs to assist in the development of academic instruction and curricula for training law enforcement personnel;

"(C) programs to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures; and

"(D) programs, conducted through multilateral or regional institutions, to improve penal institutions and the rehabilitation of offenders;".

(b) Section 534(e) of such Act is amended to read as follows: "(e) Personnel of the Department of Defense and members of the United States Armed Forces may not participate in the provision of training under this section. Of the funds made available to carry out this section, not more than $7,000,000 may be made available in each of fiscal years 1988 and 1989 to carry out the provisions of subsection (b)(3) of this section. The authority of this section shall expire on September 30, 1989.".

Termination date.

COOPERATIVE TRAINING AGREEMENTS WITH MAJOR NON-NATO ALLIES

22 USC 2761.

SEC. 580. Section 21(g) of the Arms Export Control Act is amended—

(1) by inserting "and with other countries which are major non-NATO allies," after "New Zealand,"; and

(2) by adding at the end the following: "As used in this subsection, the term 'major non-NATO allies' means those countries designated as major non-NATO allies for purposes of section 1105 of the National Defense Authorization Act of fiscal year 1987.".

ASSISTANCE FOR POLAND

SEC. 581. Up to the equivalent of $500,000 of the nonconvertible Polish currencies (after satisfaction of preexisting commitments to use such currencies for other purposes specified by law) held by the United States which have been generated by the sale to Poland of surplus United States dairy products may be made available for the reconstruction, renovation, and maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland.

MAINTENANCE OF MILITARY BALANCE OF EASTERN MEDITERRANEAN

22 USC 2373 note.

SEC. 582. (a) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 620C of the Foreign Assistance Act of 1961, of maintaining the military balance in the eastern Mediterranean.

President of U.S.

(b) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, for each fiscal year, the ratio of—

(1) the value of excess defense articles made available for Turkey under this section, to

(2) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

(A) the amount of military assistance and financing provided for Turkey, to

(B) the amount of military assistance and financing provided for Greece.

(c) EXCEPTION TO REQUIREMENT.—Subsection (b) shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles.

IMPORT ASSISTANCE FOR CBI BENEFICIARY COUNTRIES AND THE PHILIPPINES

SEC. 583. (a) For the purpose of this Act Congress finds that the cultivation and processing of sugar cane is a significant part of the economy of a number of friendly foreign nations that have traditionally exported raw sugar to the United States for refining and marketing. The sugar production and marketing policies of sugar exporting countries, other than the CBI and the Philippines, notably the EEC, has resulted in the surplus production of sugar and the dumping of sugar on world markets, thereby depressing prices to levels below the cost of production. Because of the changes occurring in the United States market for sweeteners, the export market for raw sugar produced in the CBI and Philippines has been severely[13] restricted. In accordance with the purposes of this Act, efforts shall be made by the United States to provide assistance that helps to maintain a viable sugar industry in these countries. By conducting a special reexport program for sugar, effectively utilizing CCC-owned commodities, the friendly sugar-producing nations of the Caribbean Basin and the Philippines are helped more effectively than they are through section 416 commodity program assistance, and the sugar refining industry in the United States is able to retain a viable level of productive capacity.

(b) The Secretary of Agriculture shall issue regulations for fiscal year 1988 that set forth the terms and conditions of a special export enhancement program for a quantity of refined sugar produced in the United States equal to the quantity of raw sugar imported from beneficiary countries as defined in the Caribbean Basin Initiative

---

[13] Copy read "severly".

(19 U.S.C. 2702) and the Republic of the Philippines. This will enable United States refiners, processors or operators to purchase raw sugar from CBI beneficiary countries and the Republic of the Philippines at United States domestic prices for export of an equivalent quantity of refined sugar into world markets within 60 days. The tonnage for fiscal year 1988 for this purpose shall be no less than 290,000 short tons, raw value, for the CBI nations and 110,000 short tons, raw value, for the Philippines. This amount shall be in addition to the sugar quota level established for the CBI and Philippines pursuant to the tariff schedules (19 U.S.C. 1202), for calendar year 1988 and shall not be held as violating the no cost provision contained in the sugar title of the Food Security Act of 1985. In order to maximize the number of competing bidders, the Secretary shall, in determining the low bidders in the special export enhancement program established under this section, make appropriate adjustments in bids received from sugar refiners and processors to reflect differing transportation costs based on refinery and factory location.

(c) The Secretary of Agriculture shall estimate the dollar amount of section 416 commodities which would be made available to compensate eligible CBI countries and the Philippines for the 1988 sugar quota year and operate the special sugar export enhancement program by adjusting the quantities of sugar shipped and imported under this program so as to insure that the cost of $12,000,000 below the outlay costs for fiscal year 1988 of the section 416 commodities that would otherwise have been made available, including any costs in shipping the minimum amount of section 416 commodities as required in the Food Security Act of 1985. To estimate dollar values, the Secretary of Agriculture shall estimate the cost of the certificates to be 13 percent above their face value.

AMERASIAN IMMIGRATION

USC 1101 note.

SEC. 584. (a)(1) Notwithstanding any numerical limitations specified in the Immigration and Nationality Act, the Attorney General may admit aliens described in subsection (b) to the United States as immigrants if—

(A) they are admissible (except as otherwise provided in paragraph (2)) as immigrants, and

(B) they are issued an immigrant visa and depart from Vietnam during the 2-year period beginning 90 days after the date of the enactment of this Act.

(2) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien seeking admission to the United States under this section, and the Attorney General on the recommendation of a consular officer may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation by a consular officer.

(3) Notwithstanding section 221(c) of the Immigration and Nationality Act, immigrant visas issued to aliens under this section shall be valid for a period of 8 months.

(b)(1) An alien described in this section is an alien who, as of the date of the enactment of this Act, is residing in Vietnam and who establishes to the satisfaction of a consular officer or an officer of the Immigration and Naturalization Service after a face-to-face interview, that the alien—

(A)(i) was born in Vietnam after January 1, 1962, and before January 1, 1976, and (ii) was fathered by a citizen of the United States (such an alien in this section referred to as a "principal alien");

(B) is the spouse or child of a principal alien and is accompanying, or following to join, the principal alien; or

(C) subject to paragraph (2), either (i) is the principal alien's natural mother (or is the spouse or child of such mother), or (ii) has acted in effect as the principal alien's mother, father, or next-of-kin (or is the spouse or child of such an alien), and is accompanying, or following to join, the principal alien.

(2) An immigrant visa may not be issued to an alien under paragraph (1)(C) unless the principal alien involved is unmarried and the officer referred to in paragraph (1) has determined, in the officer's discretion, that (A) such an alien has a bona fide relationship with the principal alien similar to that which exists between close family members and (B) the admission of such an alien is necessary for humanitarian purposes or to assure family unity. If an alien described in paragraph (1)(C)(ii) is admitted to the United States, the natural mother of the principal alien involved shall not, thereafter, be accorded any right, privilege, or status under the Immigration and Nationality Act by virtue of such parentage.

(3) For purposes of this section, the term "child" has the meaning given such term in section 101(b)(1) (A), (B), (C), (D), and (E) of the Immigration and Nationality Act.

(c) Any alien admitted (or awaiting admission) to the United States under this section shall be eligible for benefits under chapter 2 of title IV of the Immigration and Nationality Act to the same extent as individuals admitted (or awaiting admission) to the United States under section 207 of such Act are eligible for benefits under such chapter.

Reports.

(d) The Attorney General, in cooperation with the Secretary of State, shall report to Congress 1 year, 2 years, and 3 years, after the date of the enactment of this Act on the implementation of this section. Each such report shall include the number of aliens who are issued immigrant visas and who are admitted to the United States under this section and number of waivers granted under subsection (a)(2) and the reasons for granting such waivers.

(e) Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section and nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

NARCOTICS AGREEMENTS

22 USC 2291.

SEC. 585. (a) Section 481(h)(2)(A) of the Foreign Assistance Act of 1961 is amended—

(1) in clause (i), by inserting "in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States, (as described in (ii)) and," after "on its own,";

(2) by redesignating clauses (i) and (ii) as clauses (I) and (II), respectively;

(3) by inserting "(i)" immediately after "(2)(A)";

([illegible]) by adding at the end thereof the following:

"(ii) A bilateral narcotics agreement referred to in clause (i)(I) is an agreement between the United States and a foreign country whereby the foreign country agrees to take specific activities including but not limited to, efforts to reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution; drug interdiction and enforcement; drug consumption and treatment; identification of and elimination of illicit drug laboratories; identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs; cooperation with United States drug enforcement officials; and, where applicable, participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.".

22 USC 2291 note.

(b) The amendments made by paragraph (1) shall apply with respect to any certification of the President under section 481(h)(2)(A) of the Foreign Assistance Act of 1961 made on or after March 1, 1989.

22 USC 2291 note.

(c) Beginning with certifications with respect to fiscal year 1989 and each subsequent year, a country which in the previous year was designated a major drug producing or drug-transit country may not be deemed as cooperating fully unless it has in place a bilateral narcotics agreement with the United States.

SPECIAL AMBASSADORIAL COMMISSION FOR CYPRUS AND THE AEGEAN

22 USC 2373 note.

SEC. 586. (a) FINDINGS.—The Congress finds that—

(1) the inability to achieve a just and lasting Cyprus settlement will continue to affect relations among the United States and its close NATO allies, Greece and Turkey, to the detriment of larger, mutually shared, security interests in the Eastern Mediterranean region;

(2) it is of paramount importance that Cyprus, Greece, and Turkey resolve their differences through negotiations and otherwise peaceful procedures, and that the United States should support the resolution of these differences through all the diplomatic means at its disposal;

(3) it is in the national interest of the United States that the President make a significant new diplomatic demarche towards bringing this dispute to a resolution; and

(4) it is also in the national interest of the United States to undertake a diplomatic initiative to promote the peaceful and equitable resolution of differences between Greece and Turkey in the Aegean by fostering a renewed and sustained bilateral dialogue between those countries on such issues as: the delineation of the continental shelf, the definition of the territorial seas, air traffic control over the Aegean, NATO command and control arrangements in the Aegean, and the status of Lemnos and NATO exercises in the Aegean.

(b) APPOINTMENT OF SPECIAL AMBASSADOR.—The President is authorized to appoint a special ambassadorial level envoy who shall be responsible for representing the United States in direct negotiations with the parties to the Cyprus dispute, for representing the United States in negotiations through international intermediaries and, generally, lending the good offices of the United States to the parties in this dispute in order to facilitate a peaceful settlement on Cyprus. As agreed to by Greece and Turkey, the special envoy shall also represent the United States in promoting mutual discussions between those countries concerning their differences on Aegean issues. The special ambassador appointed under this section shall have available the services of two deputies (one to specialize on the Cyprus question, the other on general Aegean issues) and such senior level Department of State personnel as may be required by the special ambassador in order to carry out his responsibilities. President of U.S.

(c) REPORT.—Not later than June 1, 1988, the President shall submit a report to the Congress describing in detail the activities being undertaken by the special ambassador, the progress being made toward achievement of a peaceful resolution of the Cyprus dispute, an assessment of the obstacles to achievement of such a resolution and of the future role of the United States in acheiving a settlement on Cyprus, and an assessment of the progress being made toward resolution of issues affecting the Aegean region. President of U.S.

(d) FUNDING.—Up to $500,000 of the funds appropriated under any heading of this Act which are allocated for Greece and up to $500,000 of the funds appropriated under any heading of this Act which are allocated for Turkey, may be used by the Department of State for any administrative costs associated with the activities of the special ambassador and supporting personnel, including transportation, salaries and per diem.

DETENTION OF CHILDREN

SEC. 587. It is the sense of the Congress that the practice of detaining children without charge or trial is unjust, inhumane, and is an affront to civilized principles. The Congress further believes that it should be the policy of the United States to make the ending of the practice of detaining children without charge or trial a matter of the highest priority. Therefore, the Congress believes the Secretary of State should convey to all international organizations that ending the practice of detaining children without charge or trial should be a policy of the highest priority for those organizations.

TRAINING ASSISTANCE FOR ARGENTINA AND BRAZIL

SEC. 588. (a) EXEMPTION FROM CERTAIN PROHIBITIONS.—Section 638 of the Foreign Assistance Act of 1961 is amended— 22 USC 2398.

(1) by inserting "(a)" before "No"; and

(2) by adding at the end the following:

"(b) No provision of this Act or any other provision of law shall be construed to prohibit assistance for any training activity which is funded under this Act for Brazil or Argentina as long as such country continues to have a democractically elected government and the assistance is otherwise consistent with sections 116, 502B, 620(f), 620A, and 660 of this Act.".

22 USC 2398 note.

(b) Effective Date.—The amendment made by subsection (a)(2) does not apply with respect to funds appropriated prior to the date of enactment of this Act.

PROHIBITION ON MILITARY ASSISTANCE TO MOZAMBIQUE

Sec. 589. Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available pursuant to this Act may be used to provide military assistance to Mozambique.

RESTRICTIONS ON ASSISTANCE TO MOZAMBIQUE

President of U.S. Reports.

Sec. 590. Notwithstanding any other provision of law or this Act, none of the funds appropriated or otherwise made available by this Act may be made available to the Government of Mozambique unless the President reports to Congress on the extent to which:

(1) the Government of Mozambique has entered into a dialogue with the Catholic Church regarding the return of church property;

(2) the Government of Mozambique has taken steps to assure against future expropriation of private property without due process and just compensation;

(3) the number of Soviet and Eastern bloc military and security personnel are being reduced.

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988".

(f) Such amounts as may be necessary for programs, projects or activities provided for in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988.

AN ACT

Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $7,887,405,000, to remain available until expended: *Provided*, That of the new budget authority provided herein, $130,200,000 shall be for the development or acquisition cost of public housing for Indian families; $210,923,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $1,685,732,500 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l); $1,519,257,600 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q); $200,000,000 shall be for rental rehabilitation grants pursuant to section 17(a)(1)(A) of the Act (42 U.S.C. 1437o); $848,850,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f); $495,975,000 shall be for the section 8 moderate rehabilitation program (42 U.S.C. 1437f); and $1,167,367,650 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)), and shall be used without regard for the limitations in section 8(o)(1) that the Secretary conduct a voucher demonstration, and in section 8(o)(4) that the Secretary use substantially all voucher authority in connection with certain programs, but of that portion of such budget authority to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families who are involuntarily displaced, or who are or would be displaced in consequence of increased rents, as a result of rental rehabilitation program actions: *Provided further,* That of the amounts of budget authority that have been provided under this head in prior appropriations Acts, reserved or obligated for the development or acquisition cost of public housing other than for Indian families, for such costs for Indian families, for modernization of existing public housing projects, for rental rehabilitation grants, and for housing development grants under section 17(a)(1)(B) of the Act (42 U.S.C. 1437o), and recaptured during fiscal year 1988 (not including amounts that become available for rescission pursuant to section 4(c)(3) of the Act), an amount equal to such recaptured amount shall be made available for the respective purpose for which such recaptured amount was last reserved or obligated, but amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1988 shall be rescinded: *Provided further,* That any part of the new and recaptured budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: *Provided further,* That new budget authority, amounts that are available for obligation as of October 1, 1987, and amounts (other than amounts to be rescinded) to which the second proviso hereof refers, shall be available until expended, except that for rental rehabilitation grants under section 17(a)(1)(A), new budget authority shall be available until September 30, 1990, and amounts equal to recaptured amounts, and amounts which are available for obligation as of October 1, 1987, shall be available for the respective time periods applicable to such recaptured amounts: *Provided further,* That amounts of funds for housing development grants as authorized by section 17(a)(1)(B) of the Act (42 U.S.C. 1437o) that were appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1985 (Public Law 98-371, 98 Stat. 1213-1215, amending Public Law 98-45, 97 Stat. 219-220) to become available in part during fiscal year 1984, and in part on October 1, 1984, shall remain available for obligation through September 30, 1988: *Provided further,* That amounts equal to recaptured amounts for housing development

Grants.

Grants.

grants shall be made available during 1988 on the terms specified in the sixth proviso under this head in the Department of Housing and Urban Development appropriation for 1987 (section 101(g) of Public Laws 99-500 and 99-591, 100 Stat. 1783, 1783-242, 3341, 3341-242): *Provided further,* That section 17(d)(4)(G) of the Act is amended by striking "36 months" and inserting "48 months": *Provided further,* That any amounts of new budget authority provided under this head in prior appropriations Acts that are recaptured or carried over from one fiscal year to another which are available for use in fiscal year 1988 and thereafter shall be available as an appropriation of funds without regard to whether such budget authority has heretofore been available as an appropriation of funds: *Provided further,* That any amount of contract authority provided prior to fiscal year 1976 for any purpose authorized by the Act, as in effect prior to the effective date for amendments to such 1937 Act prescribed under section 201(b) of the Housing and Community Development Act of 1974 (Public Law 93-383, 88 Stat. 633, 667) and as in effect thereafter, that is not reserved or obligated on October 1, 1987, or that is recaptured during fiscal year 1988 or thereafter, is rescinded as of October 1, 1987, or upon recapture, as the case may be: *Provided further,* That none of the amounts under this head that are available for obligation in 1988 shall be subject to the provisions of section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439).

42 USC 1437*o*.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1988 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In fiscal year 1988, $565,776,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided,* That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further,* That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further,* That 25 percent of the direct loan authority provided herein shall be used only for the purpose of providing loans for projects for the handicapped: *Provided further,* That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further,* That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the

Budget of the United States Government: *Provided further*, That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1988 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program: *Provided further*, That no direct loan authority under this head in this or any other appropriations Act shall be made available to fund HUD Project No. 023-EH273 (Milton, MA) unless the sponsor of such project identifies a site for such project, other than the site specified in the sponsor's application documents, that complies with the site standards and criteria of the Secretary.

12 USC 1701q note.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, $4,224,000, to remain available until September 30, 1989.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937 as amended (42 U.S.C. 1437g), $1,450,000,000.

PUBLIC HOUSING DEVELOPMENT LOAN

The Bay City, Michigan, Housing Authority is hereby forgiven with respect to any requirement to repay the Secretary of Housing and Urban Development any excess principal and accrued interest associated with a loan for public housing development awarded in 1974, under the United States Housing Act of 1937 and designated as MI 24-7, and such loan is hereby cancelled.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii) and section 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, $3,360,000.

TROUBLED PROJECTS OPERATING SUBSIDY

For assistance payments to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, in the program of operating subsidies for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, all uncommitted balances of excess rental charges and any collections after September 30, 1987, to remain available until September 30, 1989: *Provided*, That assistance payments to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77, 101 Stat. 482, 495), $8,000,000, to remain available until expended.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77, 101 Stat. 482, 498), $65,000,000 to remain available until expended: *Provided,* That of the foregoing amount, $750,000 shall be transferred to the Interagency Council on the Homeless for operations under title II of such Act (Public Law 100-77, 101 Stat. 482, 486): *Provided further,* That the provision in section 203(a)(4) of such Act that relates to employment of personnel in the regions shall not be implemented.

42 USC 11313 note.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $162,866,000, to remain available until expended.

Loans.

During fiscal year 1988, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1988, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $96,000,000,000.

During fiscal year 1988, gross obligations for direct loans of not to exceed $79,272,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

12 USC 1715z-12.

Section 247(c)(1) of the National Housing Act is amended by inserting before the period at the end the following: "(or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian homelands, such lower percentage as may be established for such succession under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the constitution of the State of Hawaii adopted under section 4 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 5))".

Section 247 of the National Housing Act is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 519. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

NONPROFIT SPONSOR ASSISTANCE

During fiscal year 1988, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $960,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1988, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $144,000,000,000 of loan principal.

SOLAR ENERGY AND ENERGY CONSERVATION BANK

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

For financial assistance and other expenses, not otherwise provided for, to carry out the provisions of the Solar Energy and Energy Conservation Bank Act of 1980 (12 U.S.C. 3601), $1,500,000, to remain available until September 30, 1989: *Provided*, That the funds appropriated under this heading in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1985 (Public Law 98-371) shall remain available until September 30, 1988: *Provided further*, That all funds recaptured from prior year appropriations under this heading shall be reallocated to eligible financial institutions.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grant program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $2,880,000,000 to remain available until September 30, 1990: *Provided*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds set aside in the next two following provisos) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That $5,000,000 shall be made available from the foregoing $2,880,000,000 to carry out a child care demonstration under section 222 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181): *Provided further,* That $1,000,000 shall be made available from the foregoing $2,880,000,000 to carry out a neighborhood development demonstration under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181).

During fiscal year 1988, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $144,000,000 of contingent liability for loan principal.

42 USC 5302.

Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by striking out the third sentence and inserting in lieu thereof the following: "Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this title, if it elects to have its population included in an urban county under subsection (d). Notwithstanding the second sentence of this paragraph, a city may elect not to retain its classification as a metropolitan city for fiscal year 1988 or 1989."

URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, $216,000,000, to remain available until September 30, 1991: *Provided,* That title 42, United States Code, section 5318(n)(2), is amended as follows: After the word "reservation" add the words ", or on former Indian reservations in Oklahoma as determined by the Secretary of the Interior,".

REHABILITATION LOAN FUND

During fiscal year 1988, collections, unexpended balances of prior appropriations (including any recoveries of prior reservations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1987, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act: *Provided,* That none of the funds in this Act may be used to sell any loan asset that the Secretary holds as evidence of indebtedness under such section 312.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Administrator of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Administrator of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section

810 of the Housing and Community Development Act of 1974, as amended, $14,400,000, to remain available until expended.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $16,512,000, to remain available until September 30, 1989.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, $4,800,000, to remain available until September 30, 1989.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $4,000 for official reception and representation expenses, $666,251,000, of which $358,132,000 shall be provided from the various funds of the Federal Housing Administration: *Provided,* That during fiscal year 1988, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,315 for Public and Indian Housing Programs.

TITLE II

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $12,408,000: *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, 36 USC 121b.

the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the
36 USC 122. payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission:
36 USC 122a. *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further,* That section 409 of the general provisions carried in title IV of this Act shall not apply to the funds provided under this heading: *Provided further,* That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal travel regulations.

ADMINISTRATIVE PROVISION

TEMPORARY INVESTMENT IN GOVERNMENT SECURITIES OF AMOUNTS CONTRIBUTED FOR THE KOREAN WAR VETERANS MEMORIAL

SECTION 1. (a) IN GENERAL.—Section 3(a) of the Act entitled "An Act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war", approved October 28, 1986 (40 U.S.C. 1003 note), is amended by adding at the end the following new paragraphs:

"(2) There is established in the Treasury a fund which shall be available to the American Battle Monuments Commission for expenses of establishing the memorial. The fund shall consist of (A) amounts deposited, and interest and proceeds credited, under paragraph (3), and (B) obligations obtained under paragraph (4).

"(3) The Chairman of the Commission shall deposit in the fund such amounts from private contributions as may be accepted under paragraph (1). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

"(4) The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the fund.

"(5) If, upon payment of all expenses of establishment of the memorial as provided by law, there remains a balance in the fund, the Chairman of the Commission shall deposit the amount of the balance in the general fund of the Treasury as a miscellaneous receipt.".

(b) TECHNICAL AMENDMENTS.—Section 3 of such Act is amended—

(1) by striking out "SEC. 3. (a)" and inserting in lieu thereof "SEC. 3. (a)(1)";

(2) in subsection (a)(1), as so redesignated by paragraph (1) of this subsection, by striking out the last sentence; and

(3) by striking out subsection (c).

CORRECTION OF SUPERSEDED CROSS REFERENCE

SEC. 2. The second sentence of section 1 of the Act entitled "An Act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war", approved October 28, 1986 (40 U.S.C. 1003 note), is amended by striking out "the provisions of" and all that follows through the end of the sentence and inserting in lieu thereof "the Act entitled 'An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes', approved November 14, 1986 (40 U.S.C. 1001 et seq.).".

CLARIFICATION OF RELATED PROVISION

SEC. 3. The first sentence of section 3(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1003(a)) is amended by striking out "Act of Congress" and inserting in lieu thereof "law".

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed $500 for official reception and representation expenses, $32,696,000: *Provided*, That no more than $300,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission appointed pursuant to 15 U.S.C. 2053: *Provided further*, That none of these funds shall be available for conducting or reviewing cost/benefit analyses on enforcement actions of the Consumer Product Safety Commission.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of one passenger motor vehicle for replacement only, and not to exceed $1,000 for official reception and representation expenses; $8,164,000, to remain available until expended: *Provided*, That in addition to the foregoing appropriation, $1,000,000 of unobligated balances of funds previously appropriated to the Department of the Army, Corps of Engineers—Civil for "Construction, general" shall, upon enactment of this Act, be transferred to and merged with the funds available under this head and such transferred funds shall remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $25,000 per project; and not to exceed $3,000 for official reception and representation expenses; $765,000,000: *Provided,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

RESEARCH AND DEVELOPMENT

For research and development activities, $186,350,000, to remain available until September 30, 1989: *Provided,* That not more than $2,000,000 of these funds shall be available for replacement of laboratory equipment.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, $606,192,000, of which $40,000,000 shall be available for the purposes of the Asbestos School Hazards Abatement Act of 1984, as amended, including not more than $15,000,000 to defray the costs of school asbestos reinspections and management plans required by section 2 of the Asbestos Hazard Emergency Response Act of 1986 and not more than $2,400,000 for administrative expenses, with all of such funds to remain available until September 30, 1989: *Provided,* That school asbestos abatement loan and grant awards shall be made no later than March 1, 1988: *Provided further,* That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949): *Provided further,* That not more than $2,000,000 of these funds shall be available for replacement of laboratory equipment: *Provided further,* That section 320(a)(2)(B) of the Federal Water Pollution Control Act is amended by inserting "Santa Monica Bay, California;" after "San Francisco Bay, California;". 33 USC 1330.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $23,500,000, to remain available until expended: *Provided*, That the appropriating paragraph under this head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1987, as made effective by section 101(g) of Public Laws 99-500 and 99-591, is amended by repealing the following: "$2,000,000 shall be for construction of a laboratory addition at the Environmental Research Center at the University of Nevada, Las Vegas, and".

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $1,128,000,000 to be derived from the Hazardous Substance Superfund, consisting of $888,900,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and $239,100,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, with all of such funds to remain available until expended: *Provided*, That funds appropriated under this account may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA, as amended: *Provided further*, That none of the funds appropriated under this heading shall be available for sections 111(b), (c)(1), or (c)(2) of CERCLA, as amended: *Provided further*, That, notwithstanding section 111(m) of CERCLA, as amended, or any other provision of law, not to exceed $43,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), 111(c)(14), and 118(f) of SARA: *Provided further*, That no more than $182,400,000 of these funds shall be available for administrative expenses: *Provided further*, That title I of CERCLA, as amended by section 119 of SARA, is amended by adding the following subparagraph to section 119(e)(2)(A): "(iii) Recipients of grants (including sub-grantees) under section 126 for the training and education of workers who are or may be engaged in activities related to hazardous waste removal, containment, or emergency response under this Act; and": *Provided further*, That section 126(d)(3) of SARA is amended by adding a new sentence at the end thereof as follows: "The certification procedures shall be no less comprehensive than those adopted by the Environmental Protection Agency in its Model Accreditation Plan for Asbestos Abatement Training as required under the Asbestos Hazard Emergency Response Act of 1986.".

42 USC 9619.

29 USC 655 note.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, $14,400,000, to remain available until expended: *Provided*, That no more than $4,800,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m)(1-3),

201(n)(2), 206, 208, and 209, $2,304,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

None of the funds in this Act shall be available for any indemnity payment under section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act.

Not to exceed $25,000,000 in fees and charges is authorized to be assessed and collected by the Administrator in fiscal year 1988 for services and activities carried out pursuant to the statutes which are administered by the Environmental Protection Agency for deposit in a special fund in the U.S. Treasury which shall be available for appropriation, to remain available until expended, to carry out the Agency's activities in the programs for which the fees or charges are made.

42 USC 7503 note.

No restriction or prohibition on construction, permitting, or funding under sections 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of the Clean Air Act shall be imposed or take effect during the period prior to August 31, 1988, by reason of (1) the failure of any nonattainment area to attain the national primary ambient air quality standard under the Clean Air Act for photochemical oxidants (ozone) or carbon monoxide (or both) by December 31, 1987, (2) the failure of any State to adopt and submit to the Administrator of the Environmental Protection Agency an implementation plan that meets the requirements of part D of title I of such Act and provides for attainment of such standards by December 31, 1987, (3) the failure of any State or designated local government to implement the applicable implementation plan, or (4) any combination of the foregoing. During such period and consistent with the preceding sentence, the issuance of a permit (including required offsets) under section 173 of such Act for the construction or modification of a source in a nonattainment area shall not be denied solely or partially by reason of the reference contained in section 171(l) of such Act to the applicable date established in section 172(a). This subsection shall not apply to any restriction or prohibition in effect under sections 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of such Act prior to the enactment of this section. Prior to August 31, 1988, the Administrator of the Environmental Protection Agency shall evaluate air quality data and make determinations with respect to which areas throughout the nation have attained, or failed to attain, either or both of the national primary ambient air quality standards referred to in subsection (a) and shall take appropriate steps to designate those areas failing to attain either or both of such standards as nonattainment areas within the meaning of part D of title I of the Clean Air Act.

Notwithstanding any other provision of law, none of the funds made available by this or any other appropriations Act shall be available to the Environmental Protection Agency prior to September 15, 1988, for the purpose of cancellation or suspension of any pesticide registration for failure of any manufacturer, formulator, registrant or user to comply with PR Notices 87-4 and 87-5 relating to labeling of such substances, nor for the purpose of enforcement actions against any user of any pesticide whose use is substantially in conformance with label instructions in existence as of August 1, 1987, related to endangered species, as cited in PR Notices 87-4 and 87-5, nor to propose or order any other revision in such labeling for the reasons cited in PR Notices 87-4 and 87-5, except that the

Agency may propose revision where there is no disagreement between the Agency and the State departments relevant to implementation in that State.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $826,000.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $1,888,000: *Provided,* That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), $120,000,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $1,500 for official reception and representation expenses, $125,841,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of

1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $272,496,000.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $9,496,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $43,392,000 shall, upon enactment of this Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,531,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1989. In fiscal year 1988, no funds in excess of (1) $38,000,000 for operating expenses, (2) $137,765,000 for agents' commissions and taxes, and (3) $2,537,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $114,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77: *Provided,* That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,279,000, to be deposited into the Consumer Information Center Fund: *Provided,* That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,140,000. Administrative expenses of the Consumer Information Center in fiscal year 1988 shall not exceed $1,652,000. Appropriations, revenues and collections accruing to this fund during fiscal year 1988 in excess of $5,140,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,670,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $3,374,200,000, to remain available until September 30, 1989, of which $100,000,000 shall be derived by transfer from funds appropriated in section 101(g) of Public Law 99-591 for orbiter production: *Provided,* That of the funds made available by this Act, $225,000,000 is for space station only, which amount shall not become available for obligation until June 1, 1988, and pursuant to section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $3,908,309,000, to remain available until September 30, 1989, including not to exceed $28,000,000 for expendable launch vehicles which shall be available only for the purchase of two Delta II vehicles for the launch of the Roentgen satellite (ROSAT) and the Extreme Ultraviolet Explorer (EUVE).

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $178,272,000, to remain available until September 30, 1990: *Provided,* That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further,* That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further,* That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

Contracts.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards; lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $1,495,680,000: *Provided,* That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive: *Provided further,* That apportionments granted pursuant to this Act for the appropriations to the National Aeronautics and Space Administration shall reflect the moving of up to $245,000,000 (on an annual basis) in institutional costs from the "Research and development" and "Space flight, control and data communications" accounts to the "Research and program management" account.

Contracts.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1988, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1988 shall not exceed $813,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of one aircraft; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $1,453,000,000, to remain available until September 30, 1989: *Provided,* That of the funds appropriated in this Act, $1,000,000 shall be available only for the International Institute for Applied Systems Analysis, and that, notwithstanding any other provision of law, the Director may choose not to obligate these funds for that purpose: *Provided further,* That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $84,480,000 shall be available for program development and management in fiscal year 1988: *Provided further,* That none of the funds appropriated in this Act may be used, directly or through grants, contracts, or other award mechanisms, for agreements executed after enactment of this Act, to pay or to provide reimbursement for the Federal portion of the salary of any individual functioning as a Federal employee at more than the daily equivalent of the maximum rate paid for ES-6 for assignments to Senior Executive Service positions, unless specifically authorized by law: *Provided further,* That contracts may be entered into under the program development and management limitation in fiscal year 1988 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

Contracts.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $1,000 for official reception and representation expenses; $124,800,000, to remain available until expended: *Provided,* That receipts for support services and materials provided to individuals for non-Federal activities may be credited to this appropriation: *Provided further,* That no funds in this account shall be used for the purchase of aircraft.

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science and engineering education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including award of graduate fellowships, services as authorized by 5 U.S.C. 3109, and rental of conference rooms in the District of Columbia, $139,200,000, to remain available until September 30, 1989: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), $18,720,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $25,459,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $14,334,287,000, to remain available until expended.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34-36, 39, 51, 53, 55, and 61), $625,700,000, to remain available until expended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $14,290,000, to remain available until expended.

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $10,094,808,000, plus reimbursements: *Provided,* That of the sum appropriated, $6,400,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further,* That, during fiscal year 1988, jurisdictional average employment shall not exceed 37,700 for administrative support.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law, to remain available until September 30, 1989, $192,899,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS

OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $46,628,000, plus reimbursements.

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $3,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of six passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $762,810,000, including $508,500,000 for the Department of Veterans Benefits: *Provided*, That, during fiscal year 1988, jurisdictional average employment shall not be less than 12,915 for the Department of Veterans Benefits: *Provided further*, That none of the funds appropriated by this or any other Act shall be obligated to effect the closing of the St. Paul Insurance Center during the period beginning on the date of the enactment into law of this Act and ending on September 30, 1988: *Provided further*, That $26,700,000 of the sum appropriated is for contracts in amounts not less than $1,000,000 for the acquisition of automated data processing equipment and services to support the modernization program in the Department of Veterans Benefits and shall remain available until September 30, 1989.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, and site acquisition, where the estimated cost of a project is $2,000,000 or more or where funds for a project were made available in a previous major project appropriation, $402,884,000, to remain available until expended: *Provided*, That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in the appropriation "Construction, major projects" for fiscal year 1988, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1988, and (2) by the awarding of a construction contract by September 30, 1989: *Provided further*, That the Administrator shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further*, That no funds from any other account, except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Veterans Administration of the project or any part thereof with respect to that part only: *Provided further*, That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Veterans Administration medical facility must certify that the design of such project is acceptable from a patient care standpoint: *Provided further*, That $2,500,000 of the unobligated balances under this heading shall be available for the settlement of a contractor's claim arising from the construction

Contracts.

Reports.

Contracts.

of a Replacement Hospital and Research Building at the Veterans Administration Medical Center, Bronx, New York.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $2,000,000, $115,942,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $2,000,000: *Provided,* That not more than $40,774,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further,* That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Veterans Administration which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $3,936,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031-5037), $40,320,000, to remain available until September 30, 1990.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $480,000, to remain available until September 30, 1989.

DIRECT LOAN REVOLVING FUND

During 1988, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans is authorized for specially adapted housing loans (38 U.S.C. chapter 37).

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $389,800,000, to remain available until expended.

During 1988, the resources of the loan guaranty revolving fund shall be available for expenses for property acquisitions, payment of participation sales insufficiencies, and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided,* That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1988, for transfer to the loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1988, with the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Not to exceed 5 per centum of any appropriation for 1988 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations, but not to exceed 10 per centum of the appropriations so augmented.

Appropriations available to the Veterans Administration for 1988 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

Appropriations available to the Veterans Administration for fiscal year 1988 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1987.

TITLE III

CORPORATIONS

Contracts.

Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1988 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

Not to exceed a total of $30,313,000 shall be available for administrative expenses of the Federal Home Loan Bank Board for procurement of services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901-5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year, of which not to exceed $800,000 shall be available for purposes of training State examiners and not to exceed $1,500 shall be available for official reception and representation expenses: *Provided*, That members and alternates of the Federal Savings and Loan Advisory Council may be compensated subject to the provisions of section 7 of the Federal Advisory Committee Act, and shall be entitled to reimbursement from the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703: *Provided further*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of 1932, as amended (12 U.S.C. 1421-1449).

12 USC 1428a note.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Not to exceed $1,610,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to section 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724-1730f).

ADMINISTRATIVE PROVISION

12 USC 1441 note.

Any cooperative bank established under the law of any State which was directed by the State banking authority of such State to obtain Federal deposit insurance between January 1, 1985, and January 1, 1987, shall be deemed to be an insured institution described in section 21(f)(4)(F) of the Federal Home Loan Bank Act.

TITLE IV

GENERAL PROVISIONS

Sec. 401. Where appropriations in titles I and II of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I and II exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

Sec. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 409. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations.

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

Contracts.
Public
information.

SEC. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

Contracts.
Reports.

SEC. 412. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 413. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 414. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 415. None of the funds appropriated by this Act or any other Act for any fiscal year shall be used for demolishing George Loving Place, at 3320 Rupert Street, Edgar Ward Place, at 3901 Holystone, Elmer Scott Place, at 2600 Morris, in Dallas, Texas, or Allen Parkway Village, 1600 Allen Parkway, in Houston, Texas.

This Act may be cited as the "Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988".

(g) Such amounts as may be necessary for programs, projects or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1988, and for other purposes.

Department of the Interior and Related Agencies Appropriations Act, 1988.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $498,983,000, of which $75,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1987, as contained in Public Law 99-591, shall remain available until expended: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $3,430,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, $8,885,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $58,475,000, to remain available until expended: *Provided,* That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), but not less than $8,506,000 (43 U.S.C. 1901), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended: *Provided*, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended: *Provided*, That notwithstanding any provision to the contrary of subsection 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that subsection, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to subsection 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further*, That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

43 USC 1735 note.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $25,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided*, That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further*, That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: *Provided further*, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further*, That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau: *Provided further*, That section 1(b) of the Act of October 17, 1984 entitled "An Act to withdraw certain public lands in Lincoln County, Nevada" (Public Law 98-485), is amended by striking out "December 31, 1987" and inserting in lieu thereof "March 31, 1988".

43 USC 1752 note.

98 Stat. 2261.

Notwithstanding any court order now or hereafter in effect, the Secretary of the Interior, through the State Director, Utah, Bureau of Land Management, is authorized to negotiate with the appropriate government officials in the State of Utah and to take any action necessary under the Federal Land Policy and Management Act and other applicable laws to consummate an exchange of Federal lands and improvements thereon identified as tracts U-a and U-b, for State lands of equal value if the Secretary determines that such an exchange is in the public interest. Any exchange involving such lands shall include the transfer of the remaining balance of funds conveyed to the Bureau of Land Management for the management and protection of the tracts U-a and U-b: *Provided*, That use of such funds shall be restricted to management and protection of the tracts.

Notwithstanding any court order now or hereafter in effect, the Secretary of the Interior is authorized to revoke the Bureau of Reclamation's Dixie project withdrawal, created by Commissioner's order of June 11, 1943; Public Land Order No. 1868 of June 3, 1959; Public Land Order No. 4036 of June 6, 1966; and Public Land Order No. 4061 of July 18, 1966, and to complete any land actions with regard to those lands required under the Federal Land Policy and Management Act and other applicable laws and that the Secretary determines to be in the public interest.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $342,594,000, of which $4,300,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $6,528,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and shall remain available until expended.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $25,062,000, to remain available until expended, of which $2,000,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g): *Provided,* That notwithstanding any other provision of law, a procurement for the Northeast Anadromous Fish Laboratory shall be issued which includes the full scope of the previously issued procurement for the facility: *Provided further,* That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18.

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C 715k-3, 5), $1,000,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $51,754,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $5,645,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 145 passenger motor vehicles, of which 144 are for replacement only (including 41 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided,* That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $424,000 for the Roosevelt Campobello International Park Commission and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $730,799,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which $2,000,000 to remain available until expended shall be made available to the Martin Luther King, Jr. Center for the Study of Nonviolent Social Change for rehabilitation of the birth home of Martin Luther King, Jr. and for purchase of the vacant lot on the north side of Irwin Street between Jackson and Boulevard for a landscaped parking lot: *Provided*, That the National Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further*, That none of these funds may be used to compensate a quantity of staff greater than existed as of May 1, 1986, in the Office of Legislative and Congressional Affairs of the National Park Service or to compensate individual staff members assigned subsequent to May 1, 1986, at grade levels greater than the staff replaced: *Provided further*, That to advance the mission of the National Park Service for a period of time not to extend beyond fiscal year 1988, the Secretary of the Interior is authorized to charge park entrance fees for all units of the National Park System, except as provided herein, of an amount not to exceed $3 for a single visit permit as defined in 36 CFR 71.7(b)(2) and of an amount not to exceed $5 for a single visit permit as defined in 36 CFR 71.7(b)(1): *Provided further*, That the cost of a Golden Eagle Passport as defined in 36 CFR 71.5 is increased to a reasonable fee but not to exceed $25 until September 30, 1988: *Provided further*, That for units of the National Park System where entrance fees are charged the Secretary shall establish an annual admission permit for each individual park unit for a reasonable fee but not to exceed $15, and that purchase of such annual admission permit for a unit of the National Park System shall relieve the requirement for payment of single visit permits as defined in 36 CFR 71.7(b): *Provided further*, That all funds derived from National Park Service recreation fees during fiscal year 1988, and all funds collected by the National Park Service during fiscal year 1988 under subsections (a), (b), and (c) of section 4 of the Land and Water Conservation Fund Act of 1965, as amended, shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations, nor shall an admission fee be charged at any unit of the National Park System which has a current, specific statutory exemption: *Provided further*, That where entrance fees are established on a per person basis, children 16 and under shall be exempt from the fees: *Provided further*, That if permanent statutory language is enacted during fiscal year 1988 establishing entrance fees for the National Park System either prior to or subsequent to enactment of this Act, such permanent authorizing language shall supersede the provisions on recreation fees contained in this Act: *Provided further*, That of the amounts appropriated under this head, $15,000,000 shall be distributed to units of the National Park System, to be available for resource protection, research, interpretation, and maintenance activities related to resource protection, to be distributed in the following manner: 50 percent shall be allocated to each unit of the System based on each unit's proportion of the total budgeted in the prior fiscal year for park operating expenses, and 50 percent shall be allocated to units collecting user fees or entrance fees based on each unit's proportion of the total entrance and user fee revenues collected during the prior fiscal year: *Provided further*, That when authorized by the head of the collecting agency, volunteers may sell

16 USC 20b note.

permits and collect fees authorized or established pursuant to section 4 of the Land and Water Conservation Fund Act of 1965, and funds appropriated or otherwise available to the collecting agency shall be available to cover the cost of any surety bond as may be required of any such volunteer in performing such authorized services under that section: *Provided further,* That notwithstanding any other provision of law, Public Law 96-565 is amended by adding the following at the end of section 104(a): "The Secretary may lease from the Department of Hawaiian Home Lands said trust lands until such time as said lands may be acquired by exchange as set forth herein or otherwise acquired. The Secretary may enter into such a lease without regard to fiscal year limitations.": *Provided further,* That none of the funds appropriated to the National Park Service shall be used to remove, obstruct, dewater, fill or otherwise damage the Brooks River fish ladder in the Katmai National Park, Alaska: *Provided further,* That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: *Provided further,* That funds appropriated to the National Park Service may be used for the purchase or hire of personnel services without regard to personnel laws as contained in title V of the United States Code, only to provide for the orderly transition from regional finance offices to a central finance office.

16 USC 410jj-3.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $12,935,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $28,250,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1989: *Provided,* That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further,* That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation: *Provided further,* That $1,000,000 of the amount appropriated herein shall remain available until expended to establish a Bicentennial Lighthouse Fund, to be distributed on a matching grant basis after consultation among the National Park Service, the National Trust for Historic Preservation, State Historic Preservation Officers from States with resources eligible for financial assistance, and the lighthouse community. Consultation shall include such matters as a distribution formula, timing of grant awards, a redistribution procedure for grants remaining unobligated longer than two years after the award date, and related implementation policies. The distribution formula for fiscal year 1988 shall include consideration of such factors as—

Grants.

(A) the number of lighthouses on or determined to be eligible for listing on the National Register of Historic Places by March 30, 1988;

(B) the number of river lights and number of historic river sites on or determined to be eligible for listing on the National Register by March 30, 1988; and

(C) the availability of matching contributions in the State: *Provided further,* That the Secretary shall allocate appropriate funds from the Bicentennial Lighthouse Fund to be transferred, without the matching requirement, for use by Federal agencies, in cooperative agreements with the National Park Service and the State Office of Historic Preservation in which the property is located, for properties otherwise eligible for the National Register but owned by the Federal Government.

URBAN PARK AND RECREATION FUND

(RESCISSION)

Of the amounts previously appropriated under this head and unobligated, $1,900,000 is hereby rescinded.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $93,017,000, to remain available until expended, of which $4,700,000 shall be derived by transfer from the National Park System Visitor Facilities Fund, including $1,500,000 to carry out the provisions of sections 302, 303, and 304 of Public Law 95-290 and not to exceed $300,000 for assistance to Mariposa County, California for a solid waste disposal facility: *Provided,* That the National Park Service may not pay a fee for use of the facility at rates higher than for other users of the facility: *Provided further,* That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $31,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

16 USC 460*l*-10a note.

The contract authority provided for fiscal year 1988 by 16 U.S.C. 460l-10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $60,749,000 to be derived from the Land and Water Conservation Fund, to remain available until expended, including $3,433,000 to administer the State Assistance program and $300,000 for acquisition of the Zane Grey House and personal effects at the Upper Delaware Scenic and Recreation River: *Provided,* That of the amounts previously appropriated to the Secretary's contingency fund for grants to States,

$27,000 shall be available in 1988 for administrative expenses of the State grant program: *Provided further,* That notwithstanding any other provisions of the Land and Water Conservation Fund Act of 1965, Public Law 88-578, as amended, or other law, Land and Water Conservation Fund assisted land in Pine Bluff, Arkansas, assisted under project No. 05-00128 and No. 05-00196, may be exchanged for existing public lands if Land and Water Conservation Fund conversion criteria regarding equal fair market value and reasonably equivalent use and location are met: *Provided further,* That any Federally-owned land in War in the Pacific National Historical Park that hereafter becomes excess to the needs of the administering agency shall be transferred to the jurisdiction of the National Park Service, without reimbursement, for purposes of the park.

16 USC 410dd note.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $4,904,000: *Provided,* That contracts awarded for environmental systems, housekeeping, protection systems, and repair or renovation of buildings of the John F. Kennedy Center for the Performing Arts may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 370 passenger motor vehicles, of which 320 shall be for replacement only, including not to exceed 300 for police-type use and 25 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided,* That no funds available to the National Park Service may be used, unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further,* That the National Park Service may use helicopters and motorized equipment at Death

Valley National Monument for removal of feral burros and horses: *Provided further,* That notwithstanding any other provision of law, the National Park Service may recover unbudgeted costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

Reports.

None of the funds in this Act or any other Act may be used to commence, conduct, or participate in any action in any court of law for condemnation of the property or to initiate a declaration of taking for any property in the Santa Monica Mountains NRA, California against the owner of any inholding having a detached single-family dwelling the construction of which had been begun before January 1, 1978, or against the owner or his assignees of any inholding of a detached single-family dwelling the construction of which had been begun before January 1, 1978, which dwelling may have been destroyed by fire, storm or otherwise.

No funds shall be available for the National Park Service to issue any construction permit for the Potomac Greens interchange on the George Washington Memorial Parkway unless an Environmental Impact Statement is conducted. The Environmental Impact Statement shall be commenced promptly and completed and filed within eighteen (18) months of the date on which this bill is enacted. After completion and filing, the EIS shall be transmitted to the appropriate Congressional Committees for a period of 60 days, during which time the National Park Service shall not issue any construction permit for the Potomac Greens interchange on the George Washington Memorial Parkway.

The Environmental Impact Statement shall review the traffic impact of only the proposed 38-acre development opposite Daingerfield Island west of the George Washington Memorial Parkway: *Provided further,* That the National Park Service shall review the impact of the planned development on the visual, recreational and historical integrity of the Parkway.

The Environmental Impact Statement shall also provide an evaluation of alternative acquisition strategies to include but not be limited to appraisal estimates for the access rights, the entire 38-acre parcel, that portion of the 38-acre parcel as defined approximately by the historic district boundary line, and any other recommendations by the National Park Service to mitigate the Parkway degradation effects of the proposed development so as to adequately protect and preserve the Parkway. Such appraisals shall be prepared and filed as soon as is reasonably possible. The National Park Service solely shall determine the legal and factual sufficiency of the Environmental Impact Statement and its compliance with the National Environmental Policy Act of 1969.

The Environmental Impact Statement shall be separate from, independent of, and in no way intended to affect or modify any pending litigation. Notwithstanding any other provision of law, no court shall have jurisdiction to consider questions respecting the factual and legal sufficiency of the Environmental Impact Statement under the National Environmental Policy Act of 1969.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $447,747,000: *Provided,* That $60,664,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality.

43 USC 50.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 25 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That appropriations herein and hereafter made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein and hereafter provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: *Provided further,* That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local government: *Provided further,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

43 USC 50c.

Contracts.
Grants.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $168,717,000, of which not less than $50,179,000 shall be available for royalty management activities including general administration: *Provided,* That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That of the above enacted amounts, $250,000 proposed for data gathering to help determine the boundary between State and Federal lands offshore of Alaska shall be available only if an equal amount is provided by the State of Alaska from State revenues to match the Federal support for this project: *Provided further,* That none of the funds in this Act may be used to implement a rule which modifies NTL-5 until such time as H.R. 3479, or similar legislation, is enacted into law: *Provided further,* That audits may proceed but the Minerals Management Service shall take no action to collect unpaid or underpaid royalties on natural gas production from Federal onshore or Indian leases between January 1, 1982, and July 31, 1986, plus applicable interest, based on a value of production in excess of the lessee's gross proceeds (or minimum value required by the applicable lease terms and regulations in titles 25 and 30 of the CFR) until such time as legislation affecting NTL-5 for that period is enacted.

Contracts.

Subsection (g)(5)(A) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(5)(A)) is amended—

(1) by striking out "such account" in the second sentence and inserting in lieu thereof "an escrow account established pursuant to an agreement under section 7";

(2) by designating the indented clause as clause (ii);

(3) in the first sentence of the clause (ii) by striking "any" and inserting in lieu thereof "a", by striking out "all" and by inserting in lieu thereof "any additional", and by inserting "or credited to" before "the escrow account"; and

(4) by inserting before clause (ii) the following new clause:

"(i) Twenty-seven percent of all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978, of any tract which lies wholly within three nautical miles of the seaward boundary asserted by the Federal Government in the boundary dispute, together with all accrued interest thereon, shall be paid to the State either—

"(I) within thirty days of December 1, 1987, or

"(II) by the last business day of the month following the month in which those revenues are deposited in the Treasury, whichever date is later.".

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $146,398,000, of which $88,259,000 shall remain available until expended: *Provided,* That not more than $1,890,000 of the amount appropriated may be used for executive direction: *Provided further,* That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation: *Provided further,* That of the sums provided under this head, $1,200,000 shall be available to the Mississippi Mineral Resources Institute of the University of Mississippi and the Center of Ocean Resources Technology of the University of Hawaii for a Marine Minerals Technology Center, equally divided: *Provided further,* That notwithstanding any other provision of law, the Bureau of Mines is authorized, in consultation with the General Services Administration, to immediately enter into a two year lease purchase agreement for the Bureau of Mines research center located in Spokane, Washington.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; $102,125,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1988: *Provided,* That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States in fiscal year 1988, moneys collected pursuant to the assessment of civil penalties under section

Grants.

518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977: *Provided further,* That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in NWR v. Miller, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program.

ABANDONED MINE RECLAMATION FUND

Contracts.

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, $199,380,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided,* That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further,* That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further,* That the Secretary of the Interior may deny 50 percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further,* That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: *Provided further,* That 23 full time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $970,756,000, of which not less than $47,787,000 shall remain available until expended for contract support for contracts entered into under Public Law 93-638; and of which not to exceed $51,121,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), and $25,000,000 for firefighting shall remain available for obligation until September 30, 1989, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1989: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $1,971,000, to remain available until expended: *Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be distributed on the same basis as such funds were distributed in fiscal year 1986: *Provided further,* That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, the amounts appropriated for fiscal year 1988 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available to operate the Institute until the Board of Regents and President of the Institute have been named and had an opportunity to organize, and for use under part A of that Act: *Provided further,* That the savings realized by the Bureau of Indian Affairs from the transfer of fish hatcheries to the United States Fish and Wildlife Service shall be available for cyclical maintenance of tribally-owned fish hatcheries and related facilities: *Provided further,* That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: *Provided further,* That none of

25 USC 452 note.

20 USC 4411 note.

the funds contained in this Act shall be available for any payment to any school to which such school would otherwise be entitled pursuant to section 1128(b) of Public Law 95-561, as amended, until after July 1, 1988: *Provided further,* That the Secretary shall take no action to close the school or dispose of the property of the Phoenix Indian School until the Congress has specifically approved the school closure or provided for disposition of the property in legislation: *Provided further,* That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled, and the tribe or individual has been provided with an accounting of such funds, and the appropriate Committees of the Congress and the tribes have been consulted with as to the terms of the proposed contract or agreement: *Provided further,* That none of the funds in this Act shall be used to implement any regulations, or amendments to or revisions of regulations, relating to the Bureau of Indian Affairs' higher education grant program that were not in effect on March 1, 1987: *Provided further,* That none of the funds in this Act shall be used to implement proposed initiatives to transfer any school operated by the Bureau to the control of any tribe, State, or local government agency (except that this prohibition shall not apply with respect to the transfer of a Bureau-operated school to the control of an Indian tribe under a contract entered into under the Indian Self-Determination and Education Assistance Act if the governing body of the Indian tribe approves of the transfer); to charge tuition at Bureau post-secondary schools; to implement the proposed economic self-assistance initiative (except for a limited demonstration program); to change the method of funding tribal contractor indirect costs, including imposition of a flat rate for contract support costs; to make available to the Bureau administrative deductions collected from Indian timber sales; to contract out the administration of the Bureau forestry program or any other Bureau-operated programs without prior approval of the Committees on Appropriations; or to implement any reorganizations, including "regionalization" of programs, without the prior approval of the Committees on Appropriations: *Provided further,* That Public Law 99-349 is amended by deleting under the heading "Bureau of Indian Affairs, Operation of Indian Programs" the second, third, and fourth provisos and substituting: "*Provided further,* That the funds appropriated hereunder shall be used pursuant to the consent decree and subsequent court orders in United States v. Michigan (M-26-73).": *Provided further,* That $120,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $83,225,000, to remain available until expended: *Provided,* That of this amount, up to $6,400,000 shall be made available for planning, design and construction of the Choctaw Central School in Mississippi: *Provided further,* That the portion of the $6,400,000 related to construction shall not be released until (1) an application for the new school has been submitted to the Bureau of Indian Affairs and the Office of Construction Management; (2) the application has been reviewed and ranked on the school construction priority system; and (3) the planning and design for the new school has been completed: *Provided further,* That $1,482,000 of the funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), may be used for counseling, archeological clearances, water production and administration related to the relocation of Navajo families: *Provided further,* That $1,500,000 of the funds made available in this Act shall be available for rehabilitation of tribally-owned fish hatcheries and related facilities: *Provided further,* That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further,* That none of the funds available in this Act may be used to implement any regulations, or amendments to or revisions of regulations, relating to the Bureau of Indian Affairs' housing improvement program that were not in effect on October 1, 1986.

ROAD CONSTRUCTION

For construction of roads and bridges pursuant to authority contained in 23 U.S.C. 203, the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), and the Act of May 26, 1928 (45 Stat. 750; 25 U.S.C. 318a), $1,000,000 for the Honobia Indian Road in Oklahoma, to remain available until expended: *Provided,* That not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs.

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98-500, 99-264, and 99-503, including funds for necessary administrative expenses, $13,340,000, to remain available until expended: *Provided,* That not to exceed $10,700,000 is made available to the Tohono O'Odham Nation for purposes authorized in the Gila Bend Indian Reservation Lands Replacement Act, Public Law 99-503.

MISCELLANEOUS TRUST FUNDS

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is appropriated in fiscal year 1988 and thereafter to the Secretary of the Interior for the benefit of the tribes on whose behalf such funds were collected, not to exceed $1,000,000 in each fiscal year from tribal funds not otherwise available for expenditure. 25 USC 123d.

REVOLVING FUND FOR LOANS

During fiscal year 1988, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed resources and authority available.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $3,085,000, to remain available until expended: *Provided*, That during fiscal year 1988, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974, as amended, may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits, and purchase of not to exceed 150 passenger carrying motor vehicles, of which 100 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $78,235,000 of which (1) $75,287,000 shall be available until expended for technical assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $2,948,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that

48 USC 1401f, 1423*l*, 1665.

48 USC 1469b.

the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further*, That funds previously appropriated under this head for a loan to the Government of the United States Virgin Islands, for construction of an extension to the Alexander Hamilton Airport runway, St. Croix, shall be available for issuance of the loan without approval of a multiyear grant of Airport Improvement Program funds from the Federal Aviation Administration: *Provided further*, That $540,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further*, That of the total appropriation $500,000 shall be available for the establishment of a disaster contingency fund.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $41,940,000, of which $33,940,000 is for operations including $12,350,000 for payment of claims pursuant to the Micronesian Claims Act of 1971: *Provided*, That section 105 of Public Law 95-134 (91 Stat. 1159) is amended by inserting after the word "Islands" the words "(TTPI), or TTPI constituent or successor governments,"; and of which $8,000,000 is for construction, to remain available until expended: *Provided further*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration.

48 USC 1683.

48 USC 1682.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $33,620,000, including $2,500,000 for the Enjebi Community Trust Fund, to remain available until expended, as authorized by Public Law 99-239: *Provided*, That notwithstanding the provisions of Public Laws 99-500 and 99-591, the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101(d) of Public Law 99-658: *Provided further*, That funds previously appropriated under this head shall be available for audit purposes as identified in section 233 of the Compact of Free Association.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, $47,519,000 of which not to exceed $10,000 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $23,053,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $17,757,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $1,800,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 8 aircraft, all of which shall be for replacement: *Provided,* That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface

Mining Act: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: *Provided*, That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190.

SEC. 108. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 109. Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 110. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 111. The Secretary of the Navy is authorized to transfer to the Guam Power Authority (GPA), pursuant to the payment provisions described in the conference report on the Continuing Appropriations Act, 1985 (House Report No. 98-1159), those Navy-owned electric power generation, transmission and distribution facilities, and equipment (excluding distribution facilities required by the military) on Guam as specified in the customer-supplier contract to be negotiated between the Navy and the GPA together with associated land interests. Transfer of such power generation, transmission and distribution facilities, and equipment shall not occur until the GPA assumes full responsibility for islandwide electrical power supply to military and civilian customers on Guam. GPA shall assume full responsibility when it meets all performance standards specified in the August, 1986 independent third party plan for takeover of the islandwide power responsibilities or other performance standards mutually agreed upon by GPA and Navy.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $135,510,000 of which $3,000,000 shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95-307.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $76,469,000, to remain available until expended, as authorized by law: *Provided*, That a grant of $2,800,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495: *Provided further*, That notwithstanding any other provision of law, a grant of $6,400,000 shall be provided to the appropriate entity in the city of Kellogg, Idaho for construction of a gondola and shall be matched from other sources.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for liquidation of obligations made in the preceding fiscal years pursuant to 16 U.S.C. 556d for forest firefighting and emergency rehabilitation of National Forest System lands, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,243,391,000, of which $296,758,000 for reforestation and timber stand improvement, cooperative law enforcement, firefighting, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1989.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $214,078,000, to remain available until expended, of which $27,643,000 is for construction and acquisition of buildings and other facilities; and $186,435,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided,* That funds becoming available in fiscal year 1988 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $49,076,000 to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided,* That, notwithstanding any other provision of law, the Secretary of Agriculture, as soon as practicable, shall—

(1) acquire the following described lands (containing approximately 2,000 acres) from the owner of such real property:

All that portion of sections 17, 18, 19, and 20 in township 25 north range 11 west Mt. Diablo Meridian Trinity County, California, described as follows:

The west half of the southwest quarter; the west half of the east half of the southwest quarter of section 17.

Lots 9, 10, 11, and 12 and the southeast quarter of section 18.

Lots 5, 6, 7, 8, 17, and 18 and the northeast quarter of section 19.

The west half of the northwest quarter; the west half of the northeast quarter of the northwest quarter; the southeast quarter of the northeast quarter of the northwest quarter; the southeast quarter of the northwest quarter; the southwest quarter of the northeast quarter and the south half of the northwest quarter of the northeast quarter of section 20.

All that portion of sections 13, 14, and 24 in township 25 north range 12 west Mount Diablo Meridian Trinity County, California, described as follows:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12; the west half of the northeast quarter; the east half of the west half; the northwest quarter of the northwest quarter; and the southwest quarter of the southwest quarter of section 13.

Lots 3, 4, 5, and 6; the west half of the northwest quarter of the northeast quarter; and the east half of the northeast quarter of the northeast quarter; the southeast quarter of the southeast quarter; and the southwest quarter of the northeast quarter; and the northeast quarter of the northwest quarter of section 14.

Lots 1, 2, 7, and 8 of section 24.

Tracts 44, 55, and 76;

(2) in consideration of such acquisition, reduce the aggregate outstanding loan balance, with respect to loans made to such owner by the Farmers Home Administration, by an amount equal to the fair market value (as determined by the Secretary) of such real property, plus the reasonable expenses incurred by such owner in executing such transfer of title, plus an amount equal to the reasonably expected liability of such owner for Federal, State, and local taxes incurred on account of such transfer of title, except that such reduction shall not exceed $1,250,000; and

(3) transfer such lands to the Forest Service for such sums as the Secretary determines to be appropriate, which lands shall be added to, and administered as part of, the Yolla-Bolly Middle Eel Wilderness.

The Secretary of Agriculture is directed to use funds in the inholding and composite land acquisition account to purchase the Torre Canyon Ranch, in the Los Padres National Forest, California, at a cost not to exceed fair market value.

TIMBER ROADS, PURCHASER ELECTION, FOREST SERVICE

(RESCISSION)

Of the funds currently available and unobligated in this account, $75,000,000 is hereby rescinded.

TIMBER SALVAGE SALES

For design, engineering and supervision of construction of roads, for salvage timber sales, and for sale preparation and supervision of harvesting of such timber, $37,000,000, to remain available until expended: *Provided*, That the appropriation shall be merged with and made a part of the designated fund authorized by section 14(h) of Public Law 94-588, October, 1976: *Provided further*, That moneys received from the timber salvage sales program in fiscal year 1988 shall be considered as money received for the purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $966,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 186 passenger motor vehicles of which nine will be used primarily for law enforcement purposes and of which 179 shall be for replacement only, of which acquisition of 157 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 50 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest: *Provided,* That not less than $61,502,000 shall be made available to the Forest Service for obligation in fiscal year 1988 from the Timber Salvage Sales Fund appropriation.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprograming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Public information.

Subject to the enactment of authorizing legislation the boundary of the Cranberry Wilderness located within the Monongahela National Forest, West Virginia, is modified as depicted on a map entitled "Cranberry Wilderness Area Revised" dated October, 1987, on file in the Office of the Chief, Forest Service, United States Department of Agriculture, Washington, D.C.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

Notwithstanding section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)), not more than $50,007,000 of new appropriations shall be available for timber supply, protection and management, research, resource protection and construction on the Tongass National Forest in fiscal year 1988: *Provided,* That all of the funds available from the Tongass Timber Supply Fund in fiscal year 1988 pursuant to section 705(a) of Public Law 96-487 shall be deemed obligated as of October 1, 1987 and shall remain available until expended. This funding limitation shall not include those funds available to the Forest Service as Trust Funds, Permanent Funds (other than the Tongass Timber Supply Fund), or Purchaser Road Construction.

No funds shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until both of the following conditions are met:

(1) A study is completed and submitted to the Congress by the Forest Service in consultation with the California Department of Parks and Recreation regarding the project's impact on the aesthetics of Corlieu Falls, together with a finding that the Lewis Fork Creek project will not substantially impact the flow at Corlieu Falls; and

(2) A study is completed and submitted to the Congress by the Forest Service concerning the project's impact on the Chukchansi Indian Tribe, together with a finding that there will be no substantial adverse impact on the tribe's adjacent sacred hot springs.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901 et seq., $50,000,000 are appropriated for the fiscal year beginning October 1, 1987, and shall remain available until expended, and $525,000,000 are appropriated for the fiscal year beginning October 1, 1988, and shall remain available until expended.

42 USC 5903d note.

No later than sixty days following enactment of this Act, the Secretary of Energy shall, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), issue a general request for proposals for emerging clean coal technologies which are capable of retrofitting or repowering existing facilities, for which the Secretary of Energy upon review may provide financial assistance awards. Proposals under this section shall be submitted to the Department of Energy no later than ninety days after issuance of the general request for proposals required herein, and the Secretary of Energy shall make any project selections no later than one hundred and sixty days after receipt of proposals: *Provided*, That projects selected are subject to all provisos contained under this head in Public Law 99-190: *Provided further*, That pre-award costs incurred by project sponsors after selection and before signing an agreement are allowable to the extent that they are related to (1) the preparation of material requested by the Department of Energy and identified as required for the negotiation; or (2) the preparation and submission of environmental data requested by the Department of Energy to complete National Environmental Policy Act requirements for the projects: *Provided further*, That pre-award costs are to be reimbursed only upon signing of the project agreement and only in the same ratio as the cost-sharing for the total project: *Provided further*, That reports on projects selected by the Secretary of Energy pursuant to authority granted under the heading "Clean coal technology" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, which are received by the Speaker of the House of Representatives and the President of the Senate prior to the end of the first session of the 100th Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative provisions, Department of Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate.

Reports.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $326,975,000, to remain available until expended, of which $230,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), and of the amount appropriated under this head, $4,000,000 shall be available to construct Department of Energy Fossil Energy building B-26, and pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, of the amount appropriated under this head, $5,500,000 shall be available for a grant for an energy center at the University of Oklahoma in Norman, Oklahoma, and $6,000,000 shall be available for a grant for an energy center at West Virginia University in Morgantown, West Virginia, without section 111(b)(2) of such Act being applicable, and $20,894,000 to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the "Energy security reserve" established by Public Law 96-126: *Provided*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further*, That notwithstanding any other provision of law, funds appropriated under this head in Public Law 99-190 for demonstration of the Kilngas coal gasification process, which remain unobligated, shall be available for carrying out any fossil energy research and development activities.

Of the funds herein provided, $35,000,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided further*, That 25 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1988, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further*, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $159,663,000, to remain available until expended: *Provided*, That sums in excess of $836,000,000 received during fiscal year 1988 as a result of the sale of products produced from Naval Petroleum Reserves Numbered 1 and 3 shall be deposited in the "SPR petroleum account", to remain available until expended, for the acquisition and transportation of petroleum and for other necessary expenses: *Provided further*, That section 7430(b) of title 10, United States Code, is amended by adding after paragraph (2) the following:

> "(3) For purposes of paragraph (2), the term 'petroleum' does not include natural gas liquids,"

and section 7422(c)(1)(B)(ii) of such title is amended by inserting "(other than natural gas liquids)" after "petroleum".

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $366,297,000, to remain available until expended, of which $56,780,000, notwithstanding any other provision of law, shall be derived first from the excess amount for fiscal year 1988 determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502), and second, if necessary, from unexpended balances in the Department of Energy Deposit Fund Escrow account: *Provided*, That $200,000,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507): *Provided further*, That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs in the same amounts for each program as in fiscal year 1987, and of which $6,000,000 shall be available for a grant for an energy demonstration and research facility at Northwestern University as authorized by section 202 of Public Law 99-412 (42 U.S.C. 8281 note): *Provided further*, That $4,000,000 of the amount provided under this heading shall be available for continuing a research and development initiative with the National Laboratories, industry, universities, or others for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: *Provided further*, That obligation of funds for these activities shall be contingent on an agreement to provide cash or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal Government obligations: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $21,565,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,172,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $164,162,000, to remain available until expended.

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), $438,744,000, to remain available until expended: *Provided*, That outlays in fiscal year 1988 resulting from the use of these funds may not exceed $256,478,000: *Provided further*, That notwithstanding 42 U.S.C. 6240(d) the United States' share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $61,398,000.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles, hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30

Contracts.
Reports.

calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXI and sections 208 and 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $943,297,000 together with payments received during the fiscal year pursuant to 42 U.S.C. 300cc–2 for services furnished by the Indian Health Service: *Provided*, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act): *Provided further*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1989; and $15,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund and contract medical care: *Provided further*, That of the funds provided, $2,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service in the Indian Health Service. Each individual participating in this program must sign and submit to the Secretary a written contract to accept repayment of educational loans and to serve for the applicable period of service in the Indian Health Service: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1989 for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further,* That of the funds provided, $2,500,000 shall remain available until expended, for the establishment of an Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further,* That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1989.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $62,511,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further,* That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further,* That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has

25 USC 1681.

agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further*, That the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B of the Public Health Service Act and assigned and providing direct health services or serving the officer's obligation as a specialist: *Provided further*, That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further*, That funds provided in this Act may be used to reimburse the travel costs of spouses who accompany prospective Indian Health Service medical professional employees to the site of employment as part of the recruitment process: *Provided further*, That section 103(c) of the Indian Self-Determination Act (88 Stat. 2206) is amended by adding the following sentence at the end thereof: "For purposes of section 224 of the Public Health Service Act of July 1, 1944 (42 U.S.C. 233(a)), as amended by section 4 of the Act of December 31, 1970 (84 Stat. 1870), with respect to claims for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, a tribal organization or Indian contractor carrying out a contract, grant agreement, or cooperative agreement under sections 103 or 104(b) of this Act is deemed to be part of the Public Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees (including those acting on behalf of the organization or contractor as provided in section 2671 of title 28) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or agreement.".

42 USC 254n note.

25 USC 450g.

Contracts.
Grants.

The paragraph under the heading "Administrative Provisions, Indian Health Service" that is under the superior headings "Health Resources and Services Administration" and "Department of Health and Human Services" in title II of the Department of the Interior and Related Agencies Appropriations Act, 1987, which is contained in section 101(h) of Public Law 99-500 (100 Stat. 1783-277) and in section 101(h) of Public Law 99-591 (100 Stat. 3341-277) is amended by striking out all after "any political subdivision of the State," in the seventh proviso and inserting in lieu thereof "any corporation (including the University of Alaska), any partnership, any business organization, any non-profit organization, or any person, and may receive or pay money to the extent that such receipt or payment is necessary to equalize the exchange: *Provided*, That available funds previously appropriated for this project may be used for this purpose and that any money received by the Secretary shall be credited to the appropriation for Indian Health Facilities and be used to offset the costs of constructing or lease-purchase of the hospital facilities in Alaska described in this section: *Provided further*, That the Indian Health Service prepares and submits a report prior to June, 1988, which sets forth the legal authority necessary to enter into a lease-purchase contract, identifies the extent of tribal interest in the construction of health facilities for lease-purchase to the Indian Health Service, compares the advantages versus the disdvantages to the Government of lease-purchase

Reports.

to direct Federal construction of the Anchorage facility, including costs of construction, and discusses the efforts expended by the Indian Health Service in protecting the Federal investment to date".

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, $66,326,000, of which $49,170,000 shall be for part A and $14,707,000 shall be for parts B and C: *Provided*, That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1989.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $25,270,000, to remain available until expended, for operating expenses of the Commission: *Provided*, That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $201,432,000, including such funds as may be necessary to support American overseas research centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $8,150,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $19,254,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

Contracts.

CONSTRUCTION

For necessary expenses to design and construct a base camp at the Fred L. Whipple Observatory, $1,315,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, the Institution is authorized to transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $150,000 for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; purchase of one passenger motor vehicle for replacement only; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $37,352,000, of which not to exceed $2,420,000 for the special exhibition program shall remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $4,028,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $139,311,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act: *Provided*, That, 20 U.S.C. 974(b) is amended as follows: strike "$650,000,000" and insert "$1,200,000,000": *Provided further*, That, 20 U.S.C. 974(c) is amended as follows: strike "$75,000,000" and insert "$125,000,000".

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,420,000, to remain available until September 30, 1989, to the National Endowment for the Arts, of which $19,420,000 shall be available for purposes of section 5(l): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $111,935,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,500,000, to remain available until September 30, 1989, of which $16,500,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $4,500,000: *Provided*, That Public Law 99-190 (99 Stat. 1261) is amended under this heading as follows:

(1) in the first paragraph, strike the words "National Endowment for the Humanities" and insert in lieu thereof "Commission of Fine Arts", and

(2) Delete the third paragraph and insert in lieu thereof: "The Chairman of the Commission of Fine Arts shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities determine the eligibility of applicant organizations in addition to those herein named.".

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,944,000, including $100,000 as authorized by 20 U.S.C. 965(b): *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further*, That the Museum Services Board shall not meet more than three times during fiscal year 1988.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $443,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,719,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,948,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $28,000 to remain available until September 30, 1989.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,516,000, for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,000,000, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

36 USC 1404 note.

36 USC 1404 note.

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, $2,171,000: *Provided,* That hereafter persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: *Provided further,* That any persons so designated shall serve without cost to the Federal Government: *Provided further,* That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further,* That hereafter the Chairman of the Council may waive any Council bylaw when the Chairman determines such waiver will be in the best interest of the Council: *Provided further,* That hereafter immediately after taking such action the Chairman shall send written notice to every voting member of the Council and such waiver shall become final if 30 days after the Chairman has sent such notice, a majority of Council members do not disagree in writing with the action taken: *Provided further,* That $35,000 of the amount appropriated is to go to the Holocaust Council's Committee to Remember the Children for a demonstration project to be undertaken with the Capital Children's Museum to determine the feasibility of establishing a children's museum in the principal Holocaust Memorial Museum.

TITLE III—GENERAL PROVISIONS

Contracts. Public information.

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided,* That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided,* That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the National Forest System released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided,* That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further,* That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further,* That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as the Secretary deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods the Secretary deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by the Secretary to be qualified to engage in such activities whenever the Secretary has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further,* That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 311. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1988 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

16 USC 1604 note.

SEC. 314. The Forest Service and Bureau of Land Management are to continue to complete as expeditiously as possible development of their respective Forest Land and Resource Management Plans to meet all applicable statutory requirements. Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service, and the Bureau of Land Management under separate authority, may continue the management of lands within their jurisdiction under existing land and resource management plans pending the completion of new plans. Nothing shall limit judicial review of particular activities on these lands: *Provided, however,* That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated, or in the case of the Bureau of Land Management, solely on the basis that the plan does not incorporate information available subsequent to the completion of the existing plan: *Provided further,* That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

Federal Register, publication.

SEC. 315. The final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration of the Public Health Service of the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service, shall not take effect before September 16, 1988, and no action may be taken before such day to implement or administer such rule or to prescribe any other rule or regulation that has a similar effect. The grace period provided in section 36.33 of such published rule shall not terminate before March 16, 1989, and any other rule or regulation that has a similar effect shall provide for such a grace period which shall not expire before March 16, 1989.

SEC. 316. (a) Except as provided in subsection (b), the Secretary of Agriculture shall not transfer certain National Forest System land in the Black Hills National Forest, South Dakota, described as follows:

TRACT 0043 (Hine)—

Beginning at the north quarter corner section 16, township 1, north, range 6 east; Black Hills Meridian;

thence westerly along the north line of the northwest quarter, section 16, to the east east west 1/256 corner;

thence southerly along the west line of the east half east half northeast quarter northwest quarter 393.00 feet;

thence due west to a point that is due south of the intersection of the north line of the northwest quarter, section 16, and line 20-21 of the Big Bend Placer (MS 1442);

thence north to the intersection of the north line of the northwest quarter, section 16, and line 20-21 of the Big Bend Placer;

thence northeasterly along line 20-21 to corner 20;

thence northwesterly along line 19-20 to a point due north of the intersection of north line of the northwest quarter, section 16, and line 20-21, MS 1442;

thence north to a point which is due west of a point that is 850.00 feet northerly along the west line of the southeast quarter, section 9;

thence east to the west line of the southeast quarter;

thence southerly along the west line of the southeast quarter 850.00 feet to the north quarter corner section 16, point of beginning.

(b) The Secretary may transfer such portion of the Hine Tract described in subsection (a) necessary to remove the encroachment of the Hine cabin which is located on the boundary of the Hine Tract.

Contracts.

SEC. 317. Notwithstanding any other provision of law, the Secretary of Energy is directed to notify the Appropriations Committees of the House and the Senate, the Energy and Natural Resources Committee of the Senate and the appropriate authorizing committees of the House of the Secretary's intent to enter into a binding contract for the sale of the Great Plains Coal Gasification Plant in Beulah, North Dakota: *Provided*, That such notification shall be received by the above-referenced committees at least thirty (30) calendar days before the agreement is effective: *Provided further*, That such notification shall include a detailed description as to the terms and conditions of the sale, including, but not limited to, the purchase price, the name of the prospective purchaser, the basis for agreeing to the sale, and a statement of commitment signed by an authorized individual of the purchaser for continued long-term operation of the facility at a rate and for a period determined appropriate and reasonable by the Secretary.

18 USC 208 note.

SEC. 318. Notwithstanding any other provision of law, for the purposes of section 208 of title 18, United States Code, "particular matter", as applied to employees of the Department of the Interior and the Indian Health Service, shall mean "particular matter involving specific parties".

SEC. 319. (a) From funds appropriated under this Act such sums as are necessary shall be made available to pay forest firefighters premium pay under the provisions of subchapter V of chapter 55 of title 5, United States Code (notwithstanding the limitations of section 5547 of such title), for all premium pay—

(1) that would have been paid to such forest firefighter employees, but for the provisions of section 5547 of such title, for all pay periods (and parts thereof) occurring during the period beginning on January 1, 1987, through September 30, 1987; and

(2) earned by such forest firefighter employees in the fiscal year ending on September 30, 1988.

(b) Notwithstanding the provisions of subsection (a), no forest firefighter employee may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the maximum rate for GS-15 as provided under the General Schedule pursuant to subchapter III of chapter 53 of title 5, United States Code.

(c) For purposes of this section, the term "forest firefighter" means any employee of the Department of Agriculture or the Department of the Interior who is assigned to, or in support of, work on forest wildfire emergencies.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1988".

(h) Such amounts as may be necessary for programs, projects or activities provided for in the Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies, for the fiscal year ending September 30, 1988, and for other purposes.

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988.
Department of Labor Appropriations Act, 1988.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $70,872,000 together with not to exceed $44,380,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, $3,658,651,000 plus reimbursements, to be available for obligation for the period July 1, 1988, through June 30, 1989, of which $59,713,000 shall be for carrying out section 401, $65,572,000 shall be for carrying out section 402, $9,966,000 shall be for carrying out section 441, $1,915,000 shall be for the National Commission for Employment Policy, $3,830,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $7,659,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act: *Provided*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers as authorized by the Job Training Partnership Act, $89,038,000, to be available for obligation for the period July 1, 1988 through June 30, 1991.

For activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended, including necessary related administrative expenses, $47,870,000.

For activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act, $9,574,000, of which $1,915,000 shall be for carrying out section 738 of the Act.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $258,383,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $72,877,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended), $141,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-491-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii), 212(a)(14), and 216(g)(1)(2)(3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and necessary administrative expenses to carry out the Targeted Jobs Tax Credit program under section 51 of the Internal Revenue Code of 1986, $22,403,000, together with not to exceed $2,418,405,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1988, and of which $21,733,000 together with not to exceed $701,296,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1988, through June 30, 1989, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose and of which $175,076,000 (including not to exceed $4,404,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1988.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1989; $30,000,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $76,776,000, of which $12,063,000 for a pension plan data base shall remain available until September 30, 1989.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1988, for such Corporation: *Provided*, That not to exceed $38,329,000 shall be available for administrative expenses of the Corporation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $207,709,000, of which not to exceed $7,659,000 shall be available for obligation through September 30, 1989, for acquisition of computer equipment and software for the Federal Employees' Compensation Program's ADP system, together with $467,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $174,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1988.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $649,169,000, of which $594,522,000 shall be available until September 30, 1989, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7) of the Internal Revenue Code of 1954, as amended, and of which $28,217,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $25,924,000 for transfer to Departmental Management, Salaries and Expenses, and $506,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition, there are hereby appropriated such amounts as may be necessary to repay advances from the Treasury that are not needed to make disbursements during the current fiscal year, as authorized by section 9501(d)(4) of that Act: *Provided further*, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $235,474,000, including not to exceed $40,524,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further,* That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further,* That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $160,193,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed sixty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

30 USC 962.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $176,481,000, of which $8,793,000 shall be for expenses of revising the Consumer Price Index, together with not to exceed $41,569,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided,* That $7,366,000 shall remain available until September 30, 1989.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $2,434,000 for the President's Committee on Employment of the Handicapped, $114,929,000, together with not to exceed $274,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $139,614,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-08 and 2021-26.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $37,051,000, together with not to exceed $6,201,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. None of the funds appropriated in this Act shall be obligated or expended for the purpose of closing any Job Corps Center operating under part B of title IV of the Job Training Partnership Act prior to January 1, 1989.

SEC. 104. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

SEC. 105. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1988".

Department of Health and Human Services Appropriations Act, 1988.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, VI, VII, VIII, X, XVI, and XXIII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, and the Stewart B. McKinney Homeless Assistance Act, $1,551,478,000, of which not to exceed $718,000 to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, and of which $96,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act, and of which $6,702,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long term care facilities for AIDS patients: *Provided,* That grants made under the Excellence in Minority Health Education and Care Act shall be awarded competitively and, notwithstanding section 788A, any university which awards a graduate degree in the health professions and which has a majority enrollment of minority students shall be eligible to apply and compete for a grant: *Provided further,* That the total principal amount of Federal loan insurance available under section 728 of the Public Health Service Act during fiscal year 1988 shall be granted by the Secretary of Health and Human Services without regard to any apportionment or other similar limitation: *Provided further,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation.

For carrying out subpart 2 of part A of title XIX of the Public Health Service Act, $4,787,000 to be available June 1, 1988.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $22,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, XVII, and XIX and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $771,772,000, of which $1,915,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided,* That training shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further,* That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further,* That collections from user fees, including collections from training and reimbursements and advances for the full cost of proficiency testing of private clinical laboratories, may be credited to this appropriation:

Provided further, That the General Services Administration is directed to construct under their lease purchase authority, a 100,000 net sq. ft. office building at the CDC Clifton Road site in Atlanta, Georgia and the laboratory facility in Chamblee, Georgia, designed with the funds which Congress provided to the Centers for Disease Control in the fiscal year 1987 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriation. CDC is to reimburse GSA for the annual lease payment: *Provided further,* That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the PHS Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality shall be treated as non-Federal employees for reporting purposes only. In addition, the full-time equivalents for organizations within the Department of Health and Human Services shall not be reduced to accommodate implementation of this provision: *Provided further,* That the Director shall cause to be distributed without necessary clearance of the content by any official, organization or office, an AIDS mailer to every American household by June 30, 1988, as approved and funded by the Congress in Public Law 100-71.

42 USC 247c note.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,469,327,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301, title IV, and section 1105 of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $965,536,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, $126,297,000.

NATIONAL INSTITUTE OF DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $534,733,000.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, $534,692,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $638,800,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $632,676,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $396,811,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $224,947,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, $215,666,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $194,746,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $147,679,000.

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $368,153,000, of which $23,935,000 shall remain available until expended to provide for the repair, renovation, modernization, and expansion of existing facilities and purchase of associated equipment, and to make grants and enter into contracts for such purposes: *Provided*, That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $23,380,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $15,651,000, of which $1,852,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $67,910,000.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $61,819,000, including purchase of not to exceed six passenger motor vehicles for replacement only.

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, $47,870,000, to remain available until expended.

Alcohol, Drug Abuse, and Mental Health Administration

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $1,373,727,000 of which $4,787,000 shall be available, on a pro rata basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797), and of which $191,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

(INCLUDING TRANSFER OF FUNDS)

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $62,793,000, together with any unobligated balances from "Saint Elizabeths Hospital, Construction and Renovation" (except those balances determined by the Secretary of Health and Human Services to be necessary to carry out existing Federal renovation contracts), all of which shall be available in fiscal year 1988 for payments to the District of Columbia as authorized by sections 2, 4, and 9 of the Act; and in addition, $2,609,000 which shall be available through September 30, 1989 for Federal activities authorized by sections 6 and 9 of the Act: *Provided*, That funds appropriated under this heading may be used for multi-year contracts with the District of Columbia for maintenance of Saint Elizabeths Hospital: *Provided further*, That any amounts determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

24 USC 170a.

In fiscal year 1988 the maximum amount available to Saint Elizabeths Hospital from Federal sources shall not exceed the total of the following amounts: the appropriations made under this heading, amounts billed to Federal agencies and entities by the District of Columbia for services provided at Saint Elizabeths Hospital, and amounts authorized by titles XVIII and XIX of the Social Security

Act. This maximum amount shall not include Federal funds appropriated to the District of Columbia under "Federal Payment to the District of Columbia" and payments made pursuant to section 9(c) of Public Law 98-621. Amounts chargeable to and available from Federal sources for inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by 24 U.S.C. 191, 196, 211, 212, 222, 253, and 324; 31 U.S.C. 1535; and 42 U.S.C. 249 and 251 shall not exceed the estimated total cost of such services as computed using only the proportionate amount of the direct Federal subsidy appropriated under this heading.

24 USC 168b.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XVII, and XX of the Public Health Service Act, $106,737,000, together with not to exceed $1,005,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and $1,915,000 to be transferred and expended for patient outcome assessment research as authorized by section 9316 of Public Law 99-509, of which $1,245,000 will come from the Federal Hospital Insurance Trust Fund and $670,000 will come from the Federal Supplementary Medical Insurance Trust Fund, and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided,* That in addition to amounts provided herein, up to $15,318,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Medical Expenditure Survey and $5,827,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Health and Nutrition Examination Survey.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), such amounts as may be required during the current fiscal year.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $22,946,000,000, to remain available until expended.

For making, after May 31, 1988, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1988 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

Payment under title XIX may be made for any quarter beginning after June 30, 1987, and before October 1, 1988, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1989, $8,000,000,000, to remain available until expended.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, $25,893,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, $98,211,000, together with not to exceed $1,373,585,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: *Provided*, That $105,314,000 of said trust funds shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates, including the cost of administration of catastrophic health insurance if enacted into law, and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That all funds derived in accordance with 31 U.S.C 9701, are to be credited to this appropriation.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act and section 152 of Public Law 98-21, $105,298,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $663,452,000, to remain available until expended: *Provided*, That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31, of the current fiscal year benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1989, $250,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $9,535,384,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1989, $3,000,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

42 USC 1383 note.

For necessary expenses, not more than $3,524,114,000, may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That $47,870,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That not to exceed $53,040,000 for automatic data processing and telecommunications activities shall remain available until expended: *Provided further*, That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States.

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), $8,644,385,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) for the first quarter of fiscal year 1989, $2,500,000,000, to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,531,840,000.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $346,933,000.

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $92,551,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act, section 408 of Public Law 99-425 and the Stewart B. McKinney Homeless Assistance Act, $382,290,000 of which $18,909,000 shall be for carrying out section 681(a)(2)(A), $3,925,000 shall be for carrying out section 681(a)(2)(D), $2,968,000 shall be for carrying out section 681(a)(2)(E), $6,319,000 shall be for carrying out section 681(a)(2)(F), $239,000 shall be for carrying out section 681(a)(3), $2,872,000 shall be for carrying out section 408 of Public Law 99-425 and $2,394,000 shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C., ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, the Stewart B. McKinney Homeless Assistance Act, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, $79,464,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98-473, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native Americans Programs Act, title II of Public Law 95-266 (adoption opportunities), title II of the Children's Justice and Assistance Act of 1986, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, and part B of title IV and section 1110 of the Social Security Act, $2,455,532,000.

FAMILY SOCIAL SERVICES

For carrying out part E of title IV of the Social Security Act, $811,178,000.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $67,840,000, together with not to exceed $6,702,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein, of which $4,308,000 shall be for construction and fixed equipment for the Mary Babb Randolph Center in West Virginia.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $35,769,000, together with not to exceed $38,296,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $16,343,000, together with not to exceed $3,830,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $4,873,000.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds made available by this Act for the National Institutes of Health may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 203. Appropriations in this Act for the Health Resources and Services Administration, the National Institutes of Health, the Centers for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Office of the Assistant Secretary for Health, the Health Care Financing Administration, and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand four hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title for the Social Security Administration shall be available for not to exceed $10,000 for official reception and representation expenses when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed $2,000 for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

42 USC 210 note.

SEC. 208. No funds appropriated for the fiscal year ending September 30, 1988, by this or any other Act, may be used to pay basic pay, special pays, basic allowances for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I annual rate of basic pay: *Provided*, That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts "Health Resources and Services", National Institutes of Health "Office of the Director", "Disease Control, Research, and Training", and "Federal Subsidy for Saint Elizabeths Hospital": *Provided further*, That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health.

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

Contracts.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 211. The Secretary shall make available through assignment not more than 50 employees of the Public Health Service, who shall be exempt from all FTE limitations in the Department, to assist in child survival activities through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. In addition, commissioned officers assigned under this section shall be exempt from all limitations on the number and grade of officers in the Public Health Service Commissioned Corps.

SEC. 212. Funds appropriated by this Act may be used to pay physicians' comparability allowances, as authorized under 5 U.S.C. 5948.

SEC. 213. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 214. The Secretary of Health and Human Services shall:

Reports.

(1) Issue a report to Congress within 90 days of the close of fiscal year 1988, of violations occurring during such year, of Department of Health and Human Services travel policy.[14]

(2) Require that personnel found by the report to be in violation of Department travel policy, shall reimburse the Department for funds spent in violation of Department policy.

42 USC 286.

SEC. 215. Section 465(B) of 42 U.S.C. 286 is amended by inserting between (5) and (6) an additional charge to the Secretary to "publicize the availability of the above products and services of the National Library of Medicine".

SEC. 216. Funds available in this title for activities related to acquired immune deficiency syndrome (AIDS) may be transferred between appropriation accounts upon the approval by the House and Senate Committees on Appropriations of a transfer request submitted by the Secretary of Health and Human Services.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1988".

Department of Education Appropriations Act, 1988.

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out chapter 1 of the Education Consolidation and Improvement Act of 1981, as amended, $4,327,927,000, of which $7,181,000 shall be used for purposes of section 555(d) of said Act to provide technical assistance and evaluate programs, and the remaining $4,320,746,000 shall become available on July 1, 1988, and remain available until September 30, 1989: *Provided*, That of these remaining funds, no funds shall be used for purposes of section 554(a)(1)(B), $269,029,000 shall be available for purposes of section 554(a)(2)(A), $151,269,000 shall be available for purposes of section 554(a)(2)(B), $32,552,000 shall be available for purposes of section 554(a)(2)(C) and $38,296,000 shall be available for purposes of section 554(b)(1)(D).

For carrying out section 418A of the Higher Education Act, $8,616,000.

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), $685,498,000, of which $15,318,000 shall be for entitlements under section 2 of said Act and $670,180,000 shall be for entitlements under section 3 of said Act of which $536,144,000 shall be for entitlements under section 3(a) of said Act: *Provided*, That payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which 20 per centum or more of the total average daily attendance is made up of children determined eligible under section 3(b) shall be at 60 per centum of entitlement and payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which less than 20 per centum of the total average daily attendance is made up of children determined eligible under section 3(b) shall be ratably reduced from 100 per centum of entitlement: *Provided further,* That payments with respect to entitlements under section 3(a) to any local educational agency described in section 3(d)(1)(A) of said Act shall be at 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 15 per centum of entitlement, so long as the fiscal year 1988 per pupil payment does not exceed 105 per centum of the fiscal year 1987 per pupil payment: *Provided further,* That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to at least 15 per centum but less than 20 per centum of such agency's total average daily attendance shall be at 75 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 11.25 per centum of entitlement and the fiscal year 1988 local contribution rate for such agency shall not exceed 105 per centum of such agency's fiscal year 1987 local contribution rate: *Provided further,* That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to less than 15 per centum of such agency's total average daily attendance shall be ratably reduced from 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) of said Act shall be ratably reduced from 15 per centum of entitlement: *Provided further,* That the provisions of section 5(c) of said Act shall not apply to funds provided herein: *Provided further,* That payments with respect to entitlements under section 3(a) for any local educational agency that is described in section 3(d)(1)(A) and is coterminous with a military installation are not subject to limitations on increases in per pupil payments unless such agency's State aid payment is reduced as a result of its section 3 payment: *Provided further,* That the Secretary shall consider as timely filed requests for assistance filed after the applicable deadline and related to applications for assistance submitted under section 7 of said Act or section 16 of the Act of September 23, 1950, stemming from FEMA Disaster Number 753DR as declared on November 7, 1985: *Provided further,* That any payment made to a local educational agency for fiscal years prior to 1986 that is attributable to an incorrect determination under section 2(a)(1)(C) of such Act shall be deemed to have been made in accordance with such section, and any payment made to a local educational agency under section 3, for fiscal years prior to 1987, on behalf of children claimed by such agency for any such fiscal year who resided on or whose parents were employed on property that was housing assisted under section 8 of the United States Housing Act of 1937, as amended, shall stand, and such payments withheld or recovered shall be made or restored.

---

[14] Copy read "travel policy; and".

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), $22,978,000 which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which $8,617,000 shall be for awards under section 10 of said Act, $10,053,000 shall be for awards under sections 14(a) and 14(b) of said Act, and $4,308,000 shall be for awards under sections 5, 9 and 14(c) of said Act: *Provided further,* That funds appropriated under the heading "School Assistance in Federally Affected Areas" in Public Law 98-8 that are available for obligation shall be available until expended for the purposes of sections 14(a) and 14(b).

SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981, as amended, $508,439,000, of which $29,739,000 shall be for programs and projects authorized under subchapter D of said Act, including $10,244,000 for programs and projects authorized under subsection 583(a)(1) of said Act; $4,308,000 shall be used for awards, which, except for educational television programming, are not to exceed a cumulative amount of $957,000 to any recipient for national impact demonstration or research projects; $7,659,000 for activities authorized under subsection 583(b)(1) of said Act; $3,315,000 for programs authorized under subsection 583(b)(2) of said Act; and $3,830,000 for activities authorized under subsection 583(b)(4) of said Act; and $383,000 for national school volunteer programs: *Provided,* That $478,700,000 to carry out the State block grant program authorized under chapter 2 of said Act shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989.

For grants to State educational agencies and desegregation assistance centers authorized under section 403 of the Civil Rights Act of 1964, $23,456,000.

For carrying out activities authorized under title IX, part C of the Elementary and Secondary Education Act, $3,351,000.

For carrying out activities authorized under section 1524 of the Education Amendments of 1978, $4,787,000.

For carrying out activities authorized under section 1525 of the Education Amendments of 1978, $1,915,000.

For carrying out activities authorized under Public Law 92-506, as amended, $2,394,000: *Provided,* That said sum shall become available on July 1, 1988, and shall remain available until September 30, 1989.

For carrying out activities authorized under the Drug-Free Schools and Communities Act of 1986, $229,776,000, of which $191,480,000 for grants to States and outlying areas shall be available beginning July 1, 1988, and shall remain available until September 30, 1989: *Provided,* That State educational agencies allot fiscal year 1988 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Act on the basis of their relative enrollments in public and private nonprofit schools.

For carrying out the provisions of title VII of the Education for Economic Security Act, relating to magnet schools assistance, $71,805,000: *Provided,* That not more than $4,000,000 in the fiscal year may be paid to any single eligible local educational agency.

For carrying out the provisions of title II of the Education for Economic Security Act, $119,675,000 of which $108,904,000, for grants to States and outlying areas under section 204 shall become available on July 1, 1988, and shall remain available until September 30, 1989.

For carrying out the provisions of subpart 2 of part C of title V of the Higher Education Act, $8,222,000, to become available July 1, 1988, and to remain available until September 30, 1989.

For carrying out the provisions of subpart 2 of part D of title V of the Higher Education Act, $1,915,000.

For carrying out the provisions of subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, $4,787,000 to become available July 1, 1988, and remain available through September 30, 1989.

For carrying out activities authorized under the Follow Through Act, $7,133,000.

For carrying out activities authorized under section 137(a) of this joint resolution relating to dropout prevention, $23,935,000.

For carrying out activities authorized under section 137(b) of this joint resolution relating to workplace literacy, $9,574,000.

For carrying out activities authorized under section 137(c) of this joint resolution relating to Star Schools, $19,148,000: *Provided,* That grants under the Star Schools program shall be awarded through a competitive grant process.

BILINGUAL EDUCATION

For carrying out, to the extent not otherwise provided, title VII of the Elementary and Secondary Education Act, Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, and title VI of the Education Amendments of 1984, $190,504,000, of which $101,198,000 shall be for part A, $9,928,000 shall be for part B, and $35,447,000 shall be for part C of title VII of the Elementary and Secondary Education Act and $28,722,000 shall be for the Emergency Immigrant Education Program authorized by title VI of the Education Amendments of 1984. Of the funds provided under this head in fiscal year 1987 in section 101(i) of Public Laws 99-500 and 99-591, for carrying out title VII of the Elementary and Secondary Education Act, which are unobligated, $1,247,000 are reappropriated to carry out title VI of the Education Amendments of 1984 to be used to fund the amended application from the State of Texas for the Emergency Immigrant Education Program: *Provided,* That the reappropriated funds shall be available until September 30, 1988.

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, $1,869,019,000, of which $1,431,737,000 for section 611, $201,054,000 for section 619, and $67,018,000 for section 685 shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: *Provided,* That notwithstanding section 621(e) of the Education of the Handicapped Act, up to $479,000 may be used for section 621(d) of that Act: *Provided further,* That the amount appropriated for section 685 of the Education of the Handicapped Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973 and the Helen Keller National Center Act, as amended, $1,590,400,000, of which $1,379,500,000 shall be for allotments under sections 100(b)(1) and 110(b)(3) of the Rehabilitation Act, $16,590,000 shall be for special demonstration programs under sections 311 (a), (b), and (c), and $4,800,000 shall be for the Helen Keller National Center: *Provided,* That $500,000 shall be available on a competitive basis for research and training for hearing loss assessments for native Hawaiian children under section 204 of such Act until September 30, 1989: *Provided further,* That the amount appropriated for title VI, part C of the Rehabilitation Act in Public Laws 99-500 and 99-591, section 101(i), for fiscal year 1987 shall remain available for obligation by the States until September 30, 1989.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, and the Adult Education Act and the Stewart B. McKinney Homeless Assistance Act, $1,005,557,000 which shall become available for obligation on July 1, 1988, and shall remain available until September 30, 1989: *Provided,* That $25,658,000 shall be available for title IV of the Carl D. Perkins Vocational Education Act, of which $7,276,000 shall be for part A, including $5,744,000 for section 404, $14,792,000 shall be for part B, including $14,361,000 for section 411 and $3,590,000 shall be for part C of said title: *Provided further,* That $7,851,000 shall be available for State councils under section 112 of the Carl D. Perkins Vocational Education Act: *Provided further,* That $6,845,000 shall be made available to carry out title III-A and $32,791,000 shall be made available for title III-B of said Vocational Education Act: *Provided further,* That $3,734,000 shall be available for part E of title IV of the Carl D. Perkins Vocational Education Act: *Provided further,* That section 202 of the Carl D. Perkins Vocational Education Act is amended— 20 USC 2332.

(1) by inserting (a) after the section designation, and

(2) by adding at the end thereof the following new subsection:

"(b) Funds provided for fiscal year 1988 and described in clause (4) of subsection (a) shall also be available for single pregnant women.".

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C and E of title IV of the Higher Education Act, as amended, $5,544,792,000, which shall remain available until September 30, 1989: *Provided,* That the maximum Pell grant that a student may receive in the 1988-1989 award year shall be $2,200. 20 USC 1070a note.

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, $2,565,000,000, to remain available until expended.

HIGHER EDUCATION

For carrying out title III of the Higher Education Act of 1965, as amended, $152,370,000, of which up to $19,148,000 for section 332 of part C of title III of said Act shall remain available until expended: *Provided,* That $73,161,500 of funds appropriated for title III of said Act shall be available only to historically black colleges and universities.

For carrying out subparts 4 and 6 of part A of title IV; part B and subpart 1 of part D of title V; titles VI and VIII, parts A, B, C, D, E, and F of title IX, notwithstanding section 971(g); part B and part D of title VII; subpart 1 of part B and parts A and C of title X; and sections 420A and 1204(c) of the Higher Education Act of 1965, as amended; title XIII, part H, subpart 1 of the Education Amendments of 1980, as amended; and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; $367,884,000, of which $28,244,000 for parts B and D of title VII shall remain available until expended: *Provided,* That $7,659,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further,* That $239,000 of the amount provided for part B of title IX shall be competitively awarded to a consortium of historically black colleges and doctoral degree-granting institutions to provide supplemental need-based financial aid to students and faculty from historically black colleges who are pursuing doctoral studies.

For carrying out sections 772, 773, 775, and 776 of part G of title VII of the Higher Education Act, sections 1-5 of Public Law 99-608, and title III, section 303 of Public Law 98-480, $14,217,000 to remain available until expended.

Of any funds appropriated in fiscal year 1988 for a grant to an appropriate consortium of institutions of higher education for carrying out part B of title VII of the Higher Education Act, the limitations contained in sections 702(a) and 721(a)(2) shall not apply.

HIGHER EDUCATION FACILITIES LOANS AND INSURANCE

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year. For the fiscal year 1988, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE CONSTRUCTION LOAN INSURANCE

For carrying out part E of title VII of the Higher Education Act of 1965, as amended, $19,148,000 to be available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation using loan repayments and other resources available to this account: *Provided,* That during fiscal year 1988, gross commitments for the principal amount of direct loans shall be $62,231,000. Any unobligated balances remaining from fixed fees previously paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

20 USC 1132g note.

Whenever the Secretary, pursuant to sections 762(c) or 783 of the Act, sells, exchanges, or otherwise transfers on a discounted basis obligations or securities held by the Secretary under title VII, part F of the Act, the outstanding balance remaining on the notes of the Secretary issued to the Secretary of the Treasury under section 761(d) of the Act shall be reduced by the amount of the discount. For such transactions occurring prior to the fiscal year 1988, such reduction is effective on September 30, 1987. For such transactions occurring in fiscal year 1988 or thereafter, such reduction is to be effective on the last day of the fiscal year in which the discounted transaction occurs.

EDUCATION RESEARCH AND STATISTICS

For necessary expenses to carry out sections 405 and 406 of the General Education Provisions Act, as amended, $67,526,000, of which $13,390,000 shall be used for the Center for Education Statistics, as authorized under section 406 of the General Education Provisions Act, and $7,563,000 shall be for the National Assessment of Educational Progress, as authorized under section 405(e)(1) of the General Education Provisions Act: *Provided,* That $3,830,000 of the sums appropriated shall be used to continue a rural education program by the nine regional laboratories.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, and VI of the Library Services and Construction Act (20 U.S.C., ch. 16), and title II, parts B, C, and D of the Higher Education Act, notwithstanding the provisions of section 221, $135,089,000: *Provided,* That $22,595,000 of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-106), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, $5,266,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $31,594,000, of which $191,000 shall be for the endowment program as authorized under section 408 and shall be available until expended: *Provided,* That none of the funds provided herein may be used to subsidize the tuition of foreign students.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), including continuing education activities, existing extension centers and the National Center for Law and the Deaf, $62,195,000, of which $957,000 shall be for the endowment program as authorized under section 407 and shall be available until expended.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $172,203,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $241,028,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $40,530,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $17,560,000.

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to audit by the Secretary of Education.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1988".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $163,085,000.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1990, $232,648,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $24,510,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $3,906,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), $718,000.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

OPERATING EXPENSES

Funds appropriated for operating expenses of the National Commission to Prevent Infant Mortality in the Supplemental Appropriations Act, 1987 (Public Law 100-71) shall remain available until expended.

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped as authorized by section 405 of the Rehabilitation Act of 1973, as amended, $892,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $133,097,000: *Provided,* That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

National Mediation Board

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $7,004,000.

Occupational Safety and Health Review Commission

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $5,885,000.

Physician Payment Review Commission

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $2,997,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

Prospective Payment Assessment Commission

SALARIES AND EXPENSES

For expenses necessary to carry out section 601 of Public Law 98–21, $3,592,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

Railroad Retirement Board

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $352,323,000, all of which shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for unnegotiated checks, $3,100,000, to remain available through September 30, 1989, which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $57,860,000, to be derived from the railroad retirement accounts: *Provided*, That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 1,254 full-time equivalent employees: *Provided further*, That $479,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further*, That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r): *Provided further*, That not to exceed $2,500,000 of funds provided under this head in Public Law 99-591 shall remain available until September 30, 1988, only for retirement claims processing automation activities.

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $13,830,000 shall be apportioned for fiscal year 1988 from moneys credited to the railroad unemployment insurance administration fund: *Provided*, That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 303 full-time equivalent employees.

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Railroad Retirement Board for audit, investigatory and review activities, as authorized by section 418 of Public Law 98-76, not more than $2,212,000 to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $35,879,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $15,445,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $4,308,000.

TITLE V—GENERAL PROVISIONS

Contracts.
Public information.

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

Regulations.

President of U.S.

SEC. 512. (a)(1) In the cases of all appropriations accounts within this Act from which expenses for travel, transportation, and subsistence (including per diem allowances) are paid under chapter 57 of title 5, United States Code, there are hereby prohibited to be obligated under such accounts in fiscal year 1988 a uniform percentage of such amounts, as determined by the President in accordance with the provisions of paragraph (2), as, but for this subsection, would—

(A) be available for obligation in such accounts as of October 1, 1987,

(B) be planned to be obligated for such expenses after such date during fiscal year 1988, and

(C) result in total outlays of $23,600,000 in fiscal year 1988.

(2) Before making determinations under paragraph (1), the President shall obtain from the Director of the Office of Management and Budget and the Comptroller General of the United States recommendations for determinations with respect to (A) the identification of the accounts affected, (B) the amount in each such account

available as of such date for obligation, (C) the amounts planned to be obligated for such expenses after such date in fiscal year 1988, and (D) the uniform percentage by which such amounts need to be reduced in order to comply with paragraph (1).

Reports.

(b) Within 30 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report specifying the determinations of the President under subsection (a).

(c) Sections 1341(a) and 1517 of title 31, United States Code, apply to each account for which a determination is made by the President under subsection (a).

SEC. 513. (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) The prohibition established in subsection (a) shall apply until the California Supreme Court has rendered a final disposition in the case of Ixta v. Rinaldi (Case No. 3 Civil C 002805).

AIDS.

SEC. 514. (a) Notwithstanding the matter under the heading "CENTERS FOR DISEASE CONTROL", none of the funds made available under this Act to the Centers for Disease Control shall be used to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly, homosexual sexual activities.

(b) Education, information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities) and

(2) abstinence from the use of illegal intravenous drugs.

(c) The homosexual activity referred to in subsections (a) and (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

(d) The illegal drugs referred to in subsection (b) include any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

(e) If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

(1) no further funds shall be provided to the recipient;

(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

(3) further payment shall be limited to those recipients not participating in such noncompliance; and

(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.

AIDS.

SEC. 515. In administering funds made available under this Act for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988".

(i) Such amounts as may be necessary for programs, projects or activities provided for in the Legislative Branch Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Legislative Branch Appropriations Act, 1988.

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—CONGRESSIONAL OPERATIONS

Congressional Operations Appropriations Act, 1988.

SENATE

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, MAJORITY AND MINORITY WHIPS, AND CHAIRMEN OF THE MAJORITY AND MINORITY CONFERENCE COMMITTEES

20 USC 60a note.

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $10,000 for each such Leader, in all $20,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions, $196,196,700 which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,145,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For Office of the President Pro Tempore, $153,000.

OFFICE OF THE DEPUTY PRESIDENT PRO TEMPORE

For the Office of the Deputy President Pro Tempore, $90,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,388,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $431,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $556,500 for each such committee; in all, $1,113,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $270,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $115,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $8,005,000.

ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO SENATORS

For administrative, clerical, and legislative assistance to Senators, $109,605,500.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $44,161,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $918,000.

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $28,802,200.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $1,764,000: *Provided,* That the amounts appropriated to the Office of the Legislative Counsel of the Senate for fiscal year 1987 shall remain available until September 30, 1988.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $633,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,101,500 for each such committee; in all, $2,203,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, $57,161,000.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, as authorized by section 814 of the Foreign Relations Authorization Act passed by the Senate on July 31, 1985, $325,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $666,300.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $68,021,000: *Provided,* That of the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1986 (Public Law 99-151), $2,250,000 shall remain available until September 30, 1988.

MISCELLANEOUS ITEMS

2 USC 61g-8.

For miscellaneous items, $10,183,000: *Provided,* That, from funds appropriated to the Conference of the Majority and from funds appropriated to the Conference of the Minority for any fiscal year, such Conference may utilize such amounts as it deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

ADMINISTRATIVE PROVISIONS

SEC. 1. (a) The table and the sentence immediately following such table in subsection (d)(1) of section 105 of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(d)(1)), is amended to read as follows:

"$740,000 if the population of his State is less than 1,000,000;
"$775,950 if such population is 1,000,000 but less than 2,000,000;
"$811,900 if such population is 2,000,000 but less than 3,000,000;
"$847,850 if such population is 3,000,000 but less than 4,000,000;
"$883,800 if such population is 4,000,000 but less than 5,000,000;
"$919,750 if such population is 5,000,000 but less than 6,000,000;
"$955,700 if such population is 6,000,000 but less than 7,000,000;
"$991,650 if such population is 7,000,000 but less than 8,000,000;
"$1,027,600 if such population is 8,000,000 but less than 9,000,000;
"$1,063,550 if such population is 9,000,000 but less than 10,000,000;
"$1,099,500 if such population is 10,000,000 but less than 11,000,000;
"$1,135,450 if such population is 11,000,000 but less than 12,000,000;
"$1,171,400 if such population is 12,000,000 but less than 13,000,000;
"$1,207,350 if such population is 13,000,000 but less than 14,000,000;
"$1,243,300 if such population is 14,000,000 but less than 15,000,000;
"$1,279,250 if such population is 15,000,000 but less than 16,000,000;
"$1,315,200 if such population is 16,000,000 but less than 17,000,000;
"$1,351,150 if such population is 17,000,000 but less than 18,000,000;
"$1,374,150 if such population is 18,000,000 but less than 19,000,000;
"$1,397,150 if such population is 19,000,000 but less than 20,000,000;
"$1,420,150 if such population is 20,000,000 but less than 21,000,000;
"$1,443,150 if such population is 21,000,000 but less than 22,000,000;
"$1,466,150 if such population is 22,000,000 but less than 23,000,000;
"$1,489,150 if such population is 23,000,000 but less than 24,000,000;
"$1,512,150 if such population is 24,000,000 but less than 25,000,000;
"$1,535,150 if such population is 25,000,000 but less than 26,000,000;
"$1,558,150 if such population is 26,000,000 but less than 27,000,000;
"$1,581,150 if such population is 27,000,000 but less than 28,000,000; and
"$1,604,150 if such population is 28,000,000 or more.

"For any fiscal year, the population of a State shall be deemed to be whichever of the following is the higher:

"(I) the population of such State (as determined for purposes of this paragraph) for the preceding fiscal year; or

"(II) the population of such State as of the first day of such fiscal year, as determined by the latest census (provisional or otherwise) conducted prior to such first day by the Bureau of the Census within the Department of Commerce.

"If the population of any State, as determined under the preceding sentence, is not evenly divisible by 1,000,000, the population of such State shall be deemed to be increased to the next higher multiple of 1,000,000.

"If, for any period after a fiscal year has begun, the census figures of the most recent census conducted prior to the first day of such year have not been officially released, then, for such period, in the administration of this paragraph, it shall be assumed that the population of each State is the same as such State's population (as determined for purposes of this paragraph) for the preceding fiscal year.

"In the event that the term of office of a Senator begins after the first month of a fiscal year or ends (except by reason of death, resignation, or expulsion) before the last month of a fiscal year, the aggregate amount available for gross compensation of employees in the office of such Senator for such year shall be the applicable amount contained in the preceding table, divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month.".

(b) The amendment made by this section shall be effective in the case of fiscal years beginning after September 30, 1987.

Effective date.
2 USC 61-1 note.

SEC. 2. (a) Effective with respect to pay periods beginning on or after the enactment of this Act, the Chaplain of the Senate shall be compensated at a rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

2 USC 61d.

(b) The second proviso, under the headings "SENATE" and "Office of the Chaplain", of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145) is amended to read as follows: "*Provided further,* That the Chaplain of the Senate may appoint and fix the compensation of a secretary".

2 USC 61d-1.

SEC. 3. (a) Section 192 of title I, Chapter IX, of the Supplemental Appropriations Act, 1985 (Public Law 99-88; 99 Stat. 349; 2 U.S.C. 68-5) is amended—

(1) by striking out "and", where it appears immediately after "Minority Whip of the Senate,", and inserting in lieu thereof "one for the attending physician, one as authorized by Senate Resolution 90 of the 100th Congress"; and

(2) by inserting immediately before the period at the end of such section the following: ", and such additional number as is otherwise specifically authorized by law".

(b) The amendments made by subsection (a) shall be effective in the case of fiscal years ending after September 30, 1986.

Effective date.
2 USC 68-5 note.

SEC. 4. Section 151(a) of Public Law 99-591 (100 Stat. 3341-3355) is amended by striking out "during fiscal year 1987".

40 USC 756b.

SEC. 5. Subsection (i) of section 814 of the Foreign Relations Authorization Act, fiscal years 1986 and 1987 (Public Law 99-93), as amended by Public law 99-151, is amended by striking out "1987" and inserting "1988".

22 USC 2291 note.

SEC. 6. Effective in the case of fiscal years beginning after September 30, 1986, the first sentence of section 107(a) of the Supplemental Appropriations Act, 1979 (Public Law 96-38; 2 U.S.C. 69a), is amended by striking out "$2,000" and inserting in lieu thereof "$4,000".

SEC. 7. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1988, at his election, transfer not more than $50,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

2 USC 68-6. SEC. 8. (a) The Secretary of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Secretary of the Senate, such sums as he shall specify to the Senate appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Secretary"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

(b) The Sergeant at Arms and Doorkeeper of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, such sums as he shall specify to the appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Sergeant at Arms and Doorkeeper"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

SEC. 9. Section 114 of Public Law 95-94, as amended (2 U.S.C. 61-1a), is amended to read as follows:

"SEC. 114. Notwithstanding any other provision of law, appropriated funds are available for payment to an individual of pay from more than one position, each of which is either in the office of a Senator and the pay of which is disbursed by the Secretary of the Senate or is in another office and the pay of which is disbursed by the Secretary of the Senate out of an appropriation under the heading "SALARIES, OFFICERS, AND EMPLOYEES", if the aggregate gross pay from those positions does not exceed the maximum rate specified in section 105(d)(2) of the Legislative Appropriations Act of 1968, as amended and modified.".

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

Lucie C. McKinney. For payment to Lucie C. McKinney, widow of Stewart B. McKinney, late a Representative from the State of Connecticut, $89,500.

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $3,456,000, including: Office of the Speaker, $798,000, including $18,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $708,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $789,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $621,000, including $5,000 for official expenses of the

Majority Whip and not to exceed $149,950 for the Chief Deputy Majority Whip; Office of the Minority Whip, $540,000, including $5,000 for official expenses of the Minority Whip and not to exceed $79,150 for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $174,556,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $49,102,000.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $329,000.

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $52,418,000.

ALLOWANCES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For allowances and expenses as authorized by House resolution or law, $174,797,000, including: Official Expenses of Members, $81,523,000; supplies, materials, administrative costs and Federal tort claims, $16,719,000; furniture and furnishings, $1,005,000; stenographic reporting of committee hearings, $550,000; reemployed annuitants reimbursements, $1,118,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $73,260,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, restaurants, interparliamentary receptions and gratuities to heirs of deceased employees of the House, $622,000: *Provided*, That effective upon enactment of this Act, an amount not to exceed $132,000 shall be made available by transfer from the appropriation for "House office buildings, 1987, No year" for deposit in the account established by section 208 of the First Supplemental Civil Functions Appropriations Act, 1941 (40 U.S.C. 174k(b)).

Effective date.

Such amounts as are deemed necessary for the payment of allowances and expenses under this head may be transferred between the various categories within this appropriation, "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $4,300,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $54,529,000, including: Office of the Clerk, $14,917,000; Office of the Sergeant at Arms, including overtime, as authorized by law, $21,180,000; Office of the Doorkeeper, including overtime, as authorized by law, $7,915,000; Office of the Postmaster, $2,517,000, including $48,124 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $16,766 per annum each; Office of the Chaplain, $75,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $716,000; for salaries and expenses of the Office for the Bicentennial of the House of Representatives, $243,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $870,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $3,025,000; six minority employees, $447,000; the House Democratic Steering Committee and Caucus, $721,000; the House Republican Conference, $721,000; and other authorized employees, $1,182,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this head may be transferred between the various offices and activities within this appropriation, "Salaries, officers and employees", upon the approval of the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. Of the amounts appropriated in fiscal year 1988 for the House of Representatives under the headings "Committee employees", "Standing committees, special and select", "Salaries, officers and employees", "Allowances and expenses", "House leadership offices", and "Members' clerk hire", such amounts as are deemed necessary for the payment of salaries and expenses may be transferred among the aforementioned accounts upon approval of the Committee on Appropriations of the House of Representatives.

SEC. 102. (a) One additional employee is authorized for each of the following:

(1) the House Democratic Steering and Policy Committee; and

(2) the House Republican Conference.

(b) The annual rate of pay for the positions established under subsection (a) shall not exceed 60 percent of the annual rate of pay payable from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code.

JOINT ITEMS

For joint committees, as follows:

Contingent Expenses of the Senate

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,179,000.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,037,000.

Contingent Expenses of the House

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $4,219,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

Office of the Attending Physician

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,000 per month to the Attending Physician; (2) an allowance of $600 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $200 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $200 per month each to not to exceed twelve assistants on the basis heretofore provided for such assistance; and (5) $963,600 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,493,000, to be disbursed by the Clerk of the House.

Capitol Police

GENERAL EXPENSES

For purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training or other purposes, and expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $1,734,000, to be disbursed by the Clerk of the House: *Provided,* That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further,* That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further,* That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1988 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs, $82,163,000, to be disbursed by the Clerk of the House, to be available immediately upon enactment of this Act: *Provided,* That funds appropriated for such purpose for the fiscal year ending September 30, 1987, shall remain available until expended.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,137,000, to be disbursed by the Secretary of the Senate: *Provided,* That none of these funds shall be used to employ more than thirty-three individuals: *Provided further,* That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the first session of the One Hundredth[14a] Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $19,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including reception and representation expenses (not to exceed $3,000 from the Trust Fund), and rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under section 1886 of the Social Security Act as amended by section 601 of the Social Security Amendments of 1983 (Public Law 98-21), and those necessary to carry out the duties of the Director of the Office of Technology Assessment under part B of title XVIII of the Social Security Act as amended by section 9305 of the Consolidated Omnibus Reconciliation Act of 1985 (Public Law 99-272), $16,901,000: *Provided,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further,* That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study, except that funds shall be available for and reimbursement can be accepted for salaries or expenses of the Office of Technology Assessment in connection with the assessment required by section 101(b) of Public Law 99-190.

[14a] Copy read "One-hundredth".

BIOMEDICAL ETHICS BOARD

Salaries and Expenses

For the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee, as authorized by section 381 of the Public Health Service Act (Public Law 99-158), $100,000: *Provided*, That of the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1987 (as enacted by Public Law 99-500 and Public Law 99-591), shall remain available for obligation until September 30, 1988.

CONGRESSIONAL AWARD BOARD

Congressional Award Program

Notwithstanding any other provision of law, there is appropriated to the Congressional Award Board (established by Public Law 96-114; 2 U.S.C. 801) the sum of $189,000, to be disbursed by the Clerk of the House upon vouchers approved by the Chairman of the Congressional Award Board or another member of the Board as delegated by the Chairman, to remain available without fiscal year limitation: *Provided*, That notwithstanding any provision of such Public Law 96-114, such sum shall be used by the Congressional Award Board in the same manner and for the same purposes, and subject to the same limitations, as are funds donated to such Board by private individuals: *Provided further*, That these funds may only be used for routine operational purposes and may not be allocated for the payment of any debt outstanding as of the date of enactment of this Act.

CONGRESSIONAL BUDGET OFFICE

Salaries and Expenses

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), $17,886,000: *Provided*, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further*, That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63.

2 USC 605.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; the Executive Assistant; and other personal services; at rates of pay provided by law, $5,925,000.

TRAVEL

40 USC 166a.

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $10,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $48,000.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, and for security installations, which are approved by the Capitol Police Board, authorized by House Concurrent Resolution 550, Ninety-second Congress, agreed to September 19, 1972, the cost limitation of which is hereby further increased by $111,000, $12,793,000, of which $360,000 shall remain available until expended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant, $3,404,000.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $23,265,000, of which $3,943,000 shall remain available until expended: *Provided*, That $928,000 of funds provided under this head are for improvements to the Senate Restaurants kitchen in the Dirksen Building: *Provided further*, That no obligations can be made from this amount for improvements to the Senate Restaurants kitchen in the Dirksen Building without the prior approval of the Committee on Appropriations of the United States Senate.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House Office Buildings, including the position of Superintendent of Garages as authorized by law, $30,547,000, of which $8,010,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, and power (including the purchase of electrical energy) for the Capitol, Senate and House Office Buildings, Congressional Library Buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation; $24,583,000: *Provided,* That not to exceed $1,950,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1988.

ADMINISTRATIVE PROVISIONS

40 USC 166b-6 note.

SEC. 103. Notwithstanding any other provisions of law, the Architect of the Capitol is hereby authorized to (1) develop a pilot program to determine the economic feasibility and efficiency of centralizing certain maintenance functions, to assign and reassign, without increase or decrease in basic salary or wages, any person on the employment rolls of the Office of the Architect of the Capitol, for personal services in any buildings, facilities, or grounds under his jurisdiction for which appropriations have been made and are available; (2) maintain appropriate cost and productivity records for the program; and (3) report to appropriate authorities, including the Committees on Appropriations, on the results of the program, together with recommendations for continuation or expansion of the program.

SEC. 104. The Architect of the Capitol, under the direction of the Joint Committee on the Library, is authorized to accept donations to restore and display the Statue of Freedom model.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $43,022,000: *Provided,* That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further,* That, notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

2 USC 166 note.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and for printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $70,359,000: *Provided,* That funds remaining from the unexpended balances from obligations made under prior year appropriations for this account shall be available for the purposes of the printing and binding account for the same fiscal year: *Provided further,* That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further,* That, to the extent that funds remain from the unexpended balance of fiscal year 1984 and fiscal year 1985 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be available for the current year printing and binding cost of publications produced for the Bicentennial. *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1988".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,221,000.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including the Speaker's Civic Achievement Awards Program, subject to authorization, development and maintenance of the Union Catalogs; custody, care and maintenance of the Library Buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $143,866,000, of which not more than $5,000,000 shall be derived from collections credited to this appropriation during fiscal year 1988 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $5,000,000: *Provided further,* That, of the total amount appropriated, $4,944,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $19,061,000, of which not more than $7,000,000 shall be derived from collections credited to this appropriation during fiscal year 1988 under 17 U.S.C. 708(c), and not more than $931,000 shall be derived from collections during fiscal year 1988 under 17 U.S.C. 111(d)(3) and 116(c)(1): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,931,000: *Provided further,* That $150,000 of the unobligated balance of that part of the appropriation "Salaries and Expenses, Copyright Office" for the fiscal year 1987, for the acquisition of a stand-alone data system for the processing of cable television statements and jukebox registrations, shall remain available until September 30, 1988.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $36,186,000.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $5,816,000, of which $4,781,000 shall be available until expended only for the purchase and supply of furniture, shelving, furnishings, and related costs necessary for the renovation and restoration of the Thomas Jefferson and John Adams Library Buildings.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $101,390 of which $23,900 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15; and

(2) grants the manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees.

SEC. 204. No funds shall be expended by the Library of Congress for the purpose of providing long-term special study facilities for profit or non-profit business enterprises until guidelines for such use are approved by the Joint Committee on the Library.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $6,741,000, of which $365,000 shall remain available until expended.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $662,000, of which $533,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For necessary expenses of the Office of Superintendent of Documents, including compensation of all employees in accordance with the provisions of 44 U.S.C. 305; travel expenses (not to exceed $117,000); price lists and bibliographies; repairs to buildings, elevators, and machinery; and supplying publications to the Depository Library and International Exchange Programs, $24,662,000, of which $5,500,000 representing excess receipts from the sale of publications shall be derived from the Government Printing Office revolving fund: *Provided*, That $300,000 of this appropriation shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 1512), with the approval of the Public Printer, only to the extent necessary to provide for expenses (excluding permanent personal services) for workload increases not anticipated in the budget estimates and which cannot be provided for by normal budgetary adjustments.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

Contracts.

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided*, That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That during the current fiscal year the revolving fund shall be available for the hire of eight passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18: *Provided further*, That the revolving fund shall be available to acquire needed land, located in Northwest D.C., which is adjacent to the present Government Printing Office, and is bounded by Massachusetts Avenue and the southern property line of the Government Printing Office, between North Capitol Street and First Street. The land to be purchased is identified as Parcels 45-D, 45-E, 45-F, and 47-A in Square 625, and includes the alleys adjacent to these parcels, and G Street, N.W. from North Capitol Street to First Street: *Provided further*, That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and expenses" together may not be available for the full-time equivalent employment of more than 5,237 workyears.

ADMINISTRATIVE PROVISION

SEC. 205. Funds authorized to be expended by the Government Printing Office for fiscal year 1988, not to exceed $55,000, shall be available without regard to the 25 per centum limitation of section 322 of the Economy Act of June 30, 1932, as amended, for the repair, alteration, and improvement of rented premises.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $5,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $329,847,000: *Provided*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further*, That this appropriation shall be available to finance a portion, not to exceed $50,000, of the costs of the Governmental Accounting Standards Board: *Provided further*, That $50,000 of this appropriation shall be available for the expenses of planning the triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI) to be hosted by the United States General Accounting Office in Washington, D.C., in 1992, to the extent that such expenses cannot be met from the trust authorized below: *Provided further,* That the General Accounting Office is authorized to solicit and accept contributions (including contributions from INTOSAI), to be held in trust, which shall be available without fiscal year limitation for the planning, administration, and such other expenses as the Comptroller General deems necessary to act as the sponsor of the aforementioned triennial Congress of INTOSAI. Monies in the trust not to exceed $10,000 shall be available upon the request of the Comptroller General to be expended for the purposes of the trust.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration or for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided,* That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

Contracts.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

40 USC 166 note.

SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means, the office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

2 USC 907 note.

SEC. 306. Hereafter, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with each appropriation account in this Act, except that the accounts under the general heading "House of Representatives" shall be considered one appropriation account and one "program, project, and activity", and the accounts under the general heading "Senate" shall be considered one appropriation account and one "program, project, and activity".

4 USC 105 note.

SEC. 307. (a) Notwithstanding section 105 of title 4, United States Code, or any other provision of law, no person shall be required to pay, collect, or account for any sales, use, or similar excise tax, or any personal property tax, with respect to an essential support activity or function conducted by a nongovernmental person in the Capitol, the House Office Buildings, the Senate Office Buildings, the Capitol Grounds, or any other location under the control of the Congress in the District of Columbia.

(b) As used in this section—

(1) the term "essential support activity or function" means a support activity or function so designated by the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate, acting jointly or separately, as appropriate;

(2) the term "personal property tax" means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, the value of personal property;

(3) the term "sales, use, or similar excise tax" means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, sales, receipts from sales, or purchases, or by storage, possession, or use of personal property; and

(4) the term "State" means a State of the United States, the District of Columbia, or a territory or possession of the United States.

(c) This section shall apply to any sale, receipt, purchase, storage, possession, use, or valuation taking place after December 31, 1986.

40 USC 166b-3a.

SEC. 308. (a) Notwithstanding any other provision of law, the pay for positions described in subsection (b) shall be the amounts specified for such positions in appropriations Acts.

(b) The positions referred to in subsection (a) are: (1) the two positions of assistant referred to in the proviso in the first undesignated paragraph under the center subheadings "OFFICE OF THE ARCHITECT OF THE CAPITOL" and "SALARIES" in the Legislative Branch Appropriation Act, 1971 (40 U.S.C. 164a), and (2) the seven positions provided for in the third and fourth undesignated paragraphs under the center subheadings "OFFICE OF THE ARCHITECT OF THE CAPITOL" and "SALARIES" in the Legislative Branch Appropriation Act, 1960 (40 U.S.C. 166b-3).

(c) The pay for each position described in subsection (b) shall be the pay payable for such position with respect to the last pay period before this section takes effect, subject to any applicable adjustment during fiscal year 1988 under, or by reference to any applicable adjustment during fiscal year 1988 under, subchapter I of chapter 53 of title 5, United States Code.

(d) This section shall apply in fiscal years beginning after September 30, 1987, with respect to pay periods beginning after the date of the enactment of this Act. Effective date.

SEC. 309. (a) None of the funds appropriated for fiscal year 1988 by this Act or any other law may be obligated or expended by any entity of the executive branch for the procurement from commercial sources of any printing related to the production of Government publications (including forms), unless such procurement is by or through the Government Printing Office.

(b) Subsection (a) does not apply to (1) individual printing orders costing not more than $1,000, if the work is not of a continuing or repetitive nature, (2) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or (3) printing from commercial sources that is specifically authorized by law or is of a kind that has not been routinely procured by or through the Government Printing Office.

(c) As used in this section, the term "printing" means the process of composition, platemaking, presswork, binding, and microform, and the end items of such processes.

SEC. 310. The provision of law which was derived from section 80 of the Revised Statutes and which currently is carried as the second sentence of section 131 of title 2, United States Code, is hereby repealed.

SEC. 311. (a) The first sentence of section 4(a) of Public Law 91-656 (2 U.S.C. 60a-1) is amended by striking out the period at the end and inserting "and adjust the rates of such personnel by such amounts as necessary to restore the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions.".

(b) Section 4(d) of such public law is amended by striking out the period at the end and inserting ", except in cases in which it is necessary to restore and maintain the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions.".

(c) Notwithstanding any other provision of this Act or any other provision of law, subsections (a) and (b) of this section shall be effective in the case of pay orders issued by the President pro tempore of the Senate on or after January 1, 1988. 2 USC 60a-1 note.

(d) Notwithstanding any other provision of this Act, or any other provision of law, rule, or regulation, hereafter each time the President pro tempore of the Senate exercises any authority pursuant to any of the amendments made by this section with respect to rates of pay or any other matter relating to personnel whose pay is disbursed by the Secretary of the Senate, the Speaker of the House of Representatives may, with respect to personnel whose pay is disbursed by the Clerk of the House of Representatives, exercise the same authority to the extent necessary to ensure parity of treatment between personnel of the respective Houses of Congress having comparable duties and responsibilities. 2 USC 60a-2a.

This Act may be cited as the "Legislative Branch Appropriations Act, 1988".

(j) Such amounts as may be necessary for programs, projects or activities provided for in the Military Construction Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

Military Construction Appropriations Act, 1988.

AN ACT

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1988, and for other purposes.

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, $977,590,000, to remain available until September 30, 1992: *Provided*, That of this amount, not to exceed $120,120,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 98-473, $6,800,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Army" under Public Law 99-173, $28,000,000 is hereby rescinded.

98 Stat. 1877.

99 Stat. 1024.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,417,311,000, to remain available until September 30, 1992: *Provided*, That of this amount, not to exceed $130,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Navy" under Public Law 98-473, $6,800,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Navy" under Public Law 99-173, $19,400,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,241,254,000, to remain available until September 30, 1992: *Provided,* That of this amount, not to exceed $115,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 98-473, $6,300,000 is hereby rescinded: 98 Stat. 1878. *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 99-173, $18,500,000 is 99 Stat. 1024. hereby rescinded: *Provided further,* That none of the funds appropriated for planning, design, or construction of military facilities or family housing may be used to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $558,446,000, to remain available until September 30, 1992: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed $55,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 98-473, $1,900,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 99-173, $5,300,000 is hereby rescinded. 99 Stat. 1025.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

(INCLUDING RESCISSION)

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and

99 Stat. 1025.

construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $381,000,000, to remain available until expended: *Provided,* That of the funds appropriated for "North Atlantic Treaty Organization Infrastructure" under Public Law 99-173, $8,000,000 is hereby rescinded.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $184,405,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Army National Guard" under Public Law 99-173, $2,500,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

(INCLUDING RESCISSIONS)

98 Stat. 1879.

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $151,291,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Air National Guard" under Public Law 98-473, $200,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Air National Guard" under Public Law 99-173, $3,300,000 is hereby rescinded.

MILITARY CONSTRUCTION, ARMY RESERVE

(INCLUDING RESCISSION)

99 Stat. 1026.

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $95,100,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Army Reserve" under Public Law 99-173, $1,800,000 is hereby rescinded.

MILITARY CONSTRUCTION, NAVAL RESERVE

(INCLUDING RESCISSION)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $73,737,000, to remain available until

September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Naval Reserve" under Public Law 99-173, $1,200,000 is hereby rescinded. 99 Stat. 1026.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

(INCLUDING RESCISSIONS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $79,300,000, to remain available until September 30, 1992: *Provided,* That of the funds appropriated for "Military Construction, Air Force Reserve" under Public Law 98-473, $200,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Air Force Reserve" under Public Law 99-173, $1,800,000 is hereby rescinded.

FAMILY HOUSING, ARMY

(INCLUDING RESCISSIONS)

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $305,890,000; for Operation and maintenance, and for debt payment, $1,255,121,000; in all $1,561,011,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1992: *Provided further,* That of the funds appropriated for "Family Housing, Army" under Public Law 98-473, $900,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Army" under Public Law 99-173, $19,400,000 is hereby rescinded. 98 Stat. 1879.

FAMILY HOUSING, NAVY AND MARINE CORPS

(INCLUDING RESCISSIONS)

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $237,914,000; for Operation and maintenance, and for debt payment, $530,028,000; in all $767,942,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1992: *Provided further,* That of the funds appropriated for "Family Housing, Navy and Marine Corps" under Public Law 98-473, $400,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Navy and Marine Corps" under Public Law 99-173, $8,800,000 is hereby rescinded. 98 Stat. 1880.

FAMILY HOUSING, AIR FORCE

(INCLUDING RESCISSIONS)

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $152,310,000; for Operation and maintenance, and for debt payment, $691,983,000; in all $844,293,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1992: *Provided further*, That of the funds appropriated for "Family Housing, Air Force" under Public Law 98-473, $2,400,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Family Housing, Air Force" under Public Law 99-173, $12,300,000 is hereby rescinded.

98 Stat. 1880.

99 Stat. 1026.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $1,186,000; for Operation and maintenance, $19,514,000; in all $20,700,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1992.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $2,800,000.

FOREIGN CURRENCY FLUCTUATIONS, CONSTRUCTION, DEFENSE

For foreign currency fluctuations, construction, Defense, $85,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except; (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided,* That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

Contracts.

SEC. 112. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 113. None of the funds in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 114. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 115. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 116. The Secretary of Defense is to inform the Committees on Appropriations and Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 117. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1988, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 118. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 119. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the first session of the One Hundredth Congress.

Reports.

SEC. 120. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1988, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1988 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

SEC. 121. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 122. Notwithstanding any other provision of law, the Secretary of the Air Force is required to maintain legislative liaison to the House and Senate Appropriations Subcommittees on Military Construction and budgetary and fiscal management of the Military Construction and Military Family Housing appropriations in a manner identical to the method employed as of September 30, 1986.

SEC. 123. Notwithstanding any other provision of law, including the certification requirements provided in section 210 of title 23, United States Code, the Secretary of Defense is directed to provide for the design of access roads for the New Cumberland Army Depot, Pennsylvania and for the Tobyhanna Army Depot, Pennsylvania, as well as design of replacement bridges at Broad Creek and at Gales Creek on North Carolina Highway 24, within funds provided in this Act.

SEC. 124. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

Reports.

SEC. 125. None of the funds appropriated by this or any other Act for the Department of Defense may be obligated or expended for the National Test Bed Components of the National Test Facility at Falcon Air Station, Colorado, until the Strategic Defense Initiative Organization (SDIO) has begun the development of the Phase One Strategic Defense System (SDS) Architecture and the Follow-on Strategic Defense System Architecture and the Committees on Appropriations of the Senate and the House of Representatives have thereafter received an interim report from SDIO on the Phase One System Architecture and follow-on architecture that the National Test Facility will be testing and evaluating; and until SDIO has provided a detailed report to the Committees on Appropriations of the Senate and the House of Representatives on the capability of the National Test Facility and the other components of the National Test Bed to produce the simulation, evaluation, and demonstration data needed to determine whether a proposed ballistic missile defense system satisfies the criteria of technical feasibility, cost-effectiveness at the margin, and survivability: *Provided,* That, none of the funds appropriated by this or any other Act for the National Test Facility or any other components of the National Test Bed may be used to provide any operational battle management, command, control or communications capabilities for an early deployment of a ballistic missile defense system: *Provided further,* That, the goal of the National Test Facility and other components of the National Test Bed shall be to simulate, evaluate, and demonstrate architectures and technologies that are technically feasible, cost effective at the margin, and survivable.

SEC. 126. None of the funds appropriated in this Act may be obligated or expended for the purpose of transferring any equipment, operation, or personnel from the Edgewood Arsenal, Maryland, to any other facility during fiscal year 1988.

43 USC 1611 note.

SEC. 127. In addition to the purposes for which it is now available, the property account established by section 12(b) of the Act of January 2, 1976, as amended (43 U.S.C. 1611 note) shall be available hereafter for purposes involving any public sale of property by any agency of the United States, including the Department of Defense, or any element thereof.

SEC. 128. Of the amounts appropriated by this Act for "Family Housing, Navy and Marine Corps", not to exceed $150,000 shall be available to liquidate obligations incurred for debt payment during fiscal year 1986.

SEC. 129. (a) Subject to subsections (b) through (d), the Secretary of the Army is authorized to convey to the city of New York, New York, all right, title, and interest of the United States in and to its 7 acre parcel of land in the Brooklyn Navy Yard, Brooklyn, New York.

(b) In consideration for the conveyance by the Secretary under subsection (a), the city of New York shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed.

(c) The Secretary shall include in the deed of conveyance a condition that the United States may reenter and use the property without compensation in the event of war or other national emergency declared by the President or Congress.

(d) The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 130. (a) Subject to subsections (b) through (f), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the State of New Jersey (hereinafter in this section referred to as the "State"), and the city of Jersey City, New Jersey (hereinafter in this section referred to as the "City"), all right, title, and interest of the United States in and to a tract of land located in Jersey City, New Jersey, consisting of approximately 40 acres of unimproved real property, comprising a portion of the United States Army Reserve Center, Caven Point, New Jersey.

(b)(1) The conveyance authorized by subsection (a) shall be subject to the following conditions—

(A) that the City convey to the United States a tract of unimproved real property consisting of approximately 9 acres, located immediately adjacent to the Caven Point Army Reserve Center's northeast boundary;

(B) that the State and City stabilize approximately 30 acres of real property west of the proposed highway; and

(C) that the State and City remove and store the existing railroad track.

(2) If the fair market value (as determined by the Secretary) of the real property conveyed by the United States to the State and City under subsection (a) exceeds the sum of fair market values (as determined by the Secretary) of the real property conveyed by the City to the United States and the improvements made by the State and the City, the State and City shall pay the amount of the difference to the Secretary.

(c) The exact acreages and legal description of properties to be conveyed under subsections (a) and (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of any surveys shall be borne by the State and City.

(d) The Secretary may require such additional terms and conditions as the Secretary considers appropriate to carry out the provisions of this section and to protect the interests of the United States.

(e)(1) The Secretary may use any funds paid to the Secretary by the State and City in accordance with subsection (b)(2) to repair, expand, and improve, or replace the United States Army Reserve Center facilities at Caven Point, New Jersey, whichever is most cost-effective.

(2) The Secretary shall deposit any remaining funds into miscellaneous receipts of the Treasury.

(f) This section shall be implemented in accordance with an agreement to be entered into by the Secretary, the State, and the City.

SEC. 131. (a) AUTHORITY TO CONVEY.—Subject to subsections (b) through (f), the Secretary of the Navy may convey to the City of San Diego, California, all right, title, and interest of the United States in and to three parcels of real property (including improvements thereon) comprising approximately 680 acres located in the Mission Trails Regional Park area of the City of San Diego, California.

(b) CONSIDERATION.—In consideration for the conveyance authorized by subsection (a), the City of San Diego shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed by the United States.

(c) USE OF FUNDS.—(1) The Secretary may use proceeds from the sale of property under this section solely for the purpose of acquiring suitable sites for military family housing or constructing military family housing units, or both, in the San Diego area.

(2) Any funds received by the Secretary under this section and not used for the acquisition of a site for military family housing or the construction of military family housing units within 60 months after the receipt of such funds shall be deposited into the general fund of the Treasury.

(d) LEGAL DESCRIPTION OF LAND.—The exact acreages and legal description of the property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary. The cost of any such survey shall be borne by the city.

Contracts.
Reports.

(e) NOTIFICATION.—The Secretary may not enter into any contract under this section to—

(1) convey any property;

(2) acquire a site for military family housing; or

(3) construct housing,

until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report of the details of the contract.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

99 Stat. 995.

(g) AMENDMENTS.—Section 833 of the Military Construction Authorization Act, 1986 (Public Law 99-167), is amended—

(1) in subsection (d)(1), by inserting the following before the period: "or constructing military family housing, or both";

(2) in subsection (d)(2), by striking out "within 30 months" and inserting in lieu thereof "or constructing military family housing within 60 months"; and

(3) by adding at the end the following new subsection:

Contracts.
Reports.

"(g) NOTIFICATION.—After the date of the enactment of this subsection, the Secretary may not enter into any contract under this section to—

[15] "(1) convey any property;

[16] "(2) acquire a site for military family housing; or

[17] "(3) construct housing,

until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report of the details of the contract.".

(h) LIMITATION.—The total number of military family housing units constructed under this section and under section 833 of the

---

[15] Copy read "(1)".

[16] Copy read "(2)".

[17] Copy read "(3)".

Military Construction Authorization Act, 1986 (Public Law 99-167) shall not exceed 300 units.

SEC. 132. (a) AUTHORITY TO EXCHANGE REAL PROPERTY.—Subject to subsections (b) through (d), the Secretary of the Army may transfer to the City of Copperas Cove, Texas, approximately 112 acres of real property (including improvements thereon) at Fort Hood, Texas, in exchange for approximately 600 acres of real property (including improvements thereon) which are of at least equal value to the property being transferred by the Secretary.

(b) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City.

(c) REPORT.—The Secretary may not transfer any property under this section until after the 21-day period beginning on the date on which the Secretary transmits a report of the details of such transfer to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States in any transfer made under this section.

SEC. 133. (a) AUTHORITY TO CONVEY.—Subject to subsection (b), the Secretaries of the Army and Navy may convey, without consideration, to the State of North Carolina all right, title, and interest of the United States in and to—

(1) approximately 51 acres of real property, with improvements thereon, located in the FARTC area of Ft. Bragg, North Carolina; and

(2) approximately 50 acres of real property, with improvements thereon, located in the Montford Point/Camp Johnson area of Camp Lejeune, North Carolina.

(b) CONDITIONS.—(1) The conveyances authorized by subsection (a) shall be subject to the condition that the properties conveyed by the Secretaries be used by the State to establish State veterans' cemeteries.

(2) If either of the properties conveyed pursuant to subsection (a) is not used for the purpose described in paragraph (1), all right, title, and interest in and to such property shall revert at no cost to the United States, which shall have the right of immediate entry thereon.

(c) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of the properties to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretaries. The cost of such surveys shall be borne by the State.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretaries may require such other terms and conditions with respect to the conveyances authorized by this section as the Secretaries consider appropriate to protect the interests of the United States.

SEC. 134. Notwithstanding any other provision of this or of any other law, any limitation on the obligation or expenditure of funds appropriated for fiscal year 1987 for military construction for homeporting at Everett, Washington, shall not apply unless such limitation was expressly stated in a law which was enacted on or before September 30, 1987.

SEC. 135. (a) In addition to other military construction projects and land acquisition authorized by any other law for fiscal year 1988—

(1) the Secretary of the Navy may acquire real property and may increase military construction projects at Naval Air Station, Adak, Alaska, in the amount of $20,000,000;

(2) the Secretary of the Air Force may acquire real property and may carry out military construction projects at Hanscom Air Force Base, Massachusetts, in the amount of $15,000,000; and

(3) the Secretary of Defense may acquire real property and may carry out military construction projects at Falcon Air Force Station, Colorado, in the amount of $35,000,000.

(b) Funds are hereby authorized to be appropriated for fiscal year 1988 for the projects and land acquisitions described in subsection (a) of this section. The amount authorized for each such project and land acquisition is the amount listed for each in paragraphs (1), (2) and (3), respectively, of such subsection.

This Act may be cited as the "Military Construction Appropriations Act, 1988".

(k) Such amounts as may be necessary for programs, projects, or activities provided for in the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988.

Making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1988, and for other purposes.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including the direct supervision of the Soil Conservation Service and the Forest Service, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $1,466,000: *Provided*, That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

INVESTIGATION OF LARGE PAYMENTS

Reports.

To enable the Secretary of Agriculture to investigate large payments made under the provisions of the Food Security Act of 1985, and other laws, as to accuracy and legality and to submit a detailed report on such payments to the appropriate committees of the Congress, $100,000.

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $321,000: *Provided*, That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary.

OFFICE OF THE ASSISTANT SECRETARY FOR SPECIAL SERVICES

For necessary salaries and expenses to continue the Office of the Assistant Secretary for purposes of providing special services to the Department, $416,000: *Provided,* That none of these funds shall be available for the supervision of Natural Resources and Environment activities, the Soil Conservation Service, or the Forest Service.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $498,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $49,665,000, of which $3,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided,* That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $20,024,000, of which $3,245,000 is for one-time purchase of systems furniture.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,308,000: *Provided,* That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, except for expenses of the Commodity Credit Corporation, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and

Recovery Act, as amended, 42 U.S.C. 6961, $2,000,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Budget and Program Analysis, $4,252,000; for Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $20,642,000 and in addition, for payment of the USDA share of the National Communications System, $110,000; making a total of $25,004,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

WORKING CAPITAL FUND

An amount of $5,708,000 is hereby appropriated to the Departmental Working Capital Fund to increase the Government's equity in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $347,000.

PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $7,700,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and

House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

CONGRESSIONAL RELATIONS

For necessary expenses for liaison with the Congress on legislative matters, $497,000.

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $476,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $48,795,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95-452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $18,734,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $484,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $48,186,000; of which not less than $200,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided*, That not less than $350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further*, That not less than $145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, $61,176,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,730,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $386,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $538,884,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further,* 7 USC 2254. That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: *Provided further,* That of the appropriations hereunder not less than $10,526,600 shall be available to conduct marketing research: *Provided further,* 7 USC 2254. That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $150,000, except for headhouses connecting greenhouses which shall each be limited to $500,000, and except for ten buildings to be constructed or improved at a cost not to exceed $275,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $150,000 whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall not apply to a total of $250,000 for facilities at Beltsville, Maryland: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That the limitation on purchase of land shall not apply to the purchase of land at Fresno, California, or to the purchase of land at the Mahantango Research Watershed, Pennsylvania: *Provided further,* That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $1,800,000.

BUILDINGS AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $57,815,000, of which $7,500,000 shall not be obligated prior to fiscal year 1989: *Provided,* That these funds may be transferred to such other accounts in this Act as may be appropriate to carry out these purposes: *Provided further,* 20 USC 191 note. That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $155,545,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a–361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $17,500,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a—582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $23,333,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $31,185,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $42,372,000 for competitive research grants, including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $675,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $4,918,000 for grants for research and construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $4,754,000 for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,500,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $3,827,000 for grants to States for the establishment and operation of international trade development centers, as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292); $3,900,000 for low-input agriculture as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 4701–4710); $2,100,000 for other grants as authorized by section 1472 of the Food and Agriculture Act of 1977 (7 U.S.C. 3318); and $4,094,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, $303,654,000.

EXTENSION SERVICE

(INCLUDING TRANSFERS OF FUNDS)

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $241,594,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,635,000, of which $39,627,000 shall be derived by transfer from the appropriation "Food Stamp Program" and merged with this appropriation; payments for the urban gardening program under section 3(d) of the Act, $3,329,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,633,000; grants to upgrade 1890 land-grant college extension facilities as authorized by section 1416 of Public Law 99-198, $9,508,000, to remain available until expended; payments for an integrated reproductive management program under section 3(d) of the Act, $47,000; payments for the rural development centers under section 3(d) of the Act, $903,000; payments for extension work under section 209(c) of Public Law 93-471, $935,000; payments for a financial management assistance program under section 3(d) of the Act, $1,427,000; payments for carrying out the provisions of the Renewable Resource Extension Act of 1978, $2,765,000; for special grants for financially stressed farmers and dislocated farmers as authorized by section 1440 of Public Law 99-198, $3,350,000; and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $18,291,000; in all, $350,551,000, of which not less than $79,400,000 is for Home Economics: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $7,412,000, of which not less than $2,300,000 is for Home Economics.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, $12,194,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $575,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements: *Provided further,* That $370,000 shall be available for a grant pursuant to section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318).

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $363,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $329,330,000; of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided,* That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Animal and Plant Health Inspection Service shall not be in excess of $400 annually: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious diseases or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: *Provided further,* That hereafter, the Secretary of Agriculture is authorized, except for urban rodent control, to conduct activities and to enter into agreements with States, local jurisdictions, individuals, and public and private agencies, organizations, and institutions in the control of nuisance mammals and birds and those mammal and bird species that are reservoirs for zoonotic diseases, and to deposit any money collected under any such agreement into the appropriation accounts that incur the costs to be available immediately and to remain available until expended for Animal Damage Control activities.

21 USC 129.

7 USC 426c.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $2,246,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $392,009,000: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $7,020,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $36,856,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services.

Agricultural Cooperative Service

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,611,000; of which $99,000 shall be available for a field office in Hawaii: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

Agricultural Marketing Service

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $32,409,000; of which not less than $1,591,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $30,628,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $7,601,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $942,000.

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,397,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $9,402,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses for the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $524,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, not to exceed $565,000,000, to be derived by transfer from the Commodity Credit Corporation fund: *Provided,* That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further,* That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C.

450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $95,000: *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided*, That this amount shall be transferred to the Commodity Credit Corporation: *Provided further*, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

CORPORATIONS

Contracts.

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $200,000,000: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $228,523,000.

COMMODITY CREDIT CORPORATION

OPERATING EXPENSES

Notwithstanding any other provision of law, for operating expenses as authorized by the Charter of the Commodity Credit Corporation (15 U.S.C. 714) to be available for financing the Corporation's programs and activities only as follows:

Deficiency payments, $6,116,000,000;
Export guarantee loan claims, $711,386,000;
Commodity purchases, $1,150,875,000;
Crop insurance, $200,000,000;
Storage and handling payments, $1,343,166,000;
Transportation of commodities, $185,464,000;
Processing and packaging of commodities, $105,065,000;
Producer storage payments, $609,801,000;
Loan collateral settlements, $142,236,000;

Whole herd buy out payments (dairy termination program), $218,000,000;

Interest payments to the United States Treasury, $1,468,860,000;

Working capital, $1,500,000,000;

Prior year losses, $1,422,400,000;

Other expenses, $5,292,046,000;

Operating expenses, $541,691,000;

Special activities (wool program), $126,108,000;

Support of advisory committees or commissions, including travel or per diem expenses, $560,000:[18]

Provided, That such provisions shall not interfere with the Commodity Credit Corporation's discharge of its corporate responsibilities: *Provided further*, That not to exceed 7 per centum of the funds made available for any program or activity may be transferred to another program or activity as provided by existing law: *Provided further*, That notwithstanding any other provision of law, the Commodity Credit Corporation shall pay an interest penalty, determined on the basis of the provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.), on the amount of all payments and price support loans which the Commodity Credit Corporation is obligated to make if payment is not made by the required payment date. This provision shall be applicable to all such payments for obligations incurred after January 1, 1988.

Effective date.

INCREASE IN BORROWING AUTHORITY

Section 4(i) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(i)) is amended by striking out "$25,000,000,000" and inserting in lieu thereof "$30,000,000,000".

Section 4 of the Act of March 8, 1938 (15 U.S.C. 713a-4) is amended by striking out "$25,000,000,000" and inserting in lieu thereof "$30,000,000,000".

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

---

[18] Copy read "$560,000;".

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $7,157,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager, of which up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

Reports.

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses for the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $440,000.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $1,844,990,000, of which not less than $1,794,420,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718).

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $275,310,000, to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided,* That of this amount not to exceed $109,918,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not less than $5,082,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further,* That $160,310,000 is available for expiring agreements and for servicing of existing units without agreements: *Provided further,* That agreements entered into or renewed during fiscal year 1988 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further,* That agreements entered into or renewed during fiscal years 1984, 1985, 1986, and 1987, may also be extended beyond five years to fully utilize amounts obligated.

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e), and 1490a(c)), including $2,185,000 as authorized by section 521(c) of the Act; $2,964,249,000. For an additional amount as authorized by section 521(c) of the Act such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund.

AGRICULTURAL CREDIT INSURANCE FUND

(INCLUDING TRANSFERS OF FUNDS)

For direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $505,000,000, of which $390,000,000 shall be guaranteed loans; $14,000,000 for water development, use, and conservation loans, of which $3,000,000 shall be guaranteed loans; operating loans, $3,300,000,000, of which $2,400,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; and for emergency insured and guaranteed loans, $600,000,000 to meet the needs resulting from natural disasters, of which $12,000,000 shall be transferred to the Commodity Credit Corporation for payments to be made to cover the difference between the partial payment and the amount of the full claim under provisions of the Farm Disaster Assistance Act of 1987 (Public Law 100-45): *Provided,* That notwithstanding any provision of law the Secretary shall execute and deliver a quit claim deed to Tennessee State University for approximately ninety acres obtained by foreclosure and recorded in book 233, page 56 of the register of deeds of Warren County, Tennessee.

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $3,627,153,000.

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural

Development Insurance Fund, as follows: insured water and sewer facility loans, $330,380,000; guaranteed industrial development loans, $95,700,000; and insured community facility loans, $95,700,000.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $842,682,000.

RURAL DEVELOPMENT LOAN FUND

For direct loans to intermediary borrowers, $14,000,000, as authorized under the Rural Development Loan Fund (42 U.S.C. 9812(a)), to be available from funds in the Rural Development Loan Fund, $6,500,000 and from funds transferred from the Rural Development Insurance Fund, $7,500,000: *Provided*, That such funds be made available within six months of enactment and that a priority be given applications serving rural communities in economic distress or from organizations experienced in administering rural economic development programs.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $109,395,000, to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $9,513,000.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,000,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $713,000

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $19,140,000.

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310(B)(c) (7 U.S.C. 1932) to any qualified public or private nonprofit organization, $6,500,000: *Provided,* That such funds shall be made available within six months of date of enactment and that a priority be given to applications from rural areas in economic distress or from organizations with previous experience in administering rural economic development programs: *Provided further,* That $3,000,000 shall be available for planning and construction costs in connection with establishment of a rural industrialization technology center in Pontotoc County, Oklahoma.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided,* That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, $407,634,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(a) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided,* That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further,* That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $2,675,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the

7 USC 1981a note.

Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided further,*[19] That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

CITY OF LINCOLN

The area within the present city limits of the city of Lincoln, Burleigh County, State of North Dakota, and the southeast quarter (SE¼) of section eighteen (18), township one hundred thirty-eight (138) north, range seventy-nine (79) west, Burleigh County, North Dakota, shall continue to be eligible for loans and payments administered by the Farmers Home Administration through the Rural Housing Insurance Fund.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1988 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1988, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

---

[19] Copy read "*Provided.*".

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), $327,675,000.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1988, and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,309,000.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $155,000: *Provided*, That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1988, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $30,713,000.

CONSERVATION

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $398,670,000, of which not less than $5,379,000 is for snow survey and water forecasting and not less than $4,856,000 is for operation and establishment of the plant materials centers: *Provided,* That of the foregoing amounts not less than $310,000,000 is for personnel compensation and benefits: *Provided further,* That the Chief of the Soil Conservation Service shall report directly to the Secretary of Agriculture: 16 USC 590e-1. *Provided further,* That the cost of any permanent building, purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* 16 USC 590e-2. That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2): *Provided further,* That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas, into a single national technical center.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006-1009), $12,051,000: *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), $8,651,000: *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, $165,873,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $3,500,000 shall be available for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That $7,949,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), $25,120,000: *Provided.* That $1,207,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,474,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q), and sections 1001-1004, 1006-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1504, 1506-1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $176,935,000, to remain available until expended (16 U.S.C. 590o) for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided*, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further*, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further*, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation

Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further,* That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further,* That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $11,891,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), $8,371,000, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $1,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out the purposes of section 202 of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $4,904,000, for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided*, That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further*, That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Conservation Reserve Program pursuant to the Food Security Act of 1985 (16 U.S.C. 3881-3845), $1,131,000,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices, for annual rental payments, and for technical assistance: *Provided*, That 4 per centum of the funds available for the conservation reserve program in this Act shall be transferred to the conservation operations account of the Soil Conservation Service for services of its technicians in carrying out the conservation programs of the Food Security Act of 1985: *Provided further*, That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land: *Provided further*, That funds appropriated by this Act for the Conservation Reserve Program shall be used to the extent necessary to reimburse fully the Commodity Credit Corporation for conservation reserve costs financed by the Corporation during the period of the Continuing Resolutions, Public Laws 100-120 and 100-162.

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $365,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1769b, except 1766(i)), and the applicable provisions other than sections 3, 17, 18, and 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1788-1789); $4,497,629,000, to remain available through September 30, 1989, of which $679,826,000 is hereby appropriated and $3,817,803,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further,* That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

42 USC 1776a.

42 USC 1776b.

Reports.

SPECIAL MILK PROGRAM

For necessary expenses, to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $21,500,000, to remain available through September 30, 1989. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

Reports.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $1,802,363,000, to remain available through September 30, 1989.

STUDY OF MEDICAID SAVINGS FOR NEWBORNS FROM WIC PROGRAM

42 USC 1786 note.

(a) STUDY.—The Secretary of Agriculture shall conduct a national study of savings in the amount of assistance provided to families with newborns under State plans for medical assistance approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and State indigent health care programs, during the first 60-day period after birth, as the result of the prenatal participation of mothers in the special supplemental food program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(b) REPORT.—Not later than February 1, 1990, the Secretary shall submit to Congress a report that describes the results of the study conducted under subsection (a).

(c) FUNDING.—This section shall be carried out using funds made available under section 17(g)(3) of the Child Nutrition Act of 1966.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $50,000,000: *Provided,* That funds available above those needed to serve 145,000 women, infants, and children and 80,000 elderly persons in States operating projects in 1987 shall be used to fund additional women, infants, and children in projects in States without projects in 1987: *Provided further,* That funds provided herein shall remain available through September 30, 1989: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2028, 2029), $13,557,757,000: *Provided,* That funds provided herein shall remain available through September 30, 1988 in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further,* That $879,250,000 of the foregoing amount shall be available for Nutrition Assistance for Puertc Rico as authorized by 7 U.S.C. 2028.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section

4(b) of the Food Stamp Act (7 U.S.C. 2013), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a(a)), $194,108,000.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided*, That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $85,828,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $8,623,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $92,017,000: *Provided*, That not less than $255,000 of this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis: *Provided further*, That, hereafter, notwithstanding any other provision of law, upon the request of the Secretary of Agriculture, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Foreign Agricultural Service Officer assigned to any United States mission abroad: *Provided further*, That the number of Agricultural Counselors accorded such diplomatic title at any time shall not exceed eight: *Provided further*, That funds available to the Foreign Agricultural Service under this and subsequent appropriations Acts

7 USC 1762 note.

Contracts.
7 USC 1762 note.

shall be available to contract with individuals for services to be performed outside the United States as determined by the Service to be necessary or appropriate for carrying out programs and activities abroad. Such individuals shall not be regarded as officers or employees of the United States under any law, including any law administered by the Office of Personnel Management.

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $852,000,000, of which $429,596,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales, carryover balances and commodities made available from the inventories of the Commodity Credit Corporation by the Secretary of Agriculture pursuant to sections 102 and 403(b) of said Act, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $630,000,000, of which $630,000,000 is hereby appropriated: *Provided,* That not to exceed 10 per centum of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $5,295,000: *Provided,* That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581-3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further,* That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b) (1), (3)), $1,500,000: *Provided*, That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further*, That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further*, That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $450,504,000: *Provided*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $1,450,000.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $25,612,000: *Provided*, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $32,813,000, including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Notwithstanding any provision of The Farm Credit Act Amendments of 1987 (H.R. 3030), or any similar bill, if enacted into law, not to exceed $35,000,000 (from assessments collected from farm credit system banks), of which not to exceed $1,500 shall be available for official reception and representation expenses, shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249.

TITLE VI—GENERAL PROVISIONS

Contracts.
Public information

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1988 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed seven hundred and fifty-four (754) passenger motor vehicles, of which seven hundred and forty-six (746) shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefore as authorized by law (5 U.S.C. 5901-5902).

7 USC 1623a.

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621-1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided*, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, $4,500,000 for the contingency fund to meet emergency conditions, and buildings and facilities; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Rural Housing for Domestic Farm Labor; Agricultural Research Service, buildings and facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $5,000,000 for the grasshopper and Mormon cricket control program, Animal and Plant Health Inspection Service; $2,852,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C. 3152(a)(3)(B)); and buildings and facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise full utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural

Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

Grants.
Contracts.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

7 USC 612c note.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

Reports.

SEC. 620. During fiscal year 1988, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1987 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act.

SEC. 622. In fiscal year 1988, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this or any other Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

Contracts.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

Contracts.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided,* That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further,* That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further,* That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 631. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

Loans.
42 USC 1479 note.

SEC. 632. During fiscal year 1988 and each succeeding fiscal year, the Secretary of Agriculture shall permit each district office of the Farmers Home Administration to exempt any existing dwelling from any limitation established by the Secretary on the number of square feet of living area that may be contained in a dwelling to be eligible for a loan under section 502 of the Housing Act of 1949, if the dwelling is modest in design, size, and cost for the area in which it is located.

7 USC 936a note.

SEC. 633. Hereafter, notwithstanding section 306A (c), (d), and (e) of the Rural Electrification Act of 1936, as amended, a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A (a) and (b) of such Act: *Provided*, That any prepayment in excess of $2,500,000,000 shall be subject to the approval of the Secretary of the Treasury.

SEC. 634. None of the funds appropriated in this Act or any other Act shall be used to alter the method of computing normalized prices for agricultural commodities for use by any Federal agency in evaluating water resources development projects to be undertaken in whole or in part with Federal funds that was in effect as of January 1, 1986.

SEC. 635. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund.

7 USC 1932 note.

SEC. 636. (a) Section 1323(a)(1) of the Food Security Act of 1985 is amended by striking out "For the fiscal year ending September 30, 1987" and inserting in lieu thereof "Prior to September 30, 1988".[20]

(b) Section 1323(a)(5) of such Act is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1988".[21]

(c) Section 1323(b)(1) of such Act is amended by striking out "For the fiscal year ending September 30, 1987" and inserting in lieu thereof "Prior to September 30, 1988".

SEC. 637. $10,000,000 of section 32 funds shall be used to purchase sunflower oil, such purchases to facilitate additional sales of sunflower oil in World Markets at competitive prices, so as to compete with other countries in fiscal years 1988 and 1989.

SEC. 638. Section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)) is amended—

(1) in subparagraph (A) by striking out "During the period beginning on April 1, 1986, and ending on September 30, 1987," and inserting in lieu thereof "Beginning after March 31, 1986,";

(2) in subparagraph (B) by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraphs (E) and (F)"; and

(3) by adding at the end thereof the following new subparagraph:

"(F)(i) The Secretary—

"(I) notwithstanding the Balanced Budget and Emergency Deficit Control Act of 1985 and any order issued by the President under section 252 of such Act for a fiscal year; and

"(II) in lieu of making any reduction in payments for the purchase of milk or the products of milk under this subsection during such fiscal year under any such order;

shall provide for the reduction (measured in cents per hundredweight of milk marketed) under subparagraph (A) during the period beginning on October 1 and ending on September 30 of such fiscal year as the sole means of achieving any reduction in budget outlays under the milk price-support program that otherwise would be required under either such order and only for the purpose of substituting for any reduction in payments made by the Secretary for the purchase of milk or the products of milk under either such order.

"(ii) The aggregate amount of any reduction under subparagraph (A) resulting from the operation of clause (i) may not exceed the aggregate amount of the reduction in budget outlays under the milk price-support program, as estimated by the Secretary, that otherwise would have been achieved under either such order by reducing payments made by the Secretary for the purchase of milk or the products of milk under this subsection during such fiscal year.".

---

[20] Copy read "1988', and".

[21] Copy read "1988' and".

SEC. 639. Section 1581(b) of the Food Security Act of 1985 (Public Law 99-198) is amended by striking out "June 30, 1987," and inserting in lieu thereof "June 30, 1988,".

99 Stat. 1594.

This Act may be cited as the "Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988".

(l) Such amounts as may be necessary for programs, projects, or activities provided for in the Department of Transportation and Related Agencies Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

AN ACT

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

Department of Transportation and Related Agencies Appropriations Act, 1988.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed $30,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine; $1,050,000 for the Immediate Office of the Secretary; $451,000 for the Immediate Office of the Deputy Secretary; $5,785,000 for the Office of the General Counsel; $7,796,000 for the Office of the Assistant Secretary for Policy and International Affairs; $2,105,000 for the Office of the Assistant Secretary for Budget and Programs; $2,367,000 for the Office of the Assistant Secretary for Governmental Affairs; $22,099,000, of which $15,360,000 shall be derived from unobligated balances of "Payments to air carriers", for the Office of the Assistant Secretary for Administration; $1,459,000 for the Office of the Assistant Secretary for Public Affairs; $798,000 for the Executive Secretariat; $430,000 for the Contract Appeals Board; $1,244,000 for the Office of Civil Rights; $384,000 for the Office of Commercial Space Transportation; $1,700,000 for the Office of Essential Air Service; $642,000 for Regional Representatives; and $3,042,000 for the Office of Small and Disadvantaged Business Utilization, of which $2,229,000 shall remain available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: *Provided*, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation: *Provided further*, That 5 per centum of each sum provided under this head for the Immediate Office of the Secretary, the Immediate Office of the Deputy Secretary, and the Office of the

General Counsel shall not be available for obligation until on or after the date that final rules are issued by the Department of Transportation that: (1) expand existing requirements for installation and carriage of cockpit voice recorders and flight data recorders to smaller sizes of commuter air carrier aircraft and to require cockpit voice recorder and flight data recorder retrofits on certain types of existing commuter air carrier aircraft to be determined by the Federal Aviation Administration; and (2) require installation and carriage of operating altitude-encoding radar transponders for all aircraft operating in terminal airspace where air traffic control service is provided and in all controlled airspace above a minimum altitude to be determined by the Federal Aviation Administration.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

(TRANSFERS OF FUNDS)

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $4,987,000 of which $4,750,000, shall be derived from "Payments to air carriers" and $237,000 shall be derived from "Expressway gap closing demonstration project".

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $127,801,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriation Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation; for necessary expenses associated with the development of the Department-wide Accounting and Information System, $1,601,000, to remain available until expended; and for the Department of Transportation office space reduction initiative, $204,000.

PAYMENTS TO AIR CARRIERS

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $28,500,000, to remain available until expended.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; and recreation and welfare, $1,789,106,000, of which $21,600,000 shall be expended from the Boat Safety Account: *Provided*, That, of the funds available under this head, not less than $429,120,000 shall be available for drug enforcement activities: *Provided further*, That the number of aircraft on hand at any one time shall not exceed two hundred and fourteen, exclusive of planes and parts stored to meet future attri-

14 USC 92 note.

tion: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109 except to the extent fees are collected from yacht owners and credited to this appropriation.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

10 USC 2304 note.
Regulations.
Contracts.

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, to remain available until September 30, 1992, $247,000,000: *Provided,* That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: *Provided further,* That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: *Provided further,* That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries of the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: *Provided further,* That the requirements for such written warranties shall not cover combat damage.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $940,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C., ch. 55), $386,700,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $62,880,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for basic and applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $19,000,000, to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources and foreign countries, for expenses incurred for research, development, testing, and evaluation.

OFFSHORE OIL POLLUTION COMPENSATION FUND

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary to the extent that appropriations are not adequate to meet the obligations of the Fund: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $57,000,000 in fiscal year 1988 for the "Offshore Oil Pollution Compensation Fund".

DEEPWATER PORT LIABILITY FUND

33 USC 1517a.

The Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary to the extent that available appropriations are not adequate to meet the obligations of the Fund: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $47,500,000 in fiscal year 1988 for the "Deepwater Port Liability Fund".

BOAT SAFETY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred for recreational boating safety assistance under Public Law 92-75, as amended, $22,500,000, to be derived from the Boat Safety Account and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $21,375,000 in fiscal year 1988 for recreational boating safety assistance.

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Federal Aviation Administration, including but not limited to accounting, budgeting, legal, public affairs, and executive direction services for the Federal Aviation Administration, $35,520,000.

OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, purchase of four passenger motor vehicles for replacement only, $3,148,520,000, of which not to exceed $825,955,000 shall be derived from the Airport and Airway Trust Fund: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: *Provided further,* That none of these funds shall be available for new applicants for the second career training program or for a pilot test of contractor maintenance: *Provided further,* That the immediately preceding proviso shall not prohibit the augmentation of the existing field maintenance work force if it is determined to be essential for the safe operation of the air traffic control system: *Provided further,* That section 5532(f)(2) of title V, United States Code, is amended by striking "December 31, 1987" and inserting "December 31, 1988" in lieu thereof: *Provided further,* That section 8344(h) of title V, United States Code, is amended by striking "April 1, 1986" in paragraph (2) and inserting "December 31, 1986" in lieu thereof: *Provided further,* That in the event that the Federal Aviation Administrator employs annuitants subject to section 8344(h) of title V, United States Code, not to exceed $9,700,000, to be derived from the unobligated balance of any appropriation available for obligation by the Federal Aviation Administration as of the effective date of this Act, shall be available through December 31, 1988, for the purpose of funding such employment: *Provided further,* That any such funding shall be reported to the Committees on Appropriations of the Senate and the House of Representatives.

Reports.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the lease or purchase of one aircraft; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1992, $1,108,056,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further,* That of the funds available under this head, $5,225,000 shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges having an airway science curriculum recognized by the Federal Aviation Administration, to conduct demonstration projects in the development, advancement, or expansion of airway science curriculum programs, and such funds, which shall remain available until expended, shall be made available under such terms and conditions as the Secretary of Transportation may prescribe, to such universities or colleges for the purchase or lease of buildings and associated facilities, instructional materials, or equipment to be used in conjunction with airway science curriculum programs, but, notwithstanding any other provision of law, beginning in fiscal year 1989 and thereafter, in no event shall the total Federal share provided for any airway science construction project exceed 50 percent of the total cost of such project.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, $153,425,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $1,063,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,268,725,000 in fiscal year 1988 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

49 USC app. 1324 note.

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). None of the funds in this Act shall be available for the implementation or execution of programs under this head, the obligations for which are in excess of $57,000,000 during fiscal year 1988. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

FEDERAL HIGHWAY ADMINISTRATION

Limitation on General Operating Expenses

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $206,736,000, shall be paid, in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided*, That not to exceed $37,566,000 of the amount provided herein shall remain available until expended: *Provided further*, That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities and private sources, for training expenses incurred for non-Federal employees.

Highway Safety Research and Development

(Highway Trust Fund)

For necessary expenses in carrying out provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $6,650,000.

Highway-Related Safety Grants

(Liquidation of Contract Authorization)

(Highway Trust Fund)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $9,900,000, to be derived from the Highway Trust Fund: *Provided*, That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $9,405,000 in fiscal year 1988 for "Highway-related safety grants".

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $7,790,000, of which $5,193,333 shall be derived from the Highway Trust Fund.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

23 USC 104 note.

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $11,780,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1988.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $13,400,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

During fiscal year 1988 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $45,457,000.

MOTOR CARRIER SAFETY

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939–940), $22,790,000, of which $1,920,000 shall remain available until expended, and not to exceed $300,000 shall be available for "Limitation on general operating expenses".

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97-424, $50,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $46,992,000 for "Motor carrier safety grants".

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

Notwithstanding any other provision of law, there is appropriated $1,786,000 for necessary expenses of certain access highway projects, as authorized by section 155, title 23, United States Code, to remain available until expended.

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970, for the Baltimore-Washington Parkway, to remain available until expended, $14,250,000, to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary.

WASTE ISOLATION PILOT PROJECT ROADS

For necessary expenses in connection with the upgrading of certain highways for the transportation of nuclear waste generated during defense-related activities, not otherwise provided for, $15,504,000, to remain available until expended.

EXPRESSWAY GAP CLOSING DEMONSTRATION PROJECT

For necessary expenses to carry out a highway construction project along State Route 113 in north-central California that demonstrates methods of reducing motor vehicle congestion and increasing employment, $7,885,000, to remain available until expended.

INTERMODAL URBAN DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, $9,500,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

For necessary expenses to carry out construction projects as authorized by Public Law 99-500 and Public Law 99-591, $9,500,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That, notwithstanding any other provision of law, funds appropriated for this project shall not be included in any calculations made under section 157 of title 23, United States Code, for fiscal year 1988 and each fiscal year thereafter.

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway improvements in the vicinity of Pontiac and East Lansing, Michigan, that demonstrates methods of enhancing safety and promoting economic development through widening and resurfacing of highways on the Federal-aid primary system and on roads on the Federal-aid urban system, as authorized by Public Law 99-500 and Public Law 99-591, $1,900,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway-railroad grade crossing separations in Mineola, New York, that demonstrates methods of enhancing highway-railroad grade crossing safety while minimizing surrounding environmental effects, as authorized by Public Law 99-500 and Public Law 99-591, $9,500,000, to be derived from the Highway Trust Fund and to remain available until expended.

BRIDGE IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project in the vicinity of Jacksonville, Florida, for the purpose of demonstrating methods of reducing traffic congestion and improving efficiency in the trans-shipment of military and civilian cargo, by construction of a bridge to Blount Island, widening State Highway 105 (Heckscher Drive) and constructing an interchange at the intersection of Heckscher Drive and the new Blount Island Bridge, $4,750,000, to remain available until expended.

VEHICULAR AND PEDESTRIAN SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a demonstration of methods of improving vehicular and pedestrian safety on roads on the Federal-aid urban and Federal-aid secondary systems, involving Route 66 in Northampton and Huntington, Massachusetts, $6,650,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

HIGHWAY BRIDGE RELOCATION DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project involving the relocation of U.S. Highway 101 and the Queets River Bridge in the State of Washington that demonstrates methods of improving highway safety, $2,470,000, to remain available until expended.

HIGHWAY BYPASS DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project in the vicinity of Prunedale, California, that demonstrates methods of accelerating the environmental studies and preliminary engineering for the construction of a highway bypass, $1,900,000, to remain available until expended.

HIGHWAY WIDENING AND IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project between Paintsville and Prestonsburg, Kentucky, that demonstrates the safety and economic benefits of widening and improving highways in mountainous areas, $2,375,000, to remain available until expended.

CORRIDOR SAFETY IMPROVEMENT PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a demonstration of methods of improving vehicular and pedestrian safety on roads on the Federal-aid primary and Federal-aid secondary systems, involving Route 1 in New Jersey, there is hereby authorized to be appropriated $50,000,000, to be derived from the Highway Trust Fund and to remain available until expended, of which $4,702,000 is hereby appropriated and to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

BRIDGE CAPACITY IMPROVEMENTS

(HIGHWAY TRUST FUND)

For the purpose of carrying out the Nashua River Bridge and Broad Street Parkway project in Nashua, New Hampshire, that crosses the Nashua River, there is hereby authorized to be appropriated $8,000,000, to be derived from the Highway Trust Fund and to remain available until expended, of which $237,000 is hereby appropriated, to remain available until expended. All funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

TRAFFIC IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway bypass project in the vicinity of Petoskey, Michigan, that demonstrates methods of improving economic development and regional transportation, there is authorized to be appropriated $28,000,000, to remain available until expended, of which $475,000 is hereby appropriated, to remain available until expended: *Provided*, That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended), and the National Traffic and Motor Vehicle Safety Act, $62,534,000, of which $29,331,000 shall remain available until expended: *Provided*, That, of the funds available under this head, $6,480,000 shall be available to implement the recommendations of the 1985 National Academy of Sciences report on trauma research.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under chapter 4, title 23, United States Code, to be derived from the Highway Trust Fund, $30,346,000, to remain available until expended: *Provided*, That, of the funds available under this head, $1,680,000 shall be available for light truck and van safety research and analysis.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 402, 406, and 408, and section 209 of Public Law 95-599, as amended, to remain available until expended, $135,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $114,950,000 in fiscal year 1988 for "State and community highway safety grants" authorized under 23 U.S.C. 402: *Provided further*, That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $13,533,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: *Provided further*, That not to exceed

$4,656,000 shall be available for administering the provisions of 23 U.S.C. 402: *Provided further,* That notwithstanding any other provision of law, none of the funds in this Act shall be available for the planning or execution of programs authorized under section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $4,750,000 in fiscal years 1982, 1983, 1984, 1985, 1986, 1987, and 1988.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $22,877,000, together with $1,900,000 to be derived from unobligated balances of "Airport access demonstration project", of which $15,024,000 shall remain available until expended; and in addition, all unexpended balances in "Rail service assistance" after September 30, 1987, shall be transferred to this account, to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further,* That none of the funds in this Act shall be available for the acquisition, sale, or transference of Washington Union Station without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives: *Provided further,* That, notwithstanding any other provision of law, of the funds available under this head, $9,600,000 shall be available for necessary expenses for rail assistance authorized by section 5(q) of the Department of Transportation Act, as amended, to remain available until expended: *Provided further,* That $7,200,000 of the fiscal year 1988 funds made available under section 5(h) shall be made available for use directly under sections 5(h)(3)(B)(ii) and 5(h)(3)(C) of the Department of Transportation Act, as amended, notwithstanding any provisions therein to the contrary: *Provided further,* That each State shall be entitled to, and no more than, $48,000 under the combined provisions of section 5(h)(2) and section 5(i), notwithstanding any provisions therein to the contrary: *Provided further,* That no State may apply for fiscal year 1988 funds available under section 5(h)(2) until such State has obligated all funds granted to it under section 5(h)(2) in the fiscal years prior to the beginning of fiscal year 1983, other than funds not expended due to pending litigation: *Provided further,* That a State denied funding by reason of the preceding proviso may still apply for and receive funds for planning purposes.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $27,968,000, of which $2,090,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $9,286,000, to remain available until expended.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for improvements to the Communication and Signal Systems at locations between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg line; improvements to the Electric Traction System between Wilmington, Delaware, and Newark, New Jersey; installation of baggage rack restraints, seat back guards and seat lock devices on 348 passenger cars operating within the Northeast Corridor; installation of 44 event recorders and 10 electronic warning devices on locomotives operating within the Northeast Corridor; acquisition of cab signal test boxes and installation of 9 wayside loop code transmitters for use on the Northeast Corridor; North Philadelphia Station platform refurbishments, building renovations, and site improvements; and necessary mechanical, electrical, and structural repair work on the North Tunnel; $26,600,000, together with $950,000 to be derived from unobligated balances of "Airport access demonstration project", to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $580,800,000: *Provided,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further,* That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1988: *Provided further,* That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements prohibited by this Act or not expressly provided for in an appropriation Act shall be deemed a violation of 31 U.S.C. 1341: *Provided further,* That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): *Provided further,* That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Federal sources: *Provided further,* That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short term avoidable costs of operating such service in the first year of operation and 100 per centum of the short term avoidable operating costs for each year thereafter: *Provided further,* That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Amtrak sources.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided,* That no new loan guarantee commitments shall be made during fiscal year 1988: *Provided further,* That, notwithstanding any other provision of law, the Secretary of Transportation shall sell all securities or promissory notes held by the Department of Transportation under authority of sections 502, 505-507, 509, and 511-513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended: *Provided further,* That such securities or promissory notes authorized to be sold in the immediately preceding proviso shall be sold only for amounts greater than or equal to the net present value to the Government of each loan as determined by the Secretary of Transportation in consultation with the Secretary of the Treasury: *Provided further,* That the Secretary of Transportation shall transmit a written certification to the Committees on Appropriations of the Senate and House of Representatives for approval before the consummation of each sale certifying that the amount to be realized is equal to or greater than the net present value to the Government of each loan: *Provided further,* That, notwithstanding any other provision of law, all amounts realized from the sale of notes or securities sold under authority of this section shall be considered as domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SETTLEMENTS OF RAILROAD LITIGATION

For the settlement of promissory notes pursuant to section 210(f) of the Regional Rail Reorganization Act of 1973 (Public Law 93-236), as amended, $38,950,246, to be derived from the proceeds of settlements of railroad litigation, to remain available until expended.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $31,882,000, of which not to exceed $600,000 shall be available for the Office of the Administrator.

RESEARCH, TRAINING, AND HUMAN RESOURCES

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $12,217,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for training.

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,731,703,000, together with $4,750,000 to carry out the provisions of section 18(h) of the Urban Mass Transportation Act, as amended, to remain available until expended: *Provided,* That notwithstanding any other provision of law, before apportionment of these funds, $12,350,000 shall be made available for the purposes of section 18 of the Urban Mass Transportation Act of 1964, as amended: *Provided further,* That, notwithstanding any other provision of law, of the funds provided under this Act for formula grants, no more than $804,691,892 may be used for operating assistance under section 9(k)(2) of the Urban Mass Transportation Act of 1964, as amended.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,130,500,000, in fiscal year 1988 for grants under the contract authority authorized in section 21 (a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21 (a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $1,100,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $123,500,000, to remain available until expended.

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, $180,500,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Contracts.

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year except as hereinafter provided in the "Limitation on administrative expenses".

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $2,016,000 shall be available for administrative expenses, which shall be computed on an accrual basis, including not to exceed $3,000 for official entertainment expenses to be expended upon the approval or authority of the Secretary of Transportation: *Provided*, That Corporation funds shall be available for the hire of passenger motor vehicles and aircraft, operation and maintenance of aircraft, uniforms or allowances therefor for operation and maintenance personnel, as authorized by law (5 U.S.C. 5901-5902), and $15,000 shall be available for services as authorized by 5 U.S.C. 3109.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $10,806,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, and for expenses for conducting research and development, $12,832,000, of which $1,939,000 shall remain available until expended: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, $8,550,000, to be derived from the Pipeline Safety Fund, of which $4,892,000 shall remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $27,898,000.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $1,891,000.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), $24,000,000, of which not to exceed $500 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $44,294,000: *Provided*, That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such.

49 USC 1034u note.

PAYMENTS FOR DIRECTED RAIL SERVICE

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $475,000 for directed rail service authorized under 49 U.S.C. 11125 or any other Act.

PANAMA CANAL COMMISSION

OPERATING EXPENSES

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); not to exceed $10,000 for official reception and representation expenses of the Board; operation of guide services; residence for the Administrator, disbursements by the Administrator for employee and community projects; not to exceed $4,000 for official reception and representation expenses of the Secretary; not to exceed $25,000 for official reception and representation expenses of the Administrator; and to employ services as authorized by law (5 U.S.C. 3109); $407,088,000, to be derived from the Panama Canal Commission Fund: *Provided*, That there may be credited to this appropriation funds received from the Panama Canal Commission's capital outlay account for expenses incurred for supplies and services provided for capital projects.

CAPITAL OUTLAY

For acquisition, construction, replacement, and improvement of facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed 42 passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $14,000 per vehicle); and to employ services authorized by law (5 U.S.C. 3109); $33,715,000, to be derived from the Panama Canal Commission Fund and to remain available until expended.

DEPARTMENT OF THE TREASURY

REBATE OF SAINT LAWRENCE SEAWAY TOLLS

(HARBOR MAINTENANCE TRUST FUND)

For rebate of the United States' portion of tolls paid for use of the St. Lawrence Seaway, pursuant to Public Law 99-662, $9,880,000, to remain available until expended and to be derived from the Harbor Maintenance Trust Fund, of which not to exceed $285,000 shall be available for expenses of administering the rebates.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $49,080,000: *Provided,* That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

TITLE III—GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. Funds appropriated for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

20 USC 241 note.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 305. None of the funds appropriated in this Act for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year nor may any be transferred to other appropriations unless expressly so provided herein.

SEC. 308. None of the funds in this or any previous or subsequent Act shall be available for the planning or implementation of any change in the current Federal status of the Transportation Systems Center; and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 310. (a) For fiscal year 1988 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to all the States for such fiscal year. 23 USC 104 note.

(b) During the period October 1 through December 31, 1987, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction that have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1988, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highway program, the strategic highway research program and amounts made available under sections 149(d), 158, 159, 164, 165, and 167 of Public Law 100-17.

(d) The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1988 shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, obligations under section 157 of title 23, United States Code, projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of

1968, section 320 of title 23, United States Code, projects authorized by Public Law 99-500 and Public Law 99-591, or projects covered under subsections 149 (b) and (c) of Public Law 100-17.

(e) Subject to paragraph (c)(2) of this General Provision, a State which after August 1 and on or before September 30 of fiscal year 1988 obligates the amount distributed to such State in that fiscal year under paragraphs (a) and (c) of this General Provision may obligate for Federal-aid highways and highway safety construction on or before September 30, 1988, an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 104(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.[22]

(f) During the period August 2 through September 30, 1988, the aggregate amount which may be obligated by all States pursuant to paragraph (e) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 104(e)(4) of such title,

which would not be obligated in fiscal year 1988 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.[23]

(g) Paragraph (e) shall not apply to any State which on or after August 1, 1988, has the amount distributed to such State under paragraph (a) for fiscal year 1988 reduced under paragraph (c)(2).

SEC. 311. None of the funds in this Act shall be available for salaries and expenses of more than one hundred thirty-eight political and Presidential appointees in the Department of Transportation.

SEC. 312. Not to exceed $665,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 313. None of the funds in this or any other Act shall be made available for the proposed Woodward light rail line in the Detroit, Michigan[24] area until a source of operating funds has been approved in accordance with Michigan law: *Provided,* That this limitation shall not apply to alternatives analysis studies under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended.

Grants.
49 USC app. 1617 note.

SEC. 314. The limitation on obligations for the Discretionary Grants program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation.

SEC. 315. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of, or any other costs related to, the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan.

---

[22] Copy read "distributed;".

[23] Copy read "utilized; and".

[24] Copy read "Michigan, area".

SEC. 316. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

Reports.
49 USC 308 note.

SEC. 317. (a) SAFETY ENFORCEMENT PROGRAM PERFORMANCE.—The Secretary of Transportation shall on or before January 1 of each year transmit to the Congress a comprehensive report on the Federal Aviation Administration's prior fiscal year safety enforcement activities. The report shall include:

(1) a comparison of end-of-year staffing levels by inspector category (operations, maintenance, avionics) to staffing goals and a statement as to how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors, by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate Federal regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs disaggregated to the field locations and, for any field location completing less than 80 percent of its planned number of inspections, an explanation as to why annual work program plans were not met;

(6) a statement of the adequacy of Federal Aviation Administration internal management controls available to ensure that field managers are complying with Federal Aviation Administration policies and procedures including those regarding inspector priorities, district office coordination, minimum inspection standards, and inspection follow-up;

Regulations.

(7) the status of the Federal Aviation Administration's efforts to update inspector guidance documents and Federal regulations to include technological, management, and structural changes taking place within the aviation industry, including a listing of the backlog of all proposed regulatory changes;

(8) a list of the specific operational measures of effectiveness—"best proxies" standing between the ultimate goal of accident prevention and ongoing program activities—that are being used to evaluate progress in meeting program objectives, the quality of program delivery, and the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the two prior fiscal years, including total initial assessments, total final assessments, total dollar amount collected, range of dollar amount collected, average case processing time, and range of case processing time;

(10) a schedule showing the number of enforcement actions taken, excluding civil penalties, during the two prior fiscal years, including total number of violations cited, and the number of cited violation cases closed by certificate suspension, certification revocations, warnings, and no action taken; and

(11) schedules showing the aviation industry's safety record during the fiscal year for air carriers and general aviation, including the number of inspections performed where deficiencies were identified compared with inspections where no deficiencies were found and the frequency of safety deficiencies per carrier as well as an analysis based on the data of the general status of air carrier and general aviation compliance with Federal Aviation Regulations.

49 USC 301 note.

(b) LONG-RANGE NATIONAL TRANSPORTATION STRATEGIC PLANNING STUDY.—The Department of Transportation shall undertake a long-range, multi-modal national transportation strategic planning study. This study shall forecast long-term needs and costs for developing and maintaining facilities and services to achieve a desired national transportation program for moving people and goods in the year 2015. The study shall include detailed analyses of transportation needs within six to nine metropolitan areas that have diverse population, development, and demographic patterns, including at least one interstate metropolitan area. This study shall be submitted to Congress on or before October 1, 1989.

Federal Register, publication. Grants.

SEC. 318. Within seven calendar days of the obligation date, the Urban Mass Transportation Administration shall publish in the Federal Register an announcement of each grant obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended, including the grant number, the grant amount, and the transit property receiving each grant.

SEC. 319. None of the funds appropriated in this Act may be used to prescribe, implement, or enforce a national policy specifying that only a single type of visual glideslope indicator can be funded under the facilities and equipment account or through the airport improvement program: *Provided*, That this prohibition shall not apply in the case of airports that are certified under part 139 of the Federal Aviation Regulations.

49 USC app. 1348 note.

SEC. 320. (a) The Federal Aviation Administration shall satisfy the following air traffic controller work force staffing requirements by September 30, 1988:

(1) total air traffic controller work force level of not less than 15,900;

(2) total full performance level air traffic controllers of not less than 10,450; and

(3) at least 70 percent of the air traffic controller work force, excluding common screen students, at each center and level 3 and above terminal shall have achieved operational controller status.

(b) The Secretary may waive any requirement of this section by certifying that such requirement would adversely affect aviation safety: *Provided*, That such a waiver shall become effective 30 days after the Committees on Appropriations of the Senate and the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirement.

Contracts.

SEC. 321. Notwithstanding any other provision of law, funds appropriated in this or any other Act intended for studies, reports, or research, and related costs thereof including necessary capital expenses, are available for such purposes to be conducted through contracts or financial assistance agreements with the educational institutions that are specified in such Acts or in any report accompanying such Acts.

SEC. 322. The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail Project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

SEC. 323. Notwithstanding any provision of this or any other law, none of the funds provided by this Act for appropriation shall be available for payment to the General Services Administration for rental space and services at rates per square foot in excess of 100 percent of the rates paid during fiscal year 1987; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1987 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act.

SEC. 324. Notwithstanding any other provision of law, section 144(g)(2) of title 23, United States Code, shall not apply to the Virginia Street Bridge in Charleston, West Virginia.

SEC. 325. The portion of Oklahoma State Route 99 between the United States Highway 377 and Interstate Route I-44 which portion is on the Federal-aid primary system shall hereafter be designated as "United States Highway 377". Any reference in a law, map, regulation, document, record or other paper of the United States to such highway shall be held to be a reference to "United States Highway 377".

Regulations.

SEC. 326. Within 12 months of enactment, the Federal Aviation Administration shall adopt regulations requiring the installation and carriage of operating automatic altitude reporting equipment for all aircraft operating in terminal airspace where air traffic control radar service is provided, and in all controlled airspace above a minimum altitude to be determined by the Federal Aviation Administration. This regulation shall be effective on the earliest feasible date.

SEC. 327. None of the funds appropriated or made available by this Act or any other Act shall be made available to the New York Metropolitan Transportation Authority unless, within 90 days after the date of enactment of this Act, such authority prohibits all smoking on the Long Island Railroad.

49 USC app. 1374.

SEC. 328. (a) Section 404 of the Federal Aviation Act of 1958 (49 U.S.C. 1374) is amended by adding at the end thereof the following subsection:

"PROHIBITION AGAINST SMOKING ON SCHEDULED FLIGHTS AND TAMPERING WITH SMOKE ALARM DEVICES

"(d)(1)(A) On and after the date of expiration of the 4-month period following the date of the enactment of this subsection, it shall be unlawful to smoke in the passenger cabin or lavatory on any scheduled airline flight in intrastate, interstate, or overseas air transportation, if such flight is scheduled for 2 hours or less in duration.

Regulations.

"(B) The Secretary of Transportation shall issue such regulations as may be necessary to carry out the provisions of this subsection.

"(C) The provisions of paragraph (1) of this subsection are repealed effective on the expiration of the 28-month period following the date of enactment of this subsection.

"(2) Any passenger who tampers with, disables, or destroys any smoke alarm device located in any lavatory aboard an aircraft engaged in air transportation or intrastate air transportation shall be subject to a civil penalty in accordance with section 901, except that such civil penalty may be imposed in an amount up to $2,000.".

(b) That portion of the table of contents of the Federal Aviation Act of 1958 under the heading:

"Sec. 404. Rates for carriage of persons and property; duty to provide service, rates, and divisions; foreign air transportation rates; discrimination;"

is amended by adding at the end thereof the following:

"(d) Prohibition against smoking on scheduled flights and tampering with smoke alarm devices.".

DEMONSTRATION PROGRAM FOR SIXTY-FIVE MPH SPEED LIMIT

23 USC 154 note.

SEC. 329. (a) Any project approval under section 106 of title 23, United States Code, shall not be withheld under sections 154(a) and 141(a) of title 23, United States Code, in fiscal years 1988, 1989, 1990, and 1991 with respect to a highway located in a State eligible under subsection (b), having a maximum speed limit of not more than sixty-five miles per hour and located outside an urbanized area of fifty thousand population, which is—

(1) constructed to interstate standards in accordance with section 109(b) of title 23, United States Code and connected to an Interstate highway posted at sixty-five miles per hour;

(2) a divided four-lane fully controlled access highway designed or constructed to connect to an Interstate highway posted at sixty-five miles per hour and constructed to design and construction standards as determined by the Secretary of Transportation which provide a facility adequate for a speed limit of sixty-five miles per hour; or

(3) constructed to the geometric and construction standards adequate for current and probable future traffic demands and for the needs of the locality and is designated by the Secretary of Transportation as part of the Interstate System in accordance with section 139(c) of title 23, United States Code.

(b) Participation in the demonstration program authorized by this section is available only to the first twenty States that post maximum speed limits of sixty-five miles per hour before July 1, 1988, in accordance with the requirements of subsection (a).

49 USC app. 1613 note.

SEC. 330. Sums authorized under section 17(f) of the Urban Mass Transportation Act, as amended, shall also be used to cover costs incurred since 1978 by such States, bodies, and agencies as a result of the discontinuation of Conrail commuter rail services under section 1136 of the Northeast Rail Services Act of 1981. Eligible cost shall include but not be limited to additional costs incurred as a result of the assumption of commuter rail service and all liabilities assumed by such States, bodies, and agencies as a result of agreements with Conrail. The Federal share of any cost covered under this provision shall be 100 percent.

Ante, p. 181.

SEC. 331. Section 149(b)(82) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended to read as follows: "(82) subsections (a)(82) and (a)(83) $2,300,000;". Section 149(b)(83) of such Act is repealed, and succeeding paragraphs are renumbered accordingly.

33 USC 59q-1

SEC. 332. The portion of the Union Canal, also known as the Union Ship Canal, an appendage of the Buffalo Outer Harbor, located in the City of Buffalo, State of New York, is declared to be a non-navigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525, et seq.) from a point two hundred feet west of Fuhrmann Boulevard east to its terminus.

SEC. 333. The Secretary of Transportation is authorized to transfer appropriated funds under "Office of the Secretary, Salaries and expenses": *Provided*, That no appropriation shall be increased or decreased by more than 2½ per centum by all such transfers: *Provided further*, That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

SEC. 334. (a) Notwithstanding any other provision of law, with regard to the Atlantic City Airport, at Pomona, New Jersey, the Federal Aviation Administration shall not transfer any property to any municipality or any other entity operating such airport, nor shall any funds made available by this Act be available to such municipality or entity for any planning, study, design, engineering, or construction of a runway extension, new runway, new passenger terminal, or improvements to or expansion of the existing passenger terminal at such Airport, until such time as—

(1) the Master Plan Update for Atlantic City Airport and Bader Field, prepared pursuant to Federal Aviation Administration Contract FA-EA-2656, is completed and released; and

(2) the Administrator of the Federal Aviation Administration finds that a public entity has been created to operate and manage the Atlantic City Airport, which entity has the following characteristics:

Contracts.

(A) the authority to enter into contracts and other agreements, including contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States;

(B) the standing to sue and be sued in its own name;

(C) the authority to hire and dismiss officers and employees;

(D) the power to adopt, amend and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

(E) the authority to acquire, in its own name, an interest in such real or personal property as is necessary or appropriate for the operation and maintenance of the airport;

(F) the power to acquire property by the exercise of the right of eminent domain;

(G) the power to borrow money by issuing marketable obligations, or such other means as is permissible for public authorities under the laws of the State of New Jersey;

(H) adequate existing capitalization to carry out all activities which are ordinarily necessary and appropriate to operate and maintain an airport;

(I) a governing board which includes voting representatives of the City of Atlantic City, the County of Atlantic and the townships which are adjacent to or are directly impacted by the airport;

(J) a charter which includes (i) a requirement that members of the governing board have expertise in transportation, finance, law, public administration, aviation, or such other fields or disciplines as would be necessary or appropriate for the operation of an airport; and (ii) procedures which protect the research and development mission of the Federal Aviation Technical Center at Pomona, New Jersey, and the defense functions of the Air National Guard; and

(K) the authority to carry out comprehensive transportation planning to minimize traffic congestion and facilitate access to and from the airport.

(b) The limitation on funds set forth in subsection (a) shall not apply to any expenditure which the Administrator of the Federal Aviation Administration determines is needed for safety purposes.

(c) Notwithstanding any other provision of law, the funds restricted under subsection (a) shall become available at such time as the conditions set forth in subsection (a) are satisfied.

Reports.

SEC. 335. Notwithstanding section 127 of title 23, United States Code, the State of Wyoming may permit the use of the National System of Interstate and Defense Highways located in Wyoming by vehicles in excess of 80,000 pounds gross weight, but meeting axle and bridge formula specifications in section 127 of title 23, United States Code, through September 30, 1991. Additionally, the Secretary of Transportation shall report, by September 30, 1990, to the Senate and House Appropriations Committees, and to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the United States Senate, on the productivity and economic benefits, the safety performance, and the effects of such vehicles on the condition of the highways over which they were operated.

Termination date.

SEC. 336. TRANSFER OF SECTION 9 FUNDS.—The Governor of Louisiana, after consultation with all urbanized areas within Louisiana, may transfer not to exceed $5,000,000 of unused apportionments under section 9 of the Urban Mass Transportation Act of 1964 to any other urbanized area for use for urban mass transportation purposes. The authority to transfer these funds expires on October 1, 1988.

Ante, p. 181.

SEC. 337. Section 149(a)(89) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by striking the language therein and inserting in lieu thereof:

"The Secretary is authorized to carry out a project to construct a full-diamond interchange to connect Louisiana Highway 354 to Interstate Route I-10 in East Lafayette, Louisiana.".

SEC. 338. Notwithstanding any other provision of this joint resolution or of any other law, section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181) is amended by adding after subsection (k) the following new subsection (1).

"(1) REQUEST FOR REALLOCATION.—If, in any fiscal year amounts allocated to the State of Nevada under subsections (b) and (d) to carry out subsection (a)(68), (a)(105), or (a)(106), are not sufficient to complete any project authorized by such subsections, such State may request the Secretary to reallocate all or any portion of such funds for another of such projects.

"(2) GRANTING OF REQUESTS.—The Secretary shall grant a request made under paragraph (1) if the respective local officials having jurisdiction over the area in which the concerned projects are located consent to such request.

"(3) ADJUSTMENT OF ALLOCATION.—If any funds allocated for a project are reallocated to another project pursuant to this subsection, the amount of funds allocated for such projects in succeeding fiscal years shall be adjusted so that the aggregate amount of funds allocated for each of such projects under this section for fiscal years 1987 through 1991 is equal to the aggregate amount of funds allocated for such projects for such fiscal years by subsections (b) and (d) of this section.".

SEC. 339. Notwithstanding any other provision of law, the Secretary shall make available $250,000 per year for a national public information program to educate the public of the inherent hazard at railway-highway crossings. Such funds shall be made available out of funds authorized to be appropriated out of the Highway Trust Fund, pursuant to section 130 of title 23, United States Code. 23 USC 130 note.

SEC. 340. Section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended (1) by striking in subsection (b)(111)(H) "$80,000" and inserting in lieu thereof "$100,000" and (2) in subsection (b)(111)(I) by striking "$100,000" and inserting in lieu thereof "$80,000". *Ante*, p. 181.

SEC. 341. Section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by striking subsections 111 (A) and (B) and inserting in lieu thereof the following:

"(A)(1) MORTON COUNTY.—The Secretary is authorized to carry out a project to obtain easements for and construct an access road in Morton County FAS, Route 3020 from 11 miles south of Sweet Briar Lake, 1½ miles south of Fish Creek Lake, then easterly 8 miles to Morton County FAS Route 3047.

"(2) MORTON COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Morton County, FAS Route 3002 from 6 miles north of Crown Butte Road, then easterly 2 miles to North Dakota State Highway 1806.

"(3) MORTON COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Morton County, FAS Route 3039 from Sweet Briar Lake, north 7 miles to the Oliver County line.

"(B)(1) MERCER COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, FAS Route 2927 from 4 miles north of Hazen, North Dakota; north 8 miles to Hazen Bay, Lake Sakakawea or from 4 miles north of Hazen, North Dakota; then 3 miles north and 6 miles east to intersection of N.D. 200 and Mercer County Route 37; then in a southeasterly direction approximately 10 miles to the north corporate limits of the City of Stanton, North Dakota.

"(2) MERCER COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927 from 4 miles north of Hazen, North Dakota north 8 miles to Hazen Bay, Lake Sakakawea or from 4 miles north of Hazen, North Dakota then 8 miles north to the intersection of North Dakota 1806; then east to the intersection of North Dakota 200; then south 5 miles to Mercer County, Route 37; then in a southeasterly direction approximately 10 miles to the north corporate limits of the City of Stanton, North Dakota.

"(3) MERCER COUNTY.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927 from 4 miles north of Hazen, North Dakota, north 8 miles to Hazen Bay, Lake Sakakawea, or 7 miles north of the junction with North Dakota 200 and 200 A;

then east 3 miles, south 2 miles, east 2 miles, and south 3 miles to the north corporate limits of the City of Stanton, North Dakota.

"(4) Mercer county.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927, from 4 miles north of Hazen, North Dakota, north 8 miles to Hazen Bay, Lake Sakakawea, or Knife River Indian Village Historic Site access road.".

Sec. 342. The Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by inserting at the end of section 149 a new subsection to read as follows:

Ante, p. 181.

"The State of North Dakota may elect to utilize the total amount of funds authorized for such State under section 149 (b) and (d) in any given year for any project or projects in the State of North Dakota as authorized under section 149. The total amount of Federal funds obligated for any project under section 149 shall not exceed the total 5 year authorization for such project.".

Sec. 343. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall provide not to exceed $20,000,000 out of the emergency relief fund authorized under section 125 of title 23, United States Code, to pay the expenses incurred in the reconstruction or repair of the bridge over Schoharie Creek in the State of New York that is on Interstate Route 90, including any expenses incurred in conducting the investigation of the cause of the collapse of the bridge and the expenses incurred in detouring traffic around the site of the bridge until the reconstruction or repair is completed.

(b) No payment of an expense may be made by reason of subsection (a) if such expense is paid or reimbursed—

(1) under any Federal program other than section 125 of title 23, United States Code, or

(2) under any insurance policy covering the bridge described in subsection (a).

Regulations.

(c) The provisions of section 125 of title 23, United States Code, and any regulations prescribed under such section, regarding the expenditure of funds provided under such section shall apply to any funds provided by reason of subsection (a) to the extent such provisions and regulations are consistent with the provisions and purposes of this joint resolution.

Ante, p. 214.

Sec. 344. Section 165 of the Federal-Aid Highway Act of 1987 (Public Law 100-17) relating to a cost effectiveness study of upgrading of Route 219 is amended as follows:

(1) Subparagraph (B) of subsection (a)(1) is amended to read as follows:

"(B) between Springville, New York, and its intersection with the New York-Pennsylvania State line;".

(2) Subsection (b) is amended by striking "1 year" and inserting "18 months".

Sec. 345. Paragraph (72) of section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 192) is amended to read as follows:

"(72) Douglas County, Kansas.—The Secretary shall carry out a highway project in Douglas County, Kansas, to demonstrate methods of reducing traffic congestion and facilitating the usage by motorists on the Interstate System of recreational facilities by construction of a limited access road of approximately 14 miles in length which, at its western terminus, will provide access from an east-west Interstate highway route to a reservoir and a university research park, will proceed easterly around the southern portion of the City of Lawrence and, at its eastern terminus, will provide access to a business park and a limited access east-west State highway.".

SEC. 346. Section 163(n) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is amended by adding "except those railroad-highway crossings segments which are already engaged in or have completed the preparation of the plans, specifications and estimates (PS&E) for the construction of the segment involved shall retain the Federal share as specified in subsection 163(n) as amended by section 134 of the Surface Transportation Assistance Act of 1978.

TECHNICAL AMENDMENTS TO TITLE 23

SEC. 347. (a) SECTION 104.—Section 104(g) of title 23, United States Code, is amended—

(1) in the first sentence by striking out "sections 144, 152, and 153 of this title, or section 203(d) of the Highway Safety Act of 1973," and inserting in lieu thereof "sections 130, 144, and 152 of this title"; and

(2) by striking out the third sentence.

(b) SECTION 119.—Section 119(f)(2)(B) of such title is amended by striking out "equal to" and inserting in lieu thereof "not to exceed".

(c) SECTION 127.—Section 127(a) of such title is amended by striking out "September 1, 1988" each place it appears and inserting in lieu thereof "September 1, 1989".

(d) SECTION 129.—(1) Section 129(j)(1) of such title is amended by striking out "(7)" and inserting in lieu thereof "(8)".

(2) Section 129(j)(3) of such title is amended—

(A) by striking out "(7)" and inserting in lieu thereof "(8)";

(B) by striking out "State of Pennsylvania" and inserting in lieu thereof "States of Pennsylvania and West Virginia";

(C) by inserting "State of Georgia," after "State of Florida,"; and

(D) by adding at the end thereof the following new sentence: "The toll facility in Orange County, California, may be located in more than 1 highway corridor to relieve congestion on existing interstate routes in such County.".

TECHNICAL AMENDMENTS TO SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT

SEC. 348. (a) SECTION 134.—Section 134 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (23 U.S.C. 202 note) is amended by striking out "and 1990," and inserting in lieu thereof "1990, and 1991,".

(b) SECTION 149(a).—(1) Section 149(a)(5)(B) of such Act is amended— *Ante*, p. 181.

(A) by striking out "reconstructing 2" and inserting in lieu thereof "rehabilitating 3"; and

(B) by striking out "and Bagley" and inserting in lieu thereof ", Bagley, and Shevlin".

(2) Section 149(a)(15) of such Act is amended by striking out "a highway project for construction of a grade separation on a route" and inserting in lieu thereof "highway projects for construction of grade separations on routes".

(3) Section 149(a)(16) of such Act is amended by striking out "project to demonstrate" and all that follows through "the effectiveness" and inserting in lieu thereof "projects to demonstrate methods by which railroad relocation and construction of grade separations for railroad crossings of highways and streets enhances urban redevelopment".

(4) Section 149(a)(46) of such Act is amended—

(A) by inserting "and Andover" after "in Lawrence"; and

(B) by striking out "under construction" and all that follows through the period at the end of such section and inserting in lieu thereof "by providing access between an interstate route and Merrimack Street.".

(5) Section 149(a)(81) of such Act is amended by inserting "(A)" after "carry out" and by inserting "and (B) construction of such project," after "Florida,".

(6) Section 149(a)(102) of such Act is amended by striking out "for the design and site location".

(7) Section 149(a)(121) of such Act is amended by striking out "Virginia" and inserting in lieu thereof "Virginia)" and by striking out "Service)" and inserting in lieu thereof "Service".

(c) Section 149(b).—(1) Section 149(b)(57) of such Act is amended by striking out "land acquisition under".

(2) Section 149(b)(64) of such Act is amended by striking out "preliminary engineering and design under".

(3) Section 149(b)(70) of such Act is amended by striking out "preliminary engineering and design under".

(d) Section 149(i).—

(1) Amendment.—Section 149(i) of such Act is amended by adding at the end thereof the following new sentence: "50 percent of the funds allocated under subsections (b) and (d) to carry out subsection (a)(104) shall be allocated to the State of Nebraska, and the other 50 percent of such funds shall be allocated to the State of Iowa.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect April 2, 1987.

(e) Section 149(k).—Section 149(k)(2) of such Act is amended by striking out "104(b)(5)(A))" and inserting in lieu thereof "subsection (b)(5)(A))".

Ante, p. 215. (f) Section 167.—Section 167(b) of such Act is amended by striking out "9 months" and inserting in lieu thereof "3 years".

Ante, p. 219. (g) Section 202.—Section 202(c) of such Act is amended by striking out "(a)(3)" and inserting in lieu thereof "(a)(1)".

23 USC 401 note. (h) Section 208.—Section 208(a) of such Act is amended by striking out "Not later than 30 months after the date of the enactment of this Act, the" and inserting in lieu thereof "The".

Cumberland Gap

92 Stat. 2690. Sec. 349. Section 104(a)(8) of the Federal-Aid Highway Act of 1978 is amended by adding at the end thereof the following new sentence: "Funds may be appropriated under an authorization contained in this paragraph in the fiscal year authorized and any fiscal year thereafter.".

Highway Feasibility Studies

Sec. 350. (a) Illinois and Missouri.—The Secretary of Transportation, in cooperation with the States of Illinois and Missouri, shall study the feasibility and necessity of constructing a toll expressway between Chicago, Illinois, and Kansas City, Missouri.

(b) ALABAMA.—The Secretary of Transportation shall study the feasibility and necessity of completing a beltway around the city of Birmingham, Alabama.

(c) FEDERAL SHARE.—The Federal share of the cost of conducting each study under this section shall be 65 percent.

(d) REPORTS.—Not later than 1 year after the date of the enactment of this section, the Secretary of Transportation shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the studies conducted under this section.

(e) AMENDMENTS TO NEW YORK FEASIBILITY STUDY.—Section 168 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended—

Ante, p. 216.

(1) by inserting at the end of subsection (a) the following new sentence: "Such study shall include environmental assessment, economic analysis, economic impact, engineering, and rail rationalization studies."; and

(2) in subsection (c) by striking out "one year" and inserting in lieu thereof "2 years".

EXEMPTION FROM CERTAIN PROCEDURAL REQUIREMENTS

SEC. 351. Notwithstanding any other provision of law, the withdrawal of Interstate Route I-420 in the State of Georgia shall be exempt from the procedural requirements of section 103(e)(4) of title 23, United States Code, including the regulations issued under such section.

HIGHWAY WIDENING DEMONSTRATION PROJECT

SEC. 352. (a) PROJECT DESCRIPTION.—The Secretary of Transportation is authorized to carry out a demonstration project to improve United States Route 202 between I-76 and Pennsylvania State Route 252 in the vicinity of King of Prussia, Pennsylvania.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $19,000,000 to carry out this section. Any funds appropriated pursuant to this section shall remain available until expended and shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

(c) FEDERAL SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 80 percent.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1988".

(m) Such amounts as may be necessary for programs, projects or activities provided for in the Treasury, Postal Service and General Government Appropriations Act, 1988, at a rate of operations and to the extent and in the manner provided for, the provisions of such Act to be effective as if it had been enacted into law as the regular appropriations Act, as follows:

Treasury, Postal Service and General Government Appropriations Act, 1988.

AN ACT

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1988, and for other purposes.

Treasury Department Appropriations Act, 1988.

TITLE I—DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $55,681,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Office of the Secretary, hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $23,422,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed eight for police-type use); and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; not to exceed $3,000,000 for major maintenance and facility improvements, and related equipment for the Federal Law Enforcement Training Center facility to remain available until expended; not to exceed $200,000 for the development of a Master Plan for future land and facility use at Glynco, Georgia, to remain available until expended; not to exceed $5,000 for official reception and representation expenses; and services as authorized by 5 U.S.C. 3109: *Provided*, That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; acceptance of gifts; training of private sector security officials on a space available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend

State and local course development meetings at the Center: *Provided further,* That the Federal Law Enforcement Training Center shall hire and maintain an average of not less than 325 direct full-time equivalent positions for fiscal year 1988: *Provided further,* That the new residential facility at the Federal Law Enforcement Training Center at Glynco, Georgia, shall be designated as the "Aubrey A. 'Tex' Gunnels Dormitory Complex"; $28,672,000.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $265,000,000, of which not to exceed $7,213,000 shall remain available until expended for systems modernization initiatives.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed five hundred vehicles for police-type use for replacement only; and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; $217,531,000, of which $15,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1988, and of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided,* That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further,* That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further,* That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: *Provided further,* That funds made available under this Act shall be used to maintain a base level of 3,451 full-time equivalent positions for fiscal year 1988.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to seven hundred motor vehicles for replacement only, including six hundred eighty for police-type use and commercial operations; for additional purchase of up to two hundred fifty new passenger motor vehicles for police-type use and commercial operations; hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $966,000,000, of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $4,000,000, to remain available until expended, for research: *Provided,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further,* That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1988: *Provided further,* That the United States Customs Service shall hire and maintain an average of not less than 16,099 full-time equivalent positions in fiscal year 1988: *Provided further,* That none of the funds made available in this or any other Act may be used to fund more than nine hundred positions in the Headquarters staff of the United States Customs Service in the fiscal year ending September 30, 1988: *Provided further,* That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1988: *Provided further,* That not less than $300,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District: *Provided further,* That $600,000 shall be available only for the purchase of 6 additional mobile X-Ray Systems for the United States Customs Service.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $140,000,000 to remain available until expended, of which $2,000,000 shall be available for construction of a hangar and administrative complex for the Customs Aviation Branch located in Albuquerque, New Mexico: *Provided,* That no aircraft or other related equipment, shall be transferred on a permanent basis to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1988.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $10,000,000, as authorized by Public Law 98-473 and Public Law 98-573; to be derived from deposits in the Fund.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $486,000, for expenses for the provision of Customs services at certain small airports designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports, and to remain available until expended.

PAYMENT TO THE GOVERNMENT OF PUERTO RICO

For payment of a grant to the Government of Puerto Rico, $7,800,000 to remain available until expended, for the purchase and installation of an aerostat radar drug interdiction surveillance system.

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $42,000,000, of which $965,000 shall remain available until expended for research and development projects and of which $75,000 may be used to host the International Mint Directors' Conference in the United States in 1988, including but not limited to reception and representation expenses: *Provided*, That such fees as are collected from participants at the International Mint Directors' Conference shall be merged with and credited to this account, notwithstanding the provisions of 31 U.S.C. 3302.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $215,000,000.

PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT

For payment of Government losses in shipment, in accordance with section 2 of the Act approved July 8, 1937 (40 U.S.C. 722) $400,000, to remain available until expended.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $87,165,000, of which not to exceed $25,000 for official reception and representation expenses and of which not to exceed $500,000 shall remain available until expended, for research.

PROCESSING TAX RETURNS

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,691,076,000, of which not to exceed $80,000,000 shall remain available until expended for systems modernization initiatives: *Provided,* That of the total amount appropriated under this heading, $17,800,000 shall be available for the Statistics of Income Program in fiscal year 1988.

EXAMINATIONS AND APPEALS

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,849,581,000.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: *Provided,* That notwithstanding any other provision of this Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: *Provided further,* That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at $2,650,000. The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full $2,650,000 can be devoted to program requirements; $1,431,058,000.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation.

SEC. 2. Not to exceed 15 per centum, or $15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided,* That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; for payment in advance for commercial accommodations as may be necessary to perform protective functions in fiscal year 1988; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $367,000,000, of which $5,000,000 shall remain available until expended for continued construction at the James J. Rowley Secret Service Training Center, and of which $29,911,000 shall be available for Presidential candidate protective activities pursuant to 18 U.S.C. 3056(a)(7).

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communication in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 2 per centum of any appropriations in this title for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 1 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. None of the funds made available by this title may be used to place the United States Secret Service, the United States Customs Service, or the Bureau of Alcohol, Tobacco, and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.

SEC. 105. The Department of the Treasury shall undertake a study analyzing the economic impact and administrative complexity resulting from section 453C of the Internal Revenue Code, and recommending revenue-neutral alternatives to this section which would minimize that impact and complexity. The study shall also analyze the impact of the effective date of section 453C on fiscal year taxpayers. The study shall be completed as soon as practicable but no later than August 15, 1988.

SEC. 106. Section 613a [24a] of the Tariff Act of 1930, as amended (19 U.S.C. 1613b) is amended by inserting the following between subsection (a)(5)(iv) and subsection (b):

> "(v) the equipping for law enforcement functions of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in joint law enforcement operations with the Customs Service.
>
> "(vi) the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Customs Service.".

This title may be cited as the "Treasury Department Appropriations Act, 1988".

Postal Service Appropriation Act, 1988.

TITLE II—UNITED STATES POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; $517,000,000: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1988.

39 USC 403 note.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $1,000.

[24a] Copy read "Section 613b".

UNITED STATES POSTAL SERVICE—ADMINISTRATIVE PROVISIONS

SECTION 1. None of the funds appropriated in this Act or made available by 39 U.S.C. 2401(a) shall be used by the United States Postal Service or any other governmental agency for the purpose of locating a regional mail distribution center in the Westchester Business Park on Westpark Drive in the Town of North Castle, New York, for a period of one hundred and eighty days.

SEC. 2. Funds made available to the United States Postal Service pursuant to section 2401(a) of title 39, United States Code, shall be used hereafter to continue full postal service to the people of Holly Springs proper, including upgrading, remodeling, and improving the United States Post Office building located at 110 North Memphis Street, Holly Springs, Mississippi.

This title may be cited as the "Postal Service Appropriation Act, 1988".

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT

Executive Office Appropriations Act, 1988.

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

3 USC 102 note.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; $16,000,000 including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

WHITE HOUSE CONFERENCE FOR A DRUG FREE AMERICA

SALARIES AND EXPENSES

For necessary expenses of the White House Conference for a Drug Free America, $2,500,000.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $26,426,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $7,403,000, of which $2,400,000 for the repair of the face of the Executive Residence shall remain available until expended, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $75,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $258,000: *Provided,* That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $2,163,000.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $2,500,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,000,000.

NATIONAL CRITICAL MATERIALS COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $350,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $5,000,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $39,000,000 of which not to exceed $4,500,000 shall be available to carry out the provisions of 44 U.S.C., chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the review of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further,* That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further,* That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 205, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $2,300,000.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1988".

Independent Agencies Appropriations Act, 1988.

TITLE IV—INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.) including not to exceed $1,000 for official reception and representation expenses; $1,865,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended, 42 U.S.C. 4271-79; $1,378,000, and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $200,000.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, $850,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, $14,174,000.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $2,854,052,000 of which (1) not to exceed $115,036,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:
  Arizona:
    Tucson, Federal Law Enforcement Building, Site acquisition only, $1,500,000
  District of Columbia:
    International Cultural and Trade Center, Design, $3,700,000 (to be transferred to the Pennsylvania Avenue Development Corporation for reimbursement)
  Louisiana:
    Baton Rouge, Federal Building and Courthouse, Design, $3,000,000
  Michigan:
    Detroit, Ambassador Bridge Cargo Inspection Facility, Site, $3,800,000
  New Jersey:
    Camden, Federal Building, Courthouse Annex, Site and Design, $1,486,000
  Virgin Islands:
    St. Croix, Federal Building, Courthouse, Site, $550,000
    Construction Projects, less than $500,000, $1,000,000.[25]

Other Selected Purchases including options to purchase, $100,000,000: *Provided,* That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1989, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That claims against the Government of less than $50,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $472,945,000 which shall remain available until expended, for repairs and alterations: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

---

[25] Copy read "$1,000,000:".

Repairs and Alterations:
Alabama:
Birmingham, Federal Building, Courthouse, $3,899,000
California:
Fresno, Sisk Federal Building, Courthouse, $2,879,000
Los Angeles, Federal Building, $10,422,000
San Francisco, Federal Building, Courthouse, $16,962,000
District of Columbia:
Central Heating Plant, $15,500,000
West Heating Plant, $9,201,000
Elevator Replacement, $26,700,000
Forrestal Building, $2,578,000
GSA Regional Office Building, $1,036,000
Agriculture Administration Building, $530,000
Agriculture South Building, $3,360,000
Courthouse, $1,887,000
Perkins Federal Building, $1,644,000
GSA Headquarters, $929,000
Hoover Federal Building, $1,627,000
Department of the Interior, $1,858,000
New Post Office, $1,006,000
Veterans Administration, $1,355,000
Florida:
Miami, Federal Building, $11,481,000
West Palm Beach, Post Office, $2,900,000
Georgia:
Atlanta, Federal Annex, $2,400,000
East Point, Federal Archives and Records Center, $1,102,000
Illinois:
Chicago, Dirksen Federal Building, Courthouse $7,334,000
East St. Louis, Post Office, Courthouse, $3,762,000
Iowa:
Des Moines, Federal Building, $1,300,000
Louisiana:
New Orleans, F. Edward Hébert Federal Building, $12,525,000
Maryland:
Baltimore, Appraisers Stores, $2,668,000
Bethesda, Federal Building, $700,000
Massachusetts:
Boston, McCormack Post Office, Courthouse, $2,200,000
Missouri:
St. Louis, Mart Federal Building, $28,964,000
St. Louis, Federal Center #104, $8,983,000
New Jersey:
Trenton, Post Office, Courthouse, $2,823,000
New York:
Brooklyn, Federal Building No. 2, $11,472,000
New York, Foley Square Courthouse, $4,655,000
New York, 201 Varick Street, $14,475,000
North Carolina:

    - Raleigh, Federal Building, Post Office, Courthouse, $9,640,000
  - Pennsylvania:
    - Philadelphia, Byrne Courthouse, $6,875,000
    - Pittsburgh, Post Office, Courthouse, $16,572,000
  - Texas:
    - San Antonio, Post Office, Courthouse, $8,154,000
  - Virginia:
    - Arlington, Federal Building No. 2, $4,080,000
    - Arlington, Pentagon, $8,080,000
- Minor Repairs and Alterations, $167,427,000
- Capital Improvements of United States-Mexico Border Facilities:
  - Nogales, AZ
    - Mariposa, $174,330
    - Grand Ave., $375,310
    - Morley Gate, $64,000
  - Calexico, CA
    - New Station, $1,000,000
    - New Dock/Office, $411,320
    - R&A, $274,430
  - El Paso, TX
    - Ysleta, $2,651,320
    - Bridge of the Americas, $442,200
    - Paso del Norte, $2,850,000
  - Laredo, TX
    - Juarez-Lincoln Bridge, $5,745,000
    - Replace RR Bldg., $118,000
    - Convent St., $151,710
  - Brownsville, TX
    - Gateway:
      - Security, $14,661
      - Expand Lanes, $46,135
      - R&A, $67,204
    - B&M Bridge, $1,173,000
    - Los Indios Bridge, $510,000
  - San Ysidro/Otay Mesa, CA
    - Virginia St., $75,000
    - Safety Work, $1,601,000
    - R&A, $612,000
    - Improve Commercial Lot, $456,950
    - Firearms Range, $350,000
    - Reconfigure Lanes, $310,000
    - Signs/Security, $517,000
  - Andrade, CA, $143,000
  - Antelope Wells, NM, $14,000
  - Columbus, NM, $100,000
  - Fabens, TX, $100,000
  - Fort Hancock, TX, $100,000
  - Lukeville, AZ, $148,000
  - Marathon, TX, $50,000
  - Naco, AZ, $65,000
  - Presidio, TX, $100,000
  - Progresso, TX, $100,000
  - Roma, TX, $100,000
  - San Luis, AZ, $79,000
  - Del Rio, TX
    - Expand Lanes, $270,000

Security, $250,000
Replace Station, $3,640,000
Los Ebanos, TX, $520,000
Douglas, AZ, $228,000
Eagle Pass, TX, $480,000
Rio Grande City, TX, $510,000
Tecate, CA, $338,000
Hildago, TX, $289,510
Falcon Dam, TX, $400,000
Santa Teresa, NM, $663,000:

Provided, That by no later than July 30, 1988, the Administrator of General Services shall assess the level of unobligated balances, if any, in the Federal Buildings Fund and request reprogramming of such balances, not to exceed $12,000,000, to provide additional funding for the United States-Mexico Border Facility projects in this Act: *Provided further,* That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1989, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $133,105,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $1,169,532,000 for rental of space; (5) not to exceed $805,384,000 for real property operations; (6) not to exceed $48,014,000 for program direction and centralized services; and (7) not to exceed $110,036,000 for design and construction services which shall remain available until expended: *Provided further,* That the Administrator of General Services is hereby directed to enter into a contract for construction of a building in Oakland, California, on a site donated by the city of Oakland. The contract shall provide, by lease or installment payments over a period not to exceed 30 years, for the payment of the purchase price, which shall not exceed $141,700,000, and reasonable interest thereon. The contract shall further provide that title to the building shall vest in the United States at or before the expiration of the contract term upon fulfillment of the terms and conditions of the contract: *Provided further,* That the Administrator of the GSA is hereby directed to enter into an agreement, pursuant to a competitive selection process, for the lease-purchase of a building in San Francisco, California, during fiscal year 1988 of approximately 430,000 office occupiable square feet on a site donated by that city: *Provided further,* That the agreement shall provide for annual lease or installment payments from funds available for the rental of space in the Federal Buildings Fund over a period not to exceed 30 years for the payment of the purchase price of such building, and shall provide for title to the building to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement: *Provided further,* That additional space may be acquired if the Administrator finds such space to be in the public interest and will not reduce the occupiable Federal space to be available in the Oakland Federal Building. The Oakland Building shall, when completed be fully occupied by federal agencies and continued full occupancy shall have the highest priority consistent with the Federal[26] interest: *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That none of the funds available to the General Services Administration with the exception of those for Capital Improvements for United States-Mexico Border Facilities; Other Approved Border Facility projects; and the San Francisco, California Federal building project, shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That notwithstanding any other provision of law, the Administrator of General Services is authorized, under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire the building in Chicago, Illinois, approved under this heading in fiscal year 1987, from any commercial or private entity, through a lease to ownership transaction. Said lease shall not exceed 30 years, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That not later than 60 days after the date of the enactment of this Act, the Administrator of General Services shall submit under the Public Buildings Act of 1959, a prospectus for acquiring by purchase or lease-purchase (1) a building which is not to exceed 1,400,000 occupiable square feet for the Environmental Protection Agency in the Washington metropolitan area, and (2) a building which is not to exceed 1,800,000 occupiable square feet for the Department of Transportation. The lease-purchase shall provide for annual lease or installment payments from funds available for the rental of space in the Federal Buildings Fund over a period not to exceed 30 years for the payment of the purchase price of such building and reasonable interest thereon and shall provide for title to the building to vest in the United States on or before the last day of the term of the lease-purchase transaction. If a lease-purchase prospectus for a building described in this paragraph is approved under the Public Buildings Act of 1959, the Administrator of General Services may enter into a transaction for the lease-purchase of such building in accordance with the terms specified in such approved prospectus and applicable provisions of law and may make annual lease or installment payments from funds available for the rental of space in such fund: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative

Contracts.

---

[26] Copy read "federal".

Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums accruing to this fund during fiscal year 1988 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $2,854,052,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities through September 30, 1988, and supply distribution (including contractual services incident to receiving, handling and shipping supply items), procurement (including royalty payments), inspection, standardization, and related supply operations activities not later than March 31, 1987, including services as authorized by 5 U.S.C. 3109; $69,600,000: *Provided,* That notwithstanding any other provisions of law, costs incurred during the period October 1, 1987, through March 31, 1987, directly related to supply operations activities, not covered by this appropriation, shall be recorded as costs in the General Supply Fund, General Services Administration: *Provided further,* That the annual limitation of $5,200,000 through September 30, 1989, in the Supplemental Appropriations Act, 1985, Public Law 99-88, payable from overcharges collected, for expenses of transportation audit contracts and contract administration, is hereby superseded by Public Law 99-627 establishing permanent authority for these expenses at not to exceed 40 percent of the overpayments collected annually.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.) including services as authorized by 5 U.S.C. 3109 and reimbursement for recurring security guard service; $12,000,000 to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5), and in addition, $30,000,000 for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile by reimbursement from the National Defense Stockpile Transaction Fund.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

SECTION 1. During the fiscal year ending September 30, 1988, not to exceed $35,000,000, in addition to amounts previously appropriated, all to remain available until expended, may be obligated from amounts in the National Defense Stockpile Transaction Fund, for the acquisition and upgrading of strategic and critical materials under section 6(a) (1) and (3) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a) (1) and (3)), transportation, storage, and other incidental expenses related to such acquisition and upgrades, development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading), testing and quality studies of stockpile materials, studying future material and mobilization requirements for the stockpile and other reasonable requirements for management of the stockpile, including relocation, operating, and management expenses incident to operating the stockpile, are hereby authorized to the extent provided in Appropriations Acts.

SEC. 2. For the fiscal year ending September 30, 1988, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there are hereby appropriated $10,000,000 under this heading and $9,000,000 in section 101(b) of this joint resolution, to remain available until expended, the amounts to be allocated for the following projects:

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant for construction of a strategic materials research facility, $5,000,000;

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, $4,000,000;

University of Massachusetts at Amherst pursuant to 50 U.S.C. 98a and 98g(a) for a grant for continued construction of a strategic materials research facility, $5,000,000;

University of Arizona pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Advanced Studies for Copper Recovery and Utilization, $4,000,000; and

University of New Mexico pursuant to 50 U.S.C. 98 a and g for a grant to study replacements for metallic alloys that use critical materials, $1,000,000.

General Management and Administration

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $122,500,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: *Provided,* That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code.

Real Property Relocation

For expenses not otherwise provided for, $5,000,000, to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided,* That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further,* That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property.

Information Resources Management Service

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $31,193,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General; $24,334,000: *Provided*, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,198,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1988 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

40 USC 490d.

SEC. 5. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

SEC. 6. The Bureau of Mines should completely vacate all space at the Columbia Plaza building no later than September 30, 1988. In the event that it becomes necessary to acquire leased space for the Bureau of Mines, the Administrator of General Services shall competitively acquire space for the Bureau of Mines and select quality space at the lowest possible cost in the Washington Metropolitan Area. If such space is acquired by GSA, the Bureau of Mines shall immediately relocate to the space acquired by the GSA.

SEC. 7. (a) The General Accounting Office shall, within 60 days after the date of enactment of this Act, submit an estimate of the fair market value of the main post office in Denver, Colorado, located at 1823 Stout Street to the General Services Administration, the Congress of the United States, the United States Postal Service, and the Administrative Office of the United States Courts.

(b) Within 30 days after obtaining the estimate made pursuant to subsection (a) the United States Postal Service shall transfer the use and benefit of the lot on which the main post office in Denver is located along with such post office building, improvements and any other structures on such lot to the General Services Administration, and from such date such lot and structures shall be considered to be held for the use and benefit of the United States courts for the Tenth Circuit.

(c) In making the transfer pursuant to subsection (b), the General Services Administration and the United States Postal Service shall use, as the market value of such property, the estimate submitted by the General Accounting Office pursuant to this section and the United States Postal Service shall receive as compensation therefor, the fair market value of such lot, buildings and improvements, as determined by the General Accounting Office.

(d) The United States Postal Service shall surrender possession of the second, third and fourth floors of such post office building to the General Services Administration not later than 1 year after the date of the transfer thereof as provided in this section and, except as provided in subsection (e), shall surrender possession of the balance of such post office building not later than 2 years after such date.

(e) The General Services Administration shall permit the United States Postal Service to continue to occupy such area on the first floor of such main post office building not in excess of 18,000 square feet as shall be determined by the General Services Administration after consultation with the Administrative Office of the United States Courts and the United States Postal Service.

(f) Pursuant to section 210(f) of the Federal Property and Administrative Service Act of 1949, the Administrator of General Services is authorized to charge the United States Postal Service for all space and services furnished to the United States Postal Service in such main post office building after the date of the conveyance provided in this section.

(g) Notwithstanding any other provision of law, the General Services Administration is hereby authorized to sell, at competitive bid, block 111, located at 20th and Curtis Streets in Denver, Colorado, and to deposit such sale proceeds into the Federal Buildings Fund.

(h) There are authorized to be appropriated such sums as are necessary to cover the costs of obtaining such post office building for the courts for the Tenth Circuit. Such costs shall include—

(1) amounts necessary to transfer the lot, main post office building, improvements and any other structures on such lot pursuant to subsection (b);

(2) appropriate renovations of such post office building for the Tenth Circuit to use such building as the principal office of such courts; and

(3) the transfer of such courts from their current building to such post office building.

(i) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purposes of subsection (h).

Contracts. SEC. 8. The Administrator of General Services is hereby directed to submit a prospectus to the Congress within 60 days to enable the Administrator to contract for construction of two buildings not to exceed a total of 1,600,000 gross square feet of office space, plus additional parking and retail space, in New York City on sites to be acquired from the city of New York. The contracts shall provide, by lease or installment payments over a period not to exceed 30 years, from funds available for the rental of space in the Federal Buildings

Fund for the payment of the purchase price, and reasonable interest thereon. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. If a lease-purchase prospectus for a building described in this paragraph is approved under the Public Buildings Act of 1959, the Administrator of General Services may enter into a transaction for the lease-purchase of such building in accordance with the terms specified in such approved prospectus and applicable provisions of law and may make annual lease or installment payments from the funds available for the rental of space in such Fund. The General Services Administration shall lease up to 400,000 square feet of office space and associated parking to the city of New York at rates that reflect an appropriate portion of the construction and related costs of the projects, adjusted for the value of the land acquired from the city. In addition, income accrued by the General Services Administration from the outlease of office space to the city as well as retail and related space to private organizations shall be used to offset GSA's installment payments for the cost of the facilities. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1341(a)(1)(B).

SEC. 9. The Administrator of General Services shall proceed with the site selection and design for construction of a facility of not less than 182,000 usable square feet for the Social Security Administration in Wilkes-Barre, Pennsylvania, pursuant to section 115 of the joint resolution entitled, "A Joint Resolution making continuing appropriations for the fiscal year 1987 and for other purposes", approved October 30, 1986 (100 Stat. 3341-49; Public Law 99-591).

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $116,000,000 of which $4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended, and of which $6,000,000 for design and planning of a new archival facility in Maryland shall remain available until expended.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $101,834,000 in addition to $67,746,000 for administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1988, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $1,788,931,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $4,720,913,000: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771–75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

33 USC 776.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $20,957,000, together with not to exceed $1,200,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $4,673,000

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $17,576,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government Service, and compensation as authorized by 5 U.S.C 3109.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

26 USC 7443 note.

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $27,500,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the "Independent Agencies Appropriations Act, 1988".

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided,* That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Contracts.
Public information.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided,* That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitacions for bids opened after its enactment.

40 USC 490c.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds is necessary to comply with a final order of the Federal court system.

SEC. 509. None of the funds appropriated or made available by this Act shall be used to competitively procure electric utility service, except where such procurement is expressly authorized by the Federal Power Act or by State law or regulation.

SEC. 510. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 511. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 512. None of the funds made available by this Act shall be available for any activity or for paying the salary of any government employee where funding an activity or paying a salary to a government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 513. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, out of the Treasury Department.

SEC. 514. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 515. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 516. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements of this section may be waived by the Administrator of the General Services Administration for special purpose or special mission automobiles.

SEC. 517. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverages for abortions.

SEC. 518. The provision of section 517 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

50 USC 98h note.

SEC. 519. No later than October 1, 1989, the Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all funds authorized and appropriated before January 1, 1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 520. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 521. None of the funds appropriated by this Act may be used to establish on a permanent basis any test or program of the "port of arrival immediate release and enforcement determination."

SEC. 522. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. 523. None of the funds appropriated by this Act or any other Act in any fiscal year may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing, or disposal of any portion of land on which the Beltsville Agricultural Research Center is located at Beltsville, Maryland, without the specific approval of Congress: *Provided*, That such land may be sold, for fair market value, to the Washington Metropolitan Area Transit Authority and any proceeds from the sale of such land shall be placed in an escrow account to be available hereafter for use in the renovation and restoration of the Beltsville Agricultural Research Center, to be released as specified in advance in appropriations Acts.

SEC. 524. Not later than October 1, 1988, of the amounts made available pursuant to Section 519 of the Treasury, Postal Service and General Government Appropriations Act, 1987, as incorporated in Section 101(m) of Public Laws 99-500 and 99-591, not less than $1,000,000 shall be obligated for a pilot project to upgrade technologically obsolete cobalt deposited in the National Defense Stockpile. The funds used in this section for upgrading shall not exceed $2,000,000.

SEC. 525. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing or disposal of any portion of land on which the Phoenix Indian School is located at Phoenix, Arizona without the specific approval of Congress.

SEC. 526. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas administered by the Corps of Engineers, Department of the Army without the specific approval of Congress.

SEC. 527. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, shall acquire, by means of a lease of up to 30 years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 528. Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1988.

SEC. 529. (a) Notwithstanding any other provision of law, during fiscal year 1988, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, U.S.C., be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, U.S.C., be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

President of U.S.

(D) any other circumstance which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, U.S.C., for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstance is significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1988 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, U.S.C.—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the same manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

President of U.S. Regulations.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1988, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 530. The Director of the Office of Management and Budget shall include in the area designated as the St. Louis Metropolitan Statistical Area, the City of Sullivan, Missouri.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

31 USC 1343 note.

SEC. 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,600 except station wagons for which the maximum shall be $7,600: *Provided,* That these limits may be exceeded by not to exceed $2,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-24.

5 USC 3101 note.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act, shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the

Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): *Provided*, That when the Administrator of General Services delegates responsibility to protect property under his charge and control to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

SEC. 610. None of the funds available under this or any other Act shall be available for administrative expenses in connection with the designation for construction, arranging for financing, or execution of contracts or agreements for financing or construction of any additional purchase contract projects pursuant to section 5 of the Public Building Amendments of 1972 (Public Law 92-313) during the period beginning October 1, 1976, and ending September 30, 1988.

SEC. 611. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 612. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

5 USC 5343 note.

SEC. 613. (a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1988, or September 30, 1989, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 613 of the Treasury, Postal Service, and General Government Appropriations Act, 1987, as incorporated in section 101(m) of Public Laws 99-500 and 99-591, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step

of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1988, and that portion of fiscal year 1989, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1989, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1988.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

Regulations.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1987, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1987, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1987.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate or salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 615. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

40 USC 490b.

SEC. 616. (a) If any individual or entity which provides or proposes to provide child care services for Federal employees during fiscal year 1988 or any fiscal year thereafter, applies to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such service, such officer or agency may allot space in such a building to such individual or entity if—

(1) such space is available;

(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 50 percent are Federal employees; and

(3) such officer or agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

(b)(1) If an officer or agency allots space during fiscal year 1988 or any fiscal year thereafter, to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems).

SEC. 617. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

5 USC 1101 note.

SEC. 618. (a) None of the funds appropriated by this Act, or any other Act in this or any fiscal year hereafter, may be used in preparing, promulgating, or implementing any regulations relating to the Combined Federal Campaign if such regulations are not in conformance with subsection (b).

(b)(1)(A) Any requirements for eligibility to receive contributions through the Combined Federal Campaign shall not, to the extent that such requirements relate to litigation, public-policy advocacy, or attempting to influence legislation, be any more restrictive than any requirements established with respect to those subject matters under section 501(c)(3) or 501(h) of the Internal Revenue Code of 1986.

(B) Any requirements for eligibility to receive contributions through the Combined Federal Campaign shall, to the extent that such requirements relate to any subject matter other than one referred to in subparagraph (A), remain the same as the criteria in the 1984 regulations, except as otherwise provided in this section.

(C) Notwithstanding any requirement referred to in subparagraph (A) or (B), for purposes of any Combined Federal Campaign—

(i) any voluntary agency or federated group which was a named plaintiff as of September 1, 1987, in a case brought in the United States District Court for the District of Columbia, and designated as Civil Action No. 83-0928 or 86-1367, and

(ii) The Federal Employee Education and Assistance Fund,

shall be considered to have national eligibility.

Regulations.

(D) Public accountability standards shall remain similar to the standards which were by regulation established with respect to the 1984-1987 Combined Federal Campaigns, except that the Office of Personnel Management shall prescribe regulations under which a voluntary agency or federated group which does not exceed a certain size (as established under such regulations) may submit a copy of an appropriate Federal tax return, rather than complying with any independent auditing requirements which would otherwise apply.

(2)(A) A voluntary agency or federated group shall, for purposes of any Combined Federal Campaign in any year, be considered to have national eligibility if such agency or group—

(i) complies with all requirements for eligibility to receive contributions through the Combined Federal Campaign, without regard to any requirements relating to "local presence"; and

(ii) demonstrates that it provided services, benefits, or assistance, or otherwise conducted program activities, in—

(I) 15 or more different States over the 3-year period immediately preceding the start of the year involved; or

(II) several foreign countries or several parts of a foreign country.

For purposes of this subparagraph, an agency or federated group shall be considered to have conducted program activities in the required number of States, countries, or parts of a country, over the period of years involved, if such agency or group conducted program activities in such number of States, countries, or parts either in any single year during such period or in the aggregate over the course of such period, provided that no State, country, or part of a country is counted more than once.

(B) Notwithstanding any other provisions, eligibility requirements relating to International Services Agencies shall remain at least as inclusive as existing requirements. Any voluntary agency or federated group which attains national eligibility under subparagraph (A), and any voluntary agency which is a member of the International Services Agencies, shall be considered to have satisfied any requirements relating to "local presence".

(3)(A) If a federated group is eligible to receive donations in a Combined Federal Campaign, whether on a national level (pursuant to certification by the Office) or a local level (pursuant to certification by the local Federal coordinating committee), each voluntary agency which is a member of such group may, upon certification by the federated group, be considered eligible to participate on such national or local level, as the case may be.

(B) Notwithstanding any provision of subparagraph (A)—

(i) the Office may require a voluntary agency to provide information to support any certification submitted by a federated group with respect to such agency under subparagraph (A); and

(ii) if a determination is made, in writing after notice and opportunity to submit written comments, that the information submitted by the voluntary agency does not satisfy the applicable eligibility requirements, such agency may be barred from participating in the Combined Federal Campaign on a national or local level, as the case may be, for a period not to exceed 1 campaign year.

(4) The Office shall exercise oversight responsibility to ensure that—

(A) regulations are uniformly and equitably implemented in all local combined Federal campaigns;

(B) federated groups participating in a local combined Federal campaign are allowed to compete fairly for the role of principal combined fund organization;

(C) federated groups participating in a local combined Federal campaign are afforded—

(i) adequate opportunity to consult with the PCFO for the area involved before any plans are made final relating to the design or conduct of such campaign (including plans pertaining to any materials to be printed as part of the campaign);

(ii) adequate opportunity to participate in campaign events and other related activities; and

(iii) timely access to all reports, budgets, audits, and other records in the possession of, or under the control of, the PCFO for the areas involved; and

(D) a federated group or voluntary agency found by the Office, by a written decision issued after notice and opportunity to submit written comments, to have violated the regulations may be barred from serving as a PCFO for not to exceed 1 campaign year.

Regulations. (5) The Office shall prescribe regulations to ensure that PCFOs do not make inappropriate delegations of decisionmaking authority.

(6)(A) The Office shall, in consultation with federated groups, establish a formula under which any undesignated contributions received in a local combined Federal campaign shall be allocated in any year.

(B) Under the formula for the 1990 Combined Federal Campaign, all undesignated contributions received in a local campaign shall be allocated as follows:

(i) 82 percent shall be allocated to the United Way.

(ii) 7 percent shall be allocated to the International Services Agencies.

(iii) 7 percent shall be allocated to the National Voluntary Health Agencies.

(iv) 4 percent shall, after fair and careful consideration of all eligible federated groups and agencies, be allocated by the local Federal coordinating committee among any or all of the following:

(I) National federated groups (other than any identified in clauses (i), (ii), or (iii)), except that a national federated group shall not be eligible under this subclause unless there are at least 15 members of such group participating in the local campaign, unless the members of such group collectively receive at least 4 percent of the designated contributions in the local campaign, and unless such group was granted national eligibility status for the 1987, 1988, 1989, or 1990 Combined Federal Campaign.

(II) Local federated groups.

(III) Any local, non-affiliated voluntary agency which receives at least 4 percent of the designated contributions in the local campaign.

(C) The formula set forth in subparagraph (B)—

(i) shall be phased in over the course of the 1988 and 1989 Combined Federal Campaigns;

(ii) shall be fully implemented with respect to the 1990 Combined Federal Campaigns; and

(iii) shall, with respect to any Combined Federal Campaign thereafter, be adjusted based on the experience gained in the Combined Federal Campaigns referred to in clauses (i) and (ii).

(D) Nothing in this paragraph shall apply with respect to any campaign conducted in a foreign country.

(E) All appropriate steps shall be taken to encourage donors to make designated contributions.

(7) The option for a donor to write in the name of a voluntary agency or federated group not listed in the campaign brochure to receive that individual's contribution in a local campaign shall be eliminated.

(8) The name of any individual making a designated contribution in a campaign shall, upon request of the recipient voluntary agency or federated group, be released to such agency or group, unless the contributor indicates that his or her name is not to be released. Under no circumstance may the names of contributors be sold or otherwise released by such agency or group.

(9)(A) The name of each participating voluntary agency and federated group, together with a brief description of their respective programs, shall be published in any information leaflet distributed to employees in a local combined Federal campaign. Agencies shall be arranged by federated group, with combined Federal campaign organization code numbers corresponding to each such agency and group.

[27] (B) The requirement under subparagraph (A) relating to the inclusion of program descriptions may, at the discretion of a local Federal coordinating committee, be waived for a local campaign in any year if, in the immediately preceding campaign year, contributions received through the local campaign totalled less than $100,000.

(10) Employee coercion is not to be tolerated in the Combined Federal Campaign, and protections against employee coercion shall be strengthened and clarified.

(11) The Office—

(A) may not, after the date of the enactment of this Act, grant national eligibility status to any federated group unless such group has at least 15 member voluntary agencies, each of which meets the requirements for national eligibility under paragraph (2)(A); and

(B) may withdraw federation status from any federated group for a period of not to exceed 1 campaign year if it is determined, on the record after opportunity for a hearing, that the federated group has not complied with the regulatory requirements.

(12) The Office may bar from participation in the Combined Federal Campaign, for a period not to exceed 1 campaign year, any voluntary agency which the Office determines, in writing, and after notice and opportunity to submit written comments, did not comply with a reasonable request by the Office to furnish it with information relating to such agency's campaign accounting and auditing practices.

---

[27] Copy read "(8)".

(c) For purposes of this section, a voluntary agency or federated group having "national eligibility" is one which is eligible to participate in each local domestic combined Federal campaign.

INDUSTRIAL FUNDING OF THE GENERAL SUPPLY FUND

SEC. 619. Industrial Funding.

[28] (a) PERMISSIBLE USES OF GENERAL SUPPLY FUND.—The last sentence of section 109(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756(a)) is amended—

(1) by striking out "and" at the end of clause (1); and

(2) by inserting before the period at the end of clause (2) the following: ", and (3) for paying other direct costs of, and indirect costs that are reasonably related to, contracting, procurement, inspection, storage, management, distribution, and accountability of property and nonpersonal services provided by the General Services Administration or by special order through such Administration".

[29] (b) COLLECTION OF PAYMENTS FOR DEPOSIT IN FUND.—Section 109(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756(b)) is amended by inserting after the second sentence the following new sentence: "Such prices shall also include an additional charge to recover properly allocable costs payable by the General Supply Fund under subsection (a)(3) with respect to the supplies or services concerned.".

40 USC 756 note.

[30] (c) IMPLEMENTATION PLAN.—Not later than February 15, 1988, the Administrator of General Services shall submit to the appropriate committees of the Congress a plan for the implementation of the amendments made by this Act. Such plan shall (1) fully describe and explain the accounting system (including the pricing and cost allocation methodology for supplies and services) to be used for such implementation, and (2) contain a schedule for completing actions necessary for such implementation.

40 USC 756 note.

[31] (d) EFFECTIVE DATE.—The amendments made by this Act shall take effect not later than April 1, 1988.

SEC. 620. Section 1202(b) of title 5, United States Code, is amended by adding a new sentence as follows: "Any new member serving only a portion of a seven-year term in office may continue to serve until a successor is appointed and has qualified, except that such member may not continue to serve for more than one year after the date on which the term of the member would otherwise expire, unless reappointed.".

Reports.
5 USC note prec. 3341.

SEC. 621. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

---

[28] Copy read "SUB SECTION 1."

[29] Copy read "SUB Sec. 2.".

[30] Copy read "SUB Sec. 3.".

[31] Copy read "Sec. 4.".

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department [31a] of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" [31b] has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

31 USC 5114 note.

SEC. 622. (a) None of the funds made available by this or any other Act with respect to any fiscal year may be used to make a contract for the manufacture of distinctive paper for United States currency and securities pursuant to section 5114 of title 31, United States Code, with any corporation or other entity owned or controlled by persons not citizens of the United States, or for the manufacture of such distinctive paper outside of the United States or its possessions. This subsection shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for United States currency or securities exists with which to make a contract and if the Secretary of the Treasury publishes in the Federal Register a written finding stating the basis for the determination.

Contracts. Federal Register, publication.

22 USC 211a note.

(b) None of the funds made available by this or any other Act with respect to any fiscal year may be used to procure paper for passports granted or issued pursuant to the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), if such paper is manufactured outside of the United States or its possessions or is procured from any corporation or other entity owned or controlled by persons not citizens of the United States. This subsection shall not apply if no domestic manufacturer for passport paper exists.

SEC. 623. INTEREST ON BACK PAY FOR FEDERAL EMPLOYEES.—(a) IN GENERAL.—Section 5596(b) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following:

"(2)(A) An amount payable under paragraph (1)(A)(i) of this subsection shall be payable with interest.

"(B) Such interest—

[31a] Copy read "Depatment".

[31b] Copy read " 'Executive agency' ".

"(i) shall be computed for the period beginning on the effective date of the withdrawal or reduction involved and ending on a date not more than 30 days before the date on which payment is made;

"(ii) shall be computed at the rate or rates in effect under section 6621(a)(1) of the Internal Revenue Code of 1986 during the period described in clause (i); and

"(iii) shall be compounded daily.

"(C) Interest under this paragraph shall be paid out of amounts available for payments under paragraph (1) of this subsection.".

5 USC 5596 note.

(b) EFFECTIVE DATE.—

(1) GENERALLY.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any employee found, in a final judgment entered or a final decision otherwise rendered on or after such date, to have been the subject of an unjustified or unwarranted personnel action, the correction of which entitles such employee to an amount under section 5596(b)(1)(A)(i) of title 5, United States Code.

(2) EXCEPTION.—

(A) CASES IN WHICH A RIGHT TO INTEREST WAS RESERVED.—The amendments made by subsection (a) shall also apply with respect to any claim which was brought under section 5596 of title 5, United States Code, and with respect to which a final judgment was entered or a final decision was otherwise rendered before the date of the enactment of this Act, if, under terms of such judgment or decision, a right to interest was specifically reserved, contingent on the enactment of a statute authorizing the payment of interest on claims brought under such section 5596.

(B) METHOD OF COMPUTING INTEREST.—The amount of interest payable under this paragraph with respect to a claim shall be determined in accordance with section 5596(b)(2)(B) of title 5, United States Code (as amended by this section).

(C) SOURCE.—An amount payable under this paragraph shall be paid from the appropriation made by section 1304 of title 31, United States Code, notwithstanding section 5596(b)(2)(C) of title 5, United States Code (as amended by this section) or any other provision of law.

(D) DEADLINE.—An application for a payment under this paragraph shall be ineffective if it is filed after the end of the 1-year period beginning on the date of the enactment of this Act.

(E) LIMITATION ON PAYMENTS.—Payments under this paragraph may not be made before October 1, 1988, except that interest shall continue to accrue in accordance with 5596(b)(2)(B) of title 5, United States Code.

SEC. 624. (a) Section 7701(j) of title 26, United States Code, is amended—

(1) by deleting from paragraph (1)(c) the words "the provisions of paragraph (2) and" following the words "subject to"; and

(2) by deleting paragraph (2) in its entirety and substituting in lieu thereof the following language: "NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination

requirements applicable to arrangements described in section 401(k) or to matching contributions (as described in section 401(m)), so long as it meets the requirements of this section.".

(b) Section 8440 of title 5, United States Code, is amended—

(1) by deleting from paragraph (a)(3) the words "the provisions of subsection (b) and" following the words "subject to"; and

(2) by deleting subsection (b) in its entirety and by substituting in lieu thereof the following language: "NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) of title 26, United States Code, or to matching contributions (as described in section 401(m) of title 26, United States Code), so long as it meets the requirements of this section.".

Regulations.
5 USC 6302 note.

SEC. 625. TEMPORARY AUTHORITY TO TRANSFER LEAVE.—In order to ensure that the experimental use of voluntary leave transfers established under Public Laws 99-500 and 99-591 may continue and may cover additional employees in fiscal year 1988, the Office of Personnel Management shall establish by regulation, notwithstanding chapter 63 of title 5, United States Code, a program under which the unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency as defined in the regulations. The Veterans' Administration shall establish a similar program for employees subject to section 4108 of title 5, United States Code. The programs established by this section shall expire at the end of fiscal year 1988, but any leave that has been transferred to an officer or employee under the programs shall remain available for use until the personal emergency has ended, and any remaining unused transferred leave shall, to the extent administratively feasible, be restored to the leave accounts of the officers or employees from whose accounts it was originally transferred.

SEC. 626. Subsection 8902 of title 5, United States Code, is amended—

(1) by inserting in subsection (k)(1), after "as applicable," the following: "or by a qualified clinical social worker as defined in section 8901(11),";

(2) by inserting in subsection (k)(1), after "such a clinical psychologist" the following: ", qualified clinical social worker";

(3) by striking out all of subsection (k)(2) and by redesignating subsection (k)(3) as subsection (k)(2); and

(4) by striking out the last sentence in subsection (m)(2)(A).

39 USC 3220 note.

SEC. 627. (a) Section 5 of Public Law 99-87, relating to the use of official mail in the location of missing children, is amended by striking out "two and one-half years after the date of the enactment of this Act" and inserting in lieu thereof "after December 31, 1992".

39 USC 3220 note.

(b) Section 3(a) of Public Law 99-87 is amended by striking out "Not later than two years after the date of enactment of this Act," and inserting in lieu thereof "Not later than June 30, 1992,".

SEC. 628. SALE OF RESIDENCE OF TRANSFERRED FEDERAL EMPLOYEES AND TRANSPORTATION EXPENSES.—

(a) REIMBURSEMENT OF EXPENSES OF SALE AND PURCHASE OF A RESIDENCE UPON THE TRANSFER OF A FEDERAL EMPLOYEE.—

(1) REIMBURSEMENT OF EXPENSES.—Section 5724a(a)(4)(A) of title 5, United States Code, is amended—

(A) by inserting before the period at the end of the first sentence the following: "; and expenses, required to be paid by the employee, (i) of the sale of the residence (or the settlement of an unexpired lease) of the employee at the official station from which the employee was transferred when he was assigned to a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979) and (ii) of the purchase of a residence at the new official station when the employee is transferred in the interest of the Government from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), to an official station (other than the official station from which he was transferred when assigned to the foreign tour of duty) within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or such areas and installations in the Republic of Panama"; and

(B) by adding at the end thereof the following new sentence: "Reimbursement of expenses prescribed under this paragraph in connection with transfers from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), shall not be allowed for any sale or settlement of unexpired lease or purchase transaction that occurs prior to official notification that the employee's return to the United States would be to an official station other than the official station from which the employee was transferred when assigned to the foreign post of duty.".

5 USC 5724a note.

(2) Effective date.—The amendments made by paragraph (2) shall be applicable with respect to any employee transferred to or from a post of duty on or after 60 days after the date of enactment of this section.

(b) Funds for Implementation.—The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsections do not authorize the appropriation of funds in amounts exceeding the sums already authorized to be appropriated for such agencies.

Sec. 629. Notwithstanding 31 U.S.C. 1346 or section 607 of this Act, funds made available for fiscal year 1988 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided in Executive order Number 12472 (April 3, 1984).

EMPLOYEE DISCLOSURE AGREEMENTS

SEC. 630. No funds appropriated in this or any other Act for fiscal year 1988 may be used to implement or enforce the agreements in Standard Forms 189 and 4193 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement:

(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

(2) contains the term "classifiable" [32];

(3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

(5) imposes any obligations or invokes any remedies inconsistent with statutory law: *Provided,* That nothing in this section shall affect the enforcement of those aspects of such nondisclosure policy, form or agreement that do not fall within subsections (1)–(5) of this section.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1988".

Congress.
1 USC 106 note.

(n)(1) Upon the enactment of this resolution enrolled as a hand enrollment, the Clerk of the House of Representatives shall prepare a printed enrollment of this resolution as in the case of a bill or joint resolution to which sections 106 and 107 of title 1, United States Code, apply. Such enrollment shall be a correct enrollment of this resolution as enrolled in the hand enrollment.

(2) A printed enrollment prepared pursuant to subsection (n)(1) may, in order to conform to customary style for printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. Such a printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(3) A printed enrollment prepared pursuant to subsection (n)(1) shall be signed by the presiding officers of both Houses of Congress as a correct printing of the hand enrollment of this resolution and shall be transmitted to the President.

President of U.S.

(4) Upon certification by the President that a printed enrollment transmitted pursuant to subsection (n)(3) is a correct printing of the hand enrollment of this resolution, such printed enrollment shall be considered for all purposes as the original enrollment of this resolution and as valid evidence of the enactment of this resolution.

President of U.S.

(5) A printed enrollment certified by the President under subsection (n)(4) shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment. In preparing this resolution for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed

---

[32] Copy read " 'classifiable' ".

enrollment certified by the President under subsection (n)(4) in lieu of the hand enrollment.

(6) As used in this section, the term "hand enrollment" means enrollment in a form other than the printed form required by sections 106 and 107 of title 1, United States Code, as authorized by the joint resolution entitled "Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988", approved December 1987 (H.J. Res. 426 of the 100th Congress).

(o) Federal employees furloughed as the result of any lapse in appropriations prior to the enactment of this Resolution shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

All obligations incurred in anticipation of the appropriations made and authority granted by this Resolution for the purpose of maintaining the essential level of activity to protect life and property and bring about the orderly termination of Government functions are hereby ratified and approved if otherwise in accord with the provisions of this Resolution.

Effective date.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 21, 1987, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1988, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization (including a continuing appropriation for the full year) whenever a bill in which such applicable appropriation, fund, or authorization (including a continuing appropriation for the full year) is contained is enacted into law.

SEC. 105. Section 1515 of title 31 of the United States Code is amended by striking subsection (a) and inserting in lieu thereof the following:

"(a) An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates the need for a deficiency or supplemental appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees (including prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5) and to retired and active military personnel."

4 USC 113 note.
5 USC 5532, 8344.
7 USC 426 note.
12 USC 1749a.
22 USC 5056a.
40 USC 1666-6, 278a note.

SEC. 106. The provisions of appropriations Acts within the purview of this joint resolution, and the provisions of appropriations Acts within the purview of the following joint resolutions making continuing appropriations (section 101(c) of Public Law 96-86 (93 Stat. 657), section 101(f) of Public Law 98-151 (97 Stat. 973), section 101(b) of Public Law 98-473 (98 Stat. 1837), section 101 (a) and (c) of Public Law 99-190 (99 Stat. 1185, 1224), and section 101 (g), (i), and (l) of Public Laws 99-500 and 99-591 (100 Stat. 1783-242, 1783-287, 1783-308, 3341-242, 3341-287, 3341-308)), shall (to the extent and in the manner specified in the pertinent section of any such joint resolution) be effective as if enacted into law. Those provisions are effective on the date of enactment of the pertinent joint resolution except to the extent a different effective date is specified in the joint resolution or pertinent appropriations Act.

42 USC 1437b note, 1437*o*, 5318, 8821, 11361 note.
49 USC app. 2311.
Effective date.

Reports.

SEC. 107. Amounts and authorities provided by this resolution shall be in accordance with the reports accompanying the bills as passed by or reported to the House and the Senate and in the Joint Explanatory Statement of the Conference accompanying this Joint Resolution.

5 USC 5305 note.

SEC. 108. (a) Notwithstanding any other provision of this resolution or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1987, and before October 1, 1988, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

(1) if the rate of salary or basic pay payable for that office or position as of September 30, 1987, was equal to or greater than the rate of basic pay then payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; or

(2) to a rate exceeding the rate of basic pay payable for level V of the Executive Schedule under such section 5316 as of September 30, 1987, if, as of that date, the rate of salary or basic pay payable for that office or position was less than the rate of basic pay then payable for such level V.

Regulations.

(b) For purposes of subsection (a), the rate of salary or basic pay payable as of September 30, 1987, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

President of U.S.

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

40 USC 601 note.

SEC. 109. (a)(1) None of the funds appropriated for fiscal year 1988 by this Resolution or any other law may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

President of U.S.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary in the public interest. The authority of the President or the head of a Federal agency under

Federal Register, publication.

this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this Resolution, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Such list shall include—

(A) each foreign country with respect to which an affirmative determination is made under subsection (b); and

(B) the country of Japan and any other country which has expressed a policy of denying fair and equitable market opportunities for products and services of the United States in procurement or bidding for projects described in paragraph (1) of this subsection.

(3) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the President or the United States Trade Representative evidence demonstrating that such barriers have been removed; and

Reports.

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

Federal Register, publication.

(4) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) each foreign instrumentality, and each territory or possession of a foreign country that is administered separately for customs purposes, shall be treated as a separate foreign country;

(2) any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country;

(3) subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country;

(4) the restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country; and

(5) the terms "contractor" and "subcontractor" include any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Resolution.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

5 USC 5305 note.

SEC. 110. (a) ADJUSTMENTS FOR EMPLOYEES UNDER STATUTORY PAY SYSTEMS.—

(1) TWO-PERCENT INCREASE.—Notwithstanding any other provision of law, in the case of fiscal year 1988, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 2 percent.

(2) UNIFORM ADJUSTMENTS; DELAYED EFFECTIVE DATE.—Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage and shall take effect as of the beginning of the first applicable pay period beginning on or after January 1, 1988.

(b) TWO PERCENT MILITARY PAY RAISE FOR FISCAL YEAR 1988.—Section 601 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is amended by striking out subsections (b), (c), and (d) and inserting in lieu thereof the following:

37 USC 403 note.

Effective date.
37 USC 1009 note.

"(b) TWO PERCENT INCREASE IN BASIC PAY, BAQ, AND BAS.—The rates of basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are increased by 2 percent effective on January 1, 1988.

Effective date.

"(c) TWO PERCENT INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective on January 1, 1988, section 203(c)(1) of title 37, United States Code, is amended by striking out '$494.40' and inserting in lieu thereof '$504.30'.".

ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 111. (a) There are hereby transferred to the President $3,600,000 of unobligated funds, from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior years, as the President shall designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section, to remain available through February 29, 1988.

President of U.S.

(b)(1) The President is authorized to transfer or reprogram $4,500,000 of unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide transportation of humanitarian and other assistance previously, specifically authorized by law to the Nicaraguan democratic resistance, to remain available through February 29, 1988.

(2)(A) Transportation under paragraph (1) for lethal assistance previously authorized by law shall be suspended on January 12, 1988 and shall resume thereafter only if, after January 18, 1988, the President determines and certifies to the Congress that:

(i) at the time of such certification no ceasefire is in place that was agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance;

(ii) the failure to achieve the ceasefire described in subparagraph (A)(i) results from the lack of good faith efforts by the Government of Nicaragua to achieve such a ceasefire; and

(iii) the Nicaraguan democratic resistance has engaged in good faith efforts to achieve the ceasefire described in subparagraph (A)(i).

(B) Transportation under paragraph (1) for lethal assistance previously authorized by law shall be suspended during any period in which there is in place a ceasefire described in subparagraph (A)(i), except to the extent, if any, permitted by the agreement governing such ceasefire.

(c)(1) The Department of Defense shall, through February 29, 1988, make available to the department or agency administering this section passive air defense equipment to ensure the safety of transportation provided pursuant to this section.

(2) The Department of Defense shall not charge the department or agency receiving equipment under paragraph (1) for such equipment, and shall bear the risk of loss, damage or deterioration of such equipment during the period of its use under the authority of paragraph (1).

President of U.S.

(d)(1) The President is authorized to transfer unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations Acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, solely for the indemnification through February 29, 1988, of aircraft leased after the date of enactment of this joint resolution to carry out subsection (b).

President of U.S.

(2) On March 1, 1988, the President shall transfer the balance, if any, remaining of funds transferred under paragraph (1) to the accounts from which such funds were transferred under paragraph (1).

(e) As used in this section, the term "humanitarian assistance" means only food, clothing, shelter, medical services, medical supplies, and payment for such items.

(f) The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178), section 8144 of the Department of Defense Appropriations Act, 1988 as contained in section 101(b) of this joint resolution, section 10 of Public Law 91-672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this section of the funds made available by subsections (a), (b), and (d), and the transfer and use of equipment as provided in subsection (c).

(g) The authority to support, monitor, and manage the activities for which this section provides funds shall continue until February 29, 1988.

(h) Sections 203(e), 204(b), 207, 209(b), 209(c), and 216, and the first sentence of section 203(d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) shall apply with respect to funds made available by this section.

President of U.S.

(i) If, on January 17, 1988, a cease-fire agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance is in place and the Government of Nicaragua is in compliance with the Guatemala Peace Accord of August 7, 1987, then the President shall, to the maximum extent practicable, make the unobligated balance of funds transferred by subsection (a) available for administration consistent with this section by nonpolitical humanitarian international organizations.

President of U.S.

(j)(1) The President may submit to Congress, no earlier than January 25, 1988, and no later than January 27, 1988, a request in accordance with this section for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

President of U.S.

(2) Only if a joint resolution approving a request made pursuant to subsection (j)(1) has been enacted into law, the President may submit to Congress one additional request under this section for budget and other authority to provide additional assistance for the Nicaraguan democratic resistance.

(3) It is the sense of Congress that any request in accordance with this section should be compatible with the Guatemala Peace Accord of August 7, 1987, and the decisions reached by the Central American presidents at the meeting on the report of the International Commission of Verification and Followup, and consistent with the national security interests of the United States.

Reports.

(4) Each request of the President in accordance with this section shall include a detailed statement of the steps that the United States, the Central American nations, and other interested parties have taken in support of the Guatemala Peace Accord of August 7, 1987, and of any ceasefire agreed to by the Government of Nicaragua and the Nicaraguan democratic resistance, as well as a report on any progress made in any bilateral or multilateral talks between the United States and the Government of Nicaragua.

(5) If a request of the President in accordance with this section proposes the transfer of funds, the request shall specify the accounts from which the funds are proposed to be transferred.

(6) For purposes of this section, the term "joint resolution" means only a joint resolution introduced within one day of session after the day of session on which the Congress receives the request submitted by the President pursuant to paragraphs (1) or (2)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby approves the additional authority and assistance for the Nicaraguan democratic resistance that the President requested pursuant to H.J. Res. 395 of the 100th Congress, the Act making continuing appropriations for fiscal year 1988.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint Resolution relating to Central America pursuant to H.J. Res. 395 of the 100th Congress.".

(7) Any such joint resolution shall, upon introduction, be referred in the House of Representatives to the appropriate committee or committees.

(8) If all of the committees of the House of Representatives to which the first joint resolution approving a request made pursuant to subsection (j)(1) has been referred have not reported such joint resolution by the end of February 1, 1988, any committee which has not reported such joint resolution shall be discharged from further consideration thereof on February 2, 1988 and such joint resolution shall be placed on the appropriate calendar of the House.

(9) If all of the committees of the House of Representatives to which the first joint resolution approving a request made pursuant to subsection (j)(2) has been referred have not reported such joint resolution by the end of ten days of session after such joint resolution was introduced, any committee which has not reported such joint resolution shall be discharged from further consideration thereof and such joint resolution shall be placed on the appropriate calendar of the House.

(10) On February 3, 1988, it is in order for any Member of the House of Representatives (after consultation with the Speaker as to the most appropriate time for consideration) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution approving a request made pursuant to subsection (j)(1).

(11) It is in order for any Member of the House of Representatives (after consultation with the Speaker as to the most appropriate time for consideration) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution approving a request made pursuant to subsection (j)(2) at any time after such joint resolution has been on the calendar for a period of five days of session, except that it shall not be in order to consider such joint resolution prior to July 1, 1988.

(12) In the House of Representatives, the vote on final passage of the joint resolution approving a request made pursuant to subsection (j)(1) shall occur no later than February 3, 1988, and the vote on final passage of the joint resolution approving a request made pursuant to subsection (j)(2) shall occur no later than September 30, 1988.

(k)(1) The motion that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of a joint resolution in accordance with this section is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution and against its consideration are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of.

(2) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(3) An amendment to the joint resolution is not in order.

(4) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(l)(1) A joint resolution described in subsection (j)(6) introduced in the Senate shall be referred to the appropriate committee of the Senate.

(2) If the committee to which is referred a joint resolution described in subsection (j)(6) has not reported such a resolution at the end of February 2, 1988, in the case of a resolution approving a request made pursuant to subsection (j)(1), hereinafter referred to as the first resolution, and at the end of 15 days of session after the introduction of a resolution approving a request made pursuant to subsection (j)(2), hereinafter referred to as the second resolution, such committee shall be discharged from further consideration of any such joint resolution. The second such resolution may not be reported before the eighth day of session after its introduction.

(3)(A) When the committee to which a Resolution is referred has reported, or has been discharged (under paragraph (2)) from further consideration of, a resolution described in subsection (j)(6), notwithstanding any rule or precedent of the Senate, including Rule 22, it is in order only on February 4, 1988 in the case of the first, and any time in July, August or September 1988 in the case of the second (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is not debatable. The motion is not subject to a motion to postpone. A yea and nay vote shall occur on the motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between the Majority and the Minority Leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of debate on a resolution described in subsection (j)(6), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in subsection (j)(6) shall be decided without debate.

(E) The vote on passage of the first such joint resolution in the Senate shall occur no later than 10:00 p.m., February 4, 1988, and on the second such joint resolution not before July 1, 1988, and no later than 10:00 p.m., September 30, 1988.

(4) If, before the passage by the Senate of a resolution of the Senate described in subsection (j)(6), the Senate receives from the House of Representatives a resolution described in subsection (j)(6), then the following procedures shall apply:

(A) The resolution of the House of Representatives shall not be referred to a committee.

(B) With respect to a resolution described in subsection (j)(6) in the Senate—

(i) the procedure in the Senate shall be the same as if no resolution had been received from the House; but

(ii) the vote on passage shall be on the resolution of the House.

(C) Upon disposition of the resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(5) If the Senate receives from the House of Representatives a resolution described in subsection (j)(6) after the Senate has disposed of a Senate originated resolution, the action of the Senate with regard to the disposition of the Senate originated resolution shall be deemed to be the action of the Senate with regard to the House originated resolution.

(m)(1) Section 215 in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591), and subsections (p), (s) and (t) of section 722 of the International Security and Development Cooperation Act of 1985 are hereby repealed, and the provisions of section 8066 of the Department of Defense Appropriations Act, 1985, as contained in Public Law 98-473, shall not apply to any request for assistance to the Nicaraguan democratic resistance.

100 Stat. 1783-307, 3341-307. 99 Stat. 249.

(2) Subsections (j)–(l) are enacted—

(A) as an exercise in the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under this section, and they supercede other rules only to the extent that they are inconsistent with such rules; and

(B) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

(3) As used in this subsection, the term "day of session" means a day on which the respective House is in session.

SEC. 136. (a) Paragraph (37) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)) is amended by adding at the end thereof the following new subparagraph:

"(F)(i) For purposes of this title a qualified football coaches plan—

"(I) shall be treated as a multiemployer plan to the extent not inconsistent with the purposes of this subparagraph; and

"(II) notwithstanding section 401(k)(4)(B) of such Code, may include a qualified cash and deferred arrangement.

"(ii) For purposes of this subparagraph, the term 'qualified football coaches plan' means any defined contribution plan which is established and maintained by an organization—

"(I) which is described in section 501(c);

"(II) the membership of which consists entirely of individuals who primarily coach football as full-time employees of 4-year colleges or universities described in section 170(b)(1)(A)(ii); and

"(III) which was in existence on September 18, 1986."

(b) The amendment made by this section shall apply to years beginning after the date of the enactment of this joint resolution.

Effective date. 29 USC 1002 note.

Sec. 137. (a) The amounts made available for Star Schools under section 101(h) of this joint resolution shall be available for carrying out the provisions of title IX of the Education for Economic Security Act, relating to Star Schools, as contained in section 6005 of the Senate amendment to H.R. 5.

(b) The amounts made available for the workplace literacy program under section 101(h) of this joint resolution shall be for carrying out the provisions of section 317 of the Adult Education Act, as contained in the Senate amendment to H.R. 5.

(c) The amounts made available for dropout prevention under section 101(h) of this joint resolution shall be available for part A and part C of title VIII of the Senate amendment to H.R. 5: *Provided*, That (1) the first category of local educational agencies for allotment under part A shall include such agencies with a total enrollment of 100,000 or more students and 25 percent of the amount appropriated shall be allotted for such category, (2) the second such category shall be agencies having a total enrollment of 20,000 but less than 100,000 and 40 percent of the amount appropriated shall be allotted to the second category, and (3) the third such category of agencies shall be allotted 30 percent of the amount appropriated.

Sec. 138. (a)(1) For the purposes of making adjustments under section 619(a)(2)(E) of the Education of the Handicapped Act for fiscal year 1987, the number of handicapped children aged 3 to 5, inclusive receiving special education and related services for purposes of section 619(a)(2)(A)(ii)(II) of such Act shall be equal to the number of such children receiving special education and related services on December 1, 1987, or, if the State educational agency so chooses, the number of such children on March 1, 1988.

(2) In complying with paragraph (1), the Secretary of Education may not use the March 1 count for the purpose of this subsection unless it is received by the Secretary not later than April 15, 1988.

(3) For the purpose of this subsection, only children aged three to five, inclusive, as of December 1, 1987, may be included in the March 1, 1988, count.

(b) The provisions of subsection (a) shall be effective as if enacted on October 8, 1986.

Effective date.

Sec. 139. There is authorized $10,000,000 to establish the Warren G. Magnuson Foundation and Margaret Chase Smith Foundation Assistance Act.

Warren G. Magnuson. Grants.

Sec. 140. (a) In recognition of the public service of Senator Warren G. Magnuson, the Secretary of Education shall make grants, in accordance with the provisions of this joint resolution, to the Warren G. Magnuson Foundation for use in the development and activities of the Warren G. Magnuson Health Services Center at the

University of Washington at Seattle, Washington, and for other health and education related activities of the Foundation.

Margaret Chase Smith. Grants.

(b) In recognition of the public service of Senator Margaret Chase Smith, the Secretary of Education shall make grants, in accordance with the provisions of this joint resolution to the Margaret Chase Smith Foundation for use in the development and activities of the Margaret Chase Smith Library Center, located in Skowhegan, Maine.

(c) No payment may be made under this joint resolution unless an application is made to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

Sec. 141. (a) There are authorized to be appropriated such sums, not to exceed $5,000,000 as may be necessary to carry out the provisions of section 140(a) of this joint resolution.

(b) There are authorized to be appropriated such sums, not to exceed $5,000,000 as may be necessary to carry out the provisions of section 140(b) of this joint resolution.

(c) Funds appropriated under this joint resolution shall remain available until expended.

40 USC 174j-1 note.

Sec. 144. The Committee on Rules and Administration of the Senate may provide for the distribution of unused food from the Senate cafeterias under the jurisdiction of the committee to the needy of the District of Columbia through an appropriate private distribution organization selected by the committee.

Sec. 156. (a) The Secretary of Labor is authorized to make available from funding provided by this joint resolution and authorized by title IV, part B of the Job Training Partnership Act such funds as are necessary to match a Federal Aviation Administration grant to the city of San Marcos, Texas, for the functional replacement of buildings and other facilities at the Gary Job Corps Center, San Marcos, Texas: *Provided,* That funding made available by this joint resolution for this purpose shall not exceed $372,000. Such funds are necessary to facilitate the transfer of 37 acres, more or less, at the Gary Job Corps Center to the city of San Marcos, pursuant to section 516 of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation: H.R. 2310/S. 1184, awaiting conference), for development of the San Marcos Municipal Airport.

(b) Notwithstanding any other provision of law, the Secretary of Transportation is authorized, pursuant to section 505(a) of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation), to issue a grant to the city of San Marcos, Texas, for the functional replacement of buildings and other improvements at the Gary Job Corps Center, San Marcos, Texas; such functional replacement shall be considered as airport development as defined in section 503(a)(2) of said Act; further, costs for such functional replacement shall be allowable costs, notwithstanding any provision of section 513(c) of said Act; funds authorized in subsection (a) of this section may be used to provide the needed matching share of the cost of such functional relocation, notwithstanding any provision of section 510 of said Act.

(c) For the purpose of this section, no Federal funds used for such functional replacement shall be considered as an expense to the United States as that term is used in section 516 of the Airport and Airway Improvement Act of 1982, as amended (by, pending legislation).

(d) The 37 acres referenced in subsection (a) of this section are defined as follows: a tract of land being that part of the Job Corps site located south of and adjacent to the aircraft apron of the San Marcos Airport, Caldwell County, Texas. This tract is more particularly described in the following paragraphs:

beginning at that northwest corner of the Job Corps site which is located near the south edge of the aircraft apron, and is approximately 100 feet northeasterly of the old control tower;

thence east along the north boundary of the Job Corps site an approximate distance of 1850 feet to a point in the aircraft apron;

thence northeasterly along a line perpendicular to the center line of runway 12-30 an approximate distance of 150 feet to a point which is approximately 750 feet from the said center line;

thence southeasterly along a line in the aircraft apron and parallel to the said center line an approximate distance of 1500 feet to a point near the southeast edge of the said apron,

thence southwest along a line perpendicular to the said center line an approximate distance of 400 feet to a point;

thence northwest along a line parallel to the said centerline an approximate distance of 150 feet to a point which is on an extension of a line northeasterly along 10th Street;

thence southwest along the said extension an approximate distance of 200 feet to a point;

thence northwest along a line parallel to the southwest side of the large solitary hangar between 9th Street and 10th Street and passing along the southwest side of this hangar an approximate distance of 700 feet to a point which is on an extension of a line northeasterly along 9th Street;

thence southwest along the extension of the line along 9th Street an approximate distance of 250 feet to a point on the southwest line of Kane Avenue East;

thence northwest along the southwest line of Kane Avenue East an approximate distance of 650 feet to an angle point in Kane Avenue;

thence west along the south line of Kane Avenue an approximate distance of 2800 feet to a point on the northwest boundary of the Job Corps site, which is on the northwest side of Kane Avenue West;

thence northeast along the said northwest boundary an approximate distance of 50 feet to a point on the north boundary of the Job Corps site;

thence east along the north boundary of the Job Corps site, which is along the north side of Kane Avenue, an approximate distance of 1250 feet to an angle point in the boundary;

thence north along the boundary an approximate distance of 150 feet to an angle point in the boundary;

thence east along the boundary an approximate distance of 250 feet to an angle point in the boundary; and

thence north along the boundary an approximate distance of 300 feet to the point of beginning.

AGRICULTURAL AID AND TRADE MISSIONS ACT

7 USC 1736bb.

SEC. 1. AGRICULTURAL AID AND TRADE MISSIONS.

Effective date.

(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, under the chairmanship of the Secretary of Agriculture, the Secretary of Agriculture, the Secretary of State, and the Administrator shall jointly establish agricultural aid and trade missions to eligible countries to encourage the countries to participate in those United States agricultural aid and trade programs for which they are eligible in accordance with section 2

(b) COMPOSITION.—A mission to an eligible country shall be composed of—

(1) representatives of the Department of Agriculture, the Department of State, and the Agency for International Development, appointed by the Secretary of Agriculture, Secretary of State, and Administrator, respectively; and

(2) not less than 3, nor more than 6, representatives of market development cooperators, tax-exempt nonprofit agribusiness organizations, private voluntary organizations, and cooperatives, appointed jointly by the Secretary of Agriculture, Secretary of State, and Administrator,

who are knowledgeable about food aid and agricultural export programs, as well as the food needs, trade potential, and economy of the eligible country.

(c) TERMS.—The term of members of a mission shall terminate on submission of the report required under section 4.

(d) COMPENSATION AND TRAVEL EXPENSES.—A member of a mission shall serve without compensation, if not otherwise an officer or employee of the United States, except that a member, while away from home or regular place of business in the performance of services under this chapter, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code.

7 USC 1736bb-1.

SEC. 2. REQUIRED AND ADDITIONAL MISSIONS; ELIGIBLE COUNTRIES.

(a) REQUIRED MISSIONS.—Missions shall be established and completed—

(1) not later than 6 months after the date of enactment of this Act, in 8 countries chosen in accordance with the criteria set forth in subsection (c); and

(2) not later than 1 year after the date of enactment of this Act, in 8 additional countries chosen in accordance with such criteria.

(b) ADDITIONAL MISSIONS.—After the completion of the missions referred to in subsection (a), a mission may be established to any foreign country chosen in accordance with the criteria set forth in subsection (c).

(c) CRITERIA.—

(1) INDIVIDUAL COUNTRIES.—Subject to paragraph (2) and subsection (a), a mission shall be established to a foreign country if—

(A) the country is eligible for participation in United States agricultural aid and trade programs and such participation would be mutually advantageous to the country and the United States; and

(B) the country is friendly to the United States.

(2) MULTIPLE COUNTRIES.—In selecting countries for missions under this section, the Secretary shall—

(A) select countries that are in various stages of development and have various income levels; and

(B) consider—

(i) past participation in United States food programs;

(ii) experience with United States agricultural aid and trade programs; and

(iii) import market potential.

(d) ELIGIBILITY OF POLAND.—Notwithstanding any other provision of this section, the Secretary of Agriculture may establish a mission in Poland.

SEC. 3. FUNCTIONS.

7 USC 1736bb-2.

The members of a mission to an eligible country shall—

(1) meet with representatives of Government agencies of the United States and the eligible country, as well as commodity boards, private enterprises, international organizations, private voluntary organizations, and cooperatives that operate in the eligible country, to assist in planning the extent to which United States agricultural aid and trade programs could be used in a mutally beneficial manner to meet the food and economic needs of the country;

(2) provide technical expertise and information to representatives of Government agencies of the United States and the eligible country and private organizations with respect to United States agricultural aid and trade programs and agricultural commodities and other assistance available to the eligible country under such programs; and

(3) assist in obtaining firm commitments for—

(A) proposals for food aid programs; and

(B) agreements for commodity sales.

SEC. 4. MISSION REPORTS.

7 USC 1736bb-3.

Not later than 60 days after the completion of a mission under section 2, the mission shall submit a report that contains the findings and recommendations of the mission in carrying out its responsibilities under this chapter to the President, the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate, the Secretary of Agriculture, the Secretary of State, and the Administrator.

SEC. 5. PROGRESS REPORTS.

7 USC 1736bb-4.

During the 2-year period beginning 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Administrator shall jointly submit a quarterly report on progress made in implementing the recommendations of the missions reported under section 4, including the quantity and dollar value of commodities shipped to eligible countries and the specific development programs undertaken in accordance with this chapter, to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate.

7 USC 1736bb-5.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this chapter: *Provided,* That $200,000 is appropriated to carry out this chapter for fiscal year 1988.

7 USC 1736bb-6.

SEC. 7. DEFINITIONS.

As used in this chapter:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Agency for International Development.

(2) ELIGIBLE COUNTRY.—The term "eligible country" means a country that is eligible under section 2(c).

(3) MISSION.—The term "mission" means an agricultural aid and trade mission established under section 1.

(4) UNITED STATES AGRICULTURAL AID AND TRADE PROGRAMS.—The term "United States agricultural aid and trade programs" includes—

(A) programs established under titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.);

(B) the program established under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) the agricultural export enhancement program established under section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v);

(D) the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14);

(E) the export credit guarantee program (GSM-102) established under section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f));

(F) the intermediate export credit guarantee program (GSM-103) established under section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b));

(G) the food for progress program established under section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o); and

(H) other agricultural aid and trade programs authorized by the Food Security Act of 1985 (Public Law 99-198), by the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or by other applicable authorities.

Subtitle E—Public Law 480 and Related Provisions

SEC. 8. LEVEL OF SALES FOR FOREIGN CURRENCY.

Section 101(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701(b)) is amended—

President of U.S.

(1) in paragraph (1), by adding at the end the following: "For each of the fiscal years 1988 through 1990, each agreement entered into under this title shall provide for some sale for foreign currencies for use under section 108, (except for agreements with a country the President determines is incapable of participating in section 108) unless the President determines that the level of agricultural commodities furnished under title I will be significantly reduced as a result of this sentence."; and

(2) in paragraph (2), by inserting ", or enter into sales agreements not providing for sales for foreign currencies for use under section 108," after "currencies".

SEC. 9. TERMS AND CONDITIONS OF AGREEMENTS WITH FRIENDLY COUNTRIES AND ORGANIZATIONS.

Section 103 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1703) is amended—

(1) by striking out "and" at the end of subsection (p);

(2) by striking out the period at the end of subsection (q) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(r) give favorable consideration in the allocation of commodities under this title to countries promoting the private sector through the use of section 108.".

SEC. 10. CRITERIA OF SELF-HELP MEASURES.

The first sentence of section 109(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1709(a)) is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(12) promoting the conservation and study of biological diversity.".

SEC. 11. USE OF COOPERATIVES TO FURNISH COMMODITIES.

The third sentence of section 202(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722(a)) is amended by inserting "or cooperatives" after "voluntary agencies".

SEC. 12. NONEMERGENCY PROGRAMS UNDER TITLE II OF PUBLIC LAW 480.

The first sentence of section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726) is amended by inserting after "extraordinary relief requirements," the following: "or for nonemergency programs conducted by nonprofit voluntary agencies or cooperatives,".

SEC. 13. REPORTS ON SALES AND BARTER AND USE OF FOREIGN CURRENCY PROCEEDS.

Section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726) (as amended by section 655 of this Act) is further amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following:

President of U.S.

"(b) Not later than February 15, 1988, and annually thereafter, the President shall report to Congress on sales and barter, and use of foreign currency proceeds, under this section and section 207 during the preceding fiscal year. Such report shall include information on—

"(1) the quantity of commodities furnished for such sale or barter;

"(2) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in the preceding fiscal year;

"(3) how such funds and services were used;

"(4) the amount of foreign currency proceeds that were used under agreements under this section and section 207 in the preceding fiscal year, and the percentage of the quantity of all commodities and products furnished under this section and section 207 in such fiscal year such use represented;

"(5) the President's best estimate of the amount of foreign currency proceeds that will be used, under agreements under this section and section 207, in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the President estimates will be furnished under this section and section 207 in each such fiscal year;

"(6) the effectiveness of such sales, barter, and use during the preceding fiscal year in facilitating the distribution of commodities and products under this section and section 207;

"(7) the extent to which such sales, barter, or uses—

"(A) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made;

"(B) affect usual marketings of the United States;

"(C) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries; or

"(D) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this title; and

"(8) the President's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under this section and section 207.".

SEC. 14. USES OF FOREIGN CURRENCIES.

Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726a) is amended—

(1) in subsection (a), by inserting "or cooperative" after "agency";

(2) in subsection (b), by striking out "5 percent" and inserting in lieu thereof "10 percent"; and

(3) by adding at the end the following:

"(c) Foreign currencies generated from any partial or full sales or barter of commodities by a nonprofit voluntary agency or cooperative shall be used—

"(1) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this title; and

"(2) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.".

SEC. 15. PERIODS FOR REVIEW AND COMMENT.

Title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.) is amended by adding at the end thereof the following:

7 USC 1726b.

"SEC. 208. PERIODS FOR REVIEW AND COMMENT.

"(a) Response.—If a proposal to make agricultural commodities available under this title is submitted by a nonprofit voluntary agency or cooperative with the concurrence of the appropriate

United States Government field mission or if a proposal to make agricultural commodities available to a nonprofit voluntary agency or cooperative is submitted by the United States Government field mission, a decision on the proposal shall be provided within 45 days after receipt by the Agency for International Development office in Washington, D.C. The response shall detail the reasons for approval or denial of the proposal. If the proposal is denied, the response shall specify the conditions that would need to be met for the proposal to be approved.

President of U.S.

"(b) NOTICE AND COMMENT.—Not later than 30 days before the issuance of a final guideline to carry out this title, the President shall—

"(1) provide notice of the proposed guideline to nonprofit voluntary agencies and cooperatives that participate in programs under this title, and other interested persons, that the proposed guideline is available for review and comment;

"(2) make the proposed guideline available, on request, to the agencies, cooperatives, and others; and

"(3) take any comments received into consideration before the issuance of the final guideline.

"(c) DEADLINE FOR SUBMISSION OF COMMODITY ORDERS.—Not later than 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.".

Approved December 22, 1987.

Certified April 20, 1988.

Editorial note: This printed version of the original hand enrollment is published pursuant to section 101(n)(4) of this law. The following memorandum for the Archivist of the United States was signed by the President on January 28, 1988, and was printed in the *Federal Register* on February 1, 1988:

By the authority vested in me as President by the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, I hereby authorize you to ascertain whether the printed enrollment of H.J. Res. 395, Joint Resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202), and H.R. 3545, the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), are correct printings of the hand enrollments, which were approved on December 22, 1987, and if so to make on my behalf the certifications required by Section 101(n)(4) of H.J. Res. 395 and Section 8004(c) of H.R. 3545.

Attached are the printed enrollments of H.J. Res. 395 and H.R. 3545, which were received at the White House on January 27, 1988.

This memorandum shall be published in the *Federal Register*.

The Archivist on April 20, 1988, certified this to be a correct printing of the hand enrollment of Public Law 100-202.

LEGISLATIVE HISTORY—H.J. Res. 395:

HOUSE REPORTS: No. 100-415 (Comm. on Appropriations) and No. 100-498 (Comm. of Conference).
SENATE REPORTS: No. 100-238 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Dec. 3, considered and passed House.
  Dec. 11, considered and passed Senate, amended.
  Dec. 21, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
  Dec. 22, Presidential remarks.

○

PUBLIC LAW 100-203—DEC. 22, 1987

OMNIBUS BUDGET RECONCILIATION ACT OF 1987

*Public Law 100-203
100th Congress

An Act

Dec. 22, 1987
[H.R. 3545]

To provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Budget Reconciliation Act of 1987.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1987".

SEC. 2. TABLE OF CONTENTS.

Title I—Agriculture and related programs.
Title II—National Economic Commission.
Title III—Education programs.
Title IV—Medicare, medicaid, and other health-related programs.
Title V—Energy and environmental programs.
Title VI—Civil service and postal service programs.
Title VII—Veterans' programs.
Title VIII—Budget policy and fiscal procedures.
Title IX—Income security and related programs.
Title X—Revenues.

Agricultural Reconciliation Act of 1987.

TITLE I—AGRICULTURE AND RELATED PROGRAMS

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

7 USC 1421 note.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1987".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1001. Short title; table of contents.

Subtitle A—Adjustments to Agricultural Commodity Programs

Sec. 1101. Target price reductions.
Sec. 1102. Loan rates.
Sec. 1103. Feed grain diversion program.
Sec. 1104. Price support reduction for nontarget price commodities.
Sec. 1105. Loan rate differentials.
Sec. 1106. Storage cost adjustment.
Sec. 1107. Acreage limitation program for oats.
Sec. 1108. Producer reserve program.
Sec. 1109. Yield adjustments.
Sec. 1110. Advance payments.
Sec. 1111. Advanced emergency compensation payments for wheat.
Sec. 1112. Tobacco provisions.
Sec. 1113. Haying and grazing.

ENROLLMENT ERRATA

Pursuant to the provisions of section 8004 of this Act (appearing on 101 Stat. 1330-282), changes made are indicated by footnote.

---

*Note: For information on the printing of this law and a related Presidential memorandum, see the editorial note at the end.

Subtitle B—Optional Acreage Diversion

Sec. 1201. Wheat optional acreage diversion program.
Sec. 1202. Feed grains optional acreage diversion program.
Sec. 1203. Regulations.

Subtitle C—Farm Program Payments

Sec. 1301. Prevention of the creation of entities to qualify as separate persons.
Sec. 1302. Payments limited to active farmers.
Sec. 1303. Definition of person: eligible individuals and entities; restrictions applicable to cash-rent tenants.
Sec. 1304. More effective and uniform application of payment limitations.
Sec. 1305. Regulations; transition rules; equitable adjustments.
Sec. 1306. Foreign persons made ineligible for program benefits.
Sec. 1307. Honey loan limitation.

Subtitle D—Prepayment of Rural Electrification Loans [1]

Chapter 1—Prepayment of Rural Electrification Loans

Sec. 1401. Prepayment of loans.
Sec. 1402. Use of funds.
Sec. 1403. Cushion of credit payments program.

Chapter 2—Rural Telephone Bank Borrowers

Sec. 1411. Rural Telephone Bank interest rates and loan prepayments.
Sec. 1412. Interest rate to be considered for purposes of assessing eligibility for loans.
Sec. 1413. Establishment of reserve for losses due to interest rate fluctuations.
Sec. 1414. Publication of Rural Telephone Bank policies and regulations.

Subtitle E—Miscellaneous

Sec. 1501. Marketing order penalties.
Sec. 1502. Study of use of agricultural commodity futures and options markets.
Sec. 1503. Authorization of appropriations for Philippine food aid initiative.
Sec. 1504. Rural industrialization assistance.
Sec. 1505. Plant variety protection fees.
Sec. 1506. Annual appropriations to reimburse the Commodity Credit Corporation for net realized losses.
Sec. 1507. Federal crop insurance.
Sec. 1508. Ethanol usage.
Sec. 1509. Demonstration of family independence program.

Subtitle A—Adjustments to Agricultural Commodity Programs

SEC. 1101. TARGET PRICE REDUCTIONS.

(a) Wheat.—Effective only for the 1988 and 1989 crops of wheat, section 107D(c)(1)(G) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(G)) is amended by striking out "$4.29 per bushel for the 1988 crop, $4.16 per bushel for the 1989 crop" and inserting in lieu thereof "$4.23 per bushel for the 1988 crop, $4.10 per bushel for the 1989 crop".

(b) Feed Grains.—Effective only for the 1988 and 1989 crops of feed grains, section 105C(c)(1)(E) of such Act (7 U.S.C. 1444e(c)(1)(E)) is amended by striking out "$2.97 per bushel for the 1988 crop, $2.88 per bushel for the 1989 crop" and inserting in lieu thereof "$2.93 per bushel for the 1988 crop, $2.84 per bushel for the 1989 crop".

(c) Cotton.—Effective only for the 1988 and 1989 crops of upland cotton, section 103A(c)(1)(D) of such Act (7 U.S.C. 1444-1(c)(1)(D)) is amended by striking out "$0.77 per pound for the 1988 crop, $0.745

---

[1] Copy read "loans".

per pound for the 1989 crop" and inserting in lieu thereof "$0.759 per pound for the 1988 crop, $0.734 per pound for the 1989 crop".

(d) Extra Long Staple Cotton.—Effective only for the 1988 and 1989 crops of extra long staple cotton, section 103(h)(3)(B) of such Act (7 U.S.C. 1444(h)(3)(B)) is amended—

(1) by striking out "The" and inserting in lieu thereof "Except as provided in clause (ii), the"; and

(2) by adding at the end thereof the following new clause: "(ii) In the case of each of the 1988 and 1989 crops of extra long staple cotton, the established price for each such crop shall be 118.3 percent of the loan level determined for such crop under paragraph (2).".

(e) Rice.—Effective only for the 1988 and 1989 crops of rice, section 101A(c)(1)(D) of such Act (7 U.S.C. 1441-1(c)(1)(D)) is amended by striking out "$11.30 per hundredweight for the 1988 crop, $10.95 per hundredweight for the 1989 crop" and inserting in lieu thereof "$11.15 per hundredweight for the 1988 crop, $10.80 per hundredweight for the 1989 crop".

SEC. 1102. LOAN RATES.

(a) Wheat.—Effective only for the 1988 through 1990 crops of wheat, section 107D(a)(3)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(a)(3)(B)) is amended by striking out "not be reduced by more than 5 percent from the level determined for the preceding crop." and inserting in lieu thereof the following: "not be reduced by more than—

"(i) in the case of the 1987 crop, 5 percent from the level determined for the preceding crop;

"(ii) in the case of the 1988 crop, 3 percent from the level determined for the preceding crop;

"(iii) in the case of the 1989 crop, 5 percent from the level determined for the preceding crop, plus an additional 2 percent from the level determined for the preceding crop if the Secretary, after taking into account any reduction that is provided for under paragraph (4)(A)(ii), determines that such additional percentage reduction is necessary to maintain a competitive market position for wheat; and

"(iv) in the case of the 1990 crop, 5 percent from the level determined for the preceding crop.".

(b) Feed Grains.—Effective only for the 1988 through 1990 crops of feed grains, section 105C(a)(2)(B) of such Act (7 U.S.C. 1444e(a)(2)(B)) is amended by striking out "not be reduced by more than 5 percent from the level determined for the preceding crop." and inserting in lieu thereof the following: "not be reduced by more than—

"(i) in the case of the 1987 crop, 5 percent from the level determined for the preceding crop;

"(ii) in the case of the 1988 crop, 3 percent from the level determined for the preceding crop;

"(iii) in the case of the 1989 crop, 5 percent from the level determined for the preceding crop, plus an additional 2 percent from the level determined for the preceding crop if the Secretary, after taking into account any reduction that is provided for under paragraph (3)(A)(ii), determines that such additional percentage reduction is necessary to maintain a competitive market position for feed grains; and "(iv) in the case of the 1990 crop, 5 percent from the level determined for the preceding crop.".

(c) COTTON.—Effective only for the 1988 through 1990 crops of upland cotton, subparagraph (A) of section 103A(a)(2) of such Act (7 U.S.C. 1444-1(a)(2)(A)) is amended to read as follows:

"(A) The loan level for any crop determined under paragraph (1)(B) may not be reduced below 50 cents per pound nor more than—

"(i) in the case of the 1987 crop, 5 percent from the level determined for the preceding crop;

"(ii) in the case of the 1988 crop, 3 percent from the level determined for the preceding crop;

"(iii) in the case of the 1989 crop, 5 percent from the level determined for the preceding crop, plus an additional 2 percent from the level determined for the preceding crop if the Secretary determines that such additional percentage reduction is necessary to maintain a competitive market position for upland cotton; and

"(iv) in the case of the 1990 crop, 5 percent from the level determined for the preceding crop.".

(d) RICE.—Effective only for the 1988 through 1990 crops of rice, paragraph (2) of section 101A(a) of such Act (7 U.S.C. 1441-1(a)(2)) is amended to read as follows:

"(2) The loan level for any crop determined under paragraph (1)(B) may not be reduced by more than—

"(A) in the case of the 1987 crop, 5 percent from the level determined for the preceding crop;

"(B) in the case of the 1988 crop, 3 percent from the level determined for the preceding crop;

"(C) in the case of the 1989 crop, 5 percent from the level determined for the preceding crop, plus an additional 2 percent from the level determined for the preceding crop if the Secretary determines that such additional percentage reduction is necessary to maintain a competitive market position for rice; and

"(D) in the case of the 1990 crop, 5 percent from the level determined for the preceding crop.".

SEC. 1103. FEED GRAIN DIVERSION PROGRAM.

Effective only for the 1988 and 1989 crops of feed grains, section 105C(f)(5) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(5)) is amended by adding at the end thereof the following new subparagraph:

"(D)(i) In the case of the 1988 and 1989 crops of corn, grain sorghums, and barley, except as provided in clause (ii), the Secretary shall make land diversion payments to producers of corn, grain sorghums, and barley, in accordance with this paragraph, under which the required reduction in the crop acreage base shall be 10 percent and the diversion payment rate shall be $1.75 per bushel for corn. The Secretary shall establish the diversion payment rate for grain sorghums and barley at such level as the Secretary determines is fair and reasonable in relation to the rate established for corn.

"(ii) In the case of the 1989 crop of corn, grain sorghums, or barley, the Secretary may waive the application of clause (i) if the Secretary determines that it is necessary to maintain an adequate supply of corn, grain sorghums, or barley.".

SEC. 1104. PRICE SUPPORT REDUCTION FOR NONTARGET PRICE COMMODITIES.

(a) TOBACCO.—Effective only for the 1988 and 1989 crops of tobacco, section 106(f) of the Agricultural Act of 1949 (7 U.S.C. 1445(f)) is amended by adding at the end thereof the following new paragraph:

"(8)(A) Notwithstanding any other provision of this subsection, in the case of each of the 1988 and 1989 crops of any kind of tobacco, the Secretary shall reduce the support level for such crop by an amount equal to 1.4 percent of the level otherwise established under this subsection. Any such reduction shall not be taken into consideration in determining the support level for a subsequent crop of tobacco.

"(B) In lieu of making any such reduction, the Secretary may impose assessments on the producers and purchasers in an amount sufficient to realize a reduction in outlays equal to the amount that would have been achieved as a result of the reduction required under subparagraph (A). Such assessments shall not apply to purchasers if it is judicially determined that the imposition of the purchaser assessment will adversely affect the contracts entered into under section 1109 of the Consolidated Omnibus Budget Reconciliation Act of 1986 (7 U.S.C. 1445-3).".

Contracts.

(b) PEANUTS.—Effective only for the 1988 and 1989 crops of peanuts, section 108B of such Act (7 U.S.C. 1445c-2) is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this section, in the case of each of the 1988 and 1989 crops of peanuts, the Secretary shall reduce outlays under the program provided for under this subsection by an amount equal to 1.4 percent of the amount of outlays that would otherwise be incurred in the absence of the reduction required by this paragraph.".

(c) HONEY.—Effective only for the 1987 through 1990 crops of honey, section 201(b)(1) of such Act (7 U.S.C. 1446(b)(1)) is amended by adding at the end thereof the following new subparagraph:

"(D) Notwithstanding the foregoing provisions of this paragraph, effective for each of the 1987 through 1990 crops, the loan and purchase level for honey that would otherwise apply under subparagraphs (B) and (C), without regard to this subparagraph, shall be reduced for loans and purchases made after the date of the enactment of this subparagraph by 2 cents per pound for the 1987 crop, ¾ cents per pound for the 1988 crop, ½ cent per pound for the 1989 crop, and ¼ cent per pound for the 1990 crop.".

(d) MILK.—Section 201(d)(2) of such Act (7 U.S.C. 1446(d)) is amended—

(1) in subparagraph (C), by striking out "subparagraph (A)" and inserting in lieu thereof "this paragraph"; and

(2) by adding at the end thereof the following new subparagraph:

"(F) During calendar year 1988, the Secretary shall provide for a reduction of 2½ cents per hundredweight to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.".

(e) SUGAR.—Section 201(j) of such Act (7 U.S.C. 1446(j)) is amended by adding at the end thereof the following new paragraph:

"(7) Notwithstanding any other provision of this section, in the case of each of the 1988 and 1989 crops of sugar beets and sugarcane, the Secretary shall reduce outlays under the program provided for under this subsection by an amount equal to 1.4 percent of the amount of outlays that would otherwise be incurred in the absence of the reduction required by this paragraph.".

(f) WOOL AND MOHAIR.—Section 703(b) of the National Wool Act of 1954 (7 U.S.C. 1782) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraphs (2) and (3), the";

(2) by striking out ": *Provided,*" and all that follows through the period and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following new paragraphs:

"(2) Except as provided in paragraph (3), for the marketing years beginning January 1, 1982, and ending December 31, 1990, the support price for shorn wool shall be 77.5 percent (rounded to the nearest full cent) of the amount calculated according to paragraph (1).

"(3) For the marketing years beginning January 1, 1988, and ending December 31, 1989, the support price for shorn wool shall be 76.4 percent (rounded to the nearest full cent) of the amount calculated according to paragraph (1).".

SEC. 1105. LOAN RATE DIFFERENTIALS.

Section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423) is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this section, for each of the 1988 through 1990 crops of wheat and feed grains, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting transportation differentials may increase or decrease such regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 2 percent.".

SEC. 1106. STORAGE COST ADJUSTMENT.

15 USC 714b note.

For the fiscal years 1988 and 1989, the Secretary of Agriculture shall ensure that expenditures of the Commodity Credit Corporation for commercial storage, transportation, and handling of commodities owned by the Corporation (excluding storage payments made in accordance with section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e)) are reduced by $230,000,000 in such fiscal years from the amount of funds otherwise projected to be expended in fiscal years 1988 and 1989 under the budget base determined under section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901) for commercial storage, transportation, and handling of such commodities. In order to achieve the savings required by this section, the Secretary shall adjust storage, handling, or transportation expenditures paid by the Corporation or take other appropriate actions.

SEC. 1107. ACREAGE LIMITATION PROGRAM FOR OATS.

Effective only for the 1988 through 1990 crops of feed grains, section 105C(f)(2) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(2)) is amended by adding at the end thereof the following new subparagraph:

"(G) In the case of the 1988 through 1990 crops of oats, the Secretary shall not establish a percentage reduction in accordance with paragraph (1) in excess of 5 percent. In implementing this subparagraph, the Secretary shall issue regulations that provide for the fair and equitable treatment of producers on a farm for which an oat and barley crop acreage base has been established. To ensure the efficient and fair implementation of this subparagraph, the Secretary shall announce revisions of the acreage limitation program for the 1988 crop of feed grains that implement this subparagraph as soon as practicable after the date of enactment of the Agricultural Reconciliation Act of 1987. In the case of the 1990 crop of oats, the Secretary may waive the application of this subparagraph if the Secretary determines that the supply of oats will be excessive.".

Regulations.

SEC. 1108. PRODUCER RESERVE PROGRAM.

Subparagraph (A) of the fourth sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)) is amended—

(1) in clause (i), by striking out "17 percent of the estimated total domestic and export usage of wheat during the then current marketing year for wheat, as determined by the Secretary" and inserting in lieu thereof "300 million bushels"; and

(2) in clause (ii), by striking out "7 percent of the estimated total domestic and export usage of feed grains during the then current marketing year for feed grains, as determined by the Secretary" and inserting in lieu thereof "450 million bushels".

SEC. 1109. YIELD ADJUSTMENTS.

Effective only for the 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice, section 506(b)(2) of the Agricultural Act of 1949 (7 U.S.C. 1466(b)(2)) is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of each of the 1988 through 1990 crop years for a commodity, if the farm program payment yield for a farm is reduced more than 10 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 10 percent below the farm program payment yield for the 1985 crop year. Such payments shall be made available to producers at the time final deficiency payments are made available.".

SEC. 1110. ADVANCE PAYMENTS.

Effective only for the 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice, section 107C(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b-2(a)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) If the Secretary establishes an acreage limitation or set-aside program for any of the 1988 through 1990 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary shall make advance deficiency payments available to producers for each of such crops."; and

(2) in paragraph (2)(F), by striking out clause (iii) and inserting in lieu thereof the following new clause:

"(iii)(I) in the case of wheat and feed grains, not less than 40 percent, nor more than 50 percent, of the projected payment rate; and

"(II) in the case of rice and upland cotton, not less than 30 percent, nor more than 50 percent, of the projected payment rate,".

SEC. 1111. ADVANCED EMERGENCY COMPENSATION PAYMENTS FOR WHEAT.

Effective only for the 1987 through 1990 crops of wheat, section 107D(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(E)) is amended by adding at the end thereof the following new clauses:

"(iii) Notwithstanding any other provision of this Act, in the case of each of the 1987 through 1990 crops of wheat, the Secretary shall—

"(I) by December 1 of each of the marketing years for such crops (or, in the case of the 1987 crop, as soon as practicable after the date of enactment of the Agricultural Reconciliation Act of 1987), estimate the national weighted average market price, per bushel of wheat, received by producers during such marketing year;

"(II) by December 15 of such marketing year (or, in the case of the 1987 crop, as soon as practicable, but not later than 75 days, after the date of enactment of such Act), use the estimate to make available to producers who have elected the payment option authorized by this clause not less than 75 percent of the increase in established price payments estimated to be payable with respect to such crop under this subparagraph; and

"(III) adjust the amount of each final established price payment for wheat to reflect any difference between the amount of any estimated payment made under this clause and the amount of actual payment due under this subparagraph.

"(iv) Producers shall elect the payment option authorized by clause (iii)—

"(I) in the case of the 1987 crop of wheat, not later than 45 days after the date of the enactment of this clause; and

"(II) in the case of each of the 1988 through 1990 crops of wheat, at the time of entering into a contract to participate in the program established by this section for the crop.". Contracts.

SEC. 1112. TOBACCO PROVISIONS.

(a) Transfer Authority.—Section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 316(h)) is amended by adding at the end thereof the following new subsection: 7 USC 1314b.

"(h)(1) Notwithstanding any other provision of this section, the Secretary may permit, after June 30 of any crop year, the lease and transfer of flue-cured tobacco quota assigned to a farm if—

"(A) the planted acreage of flue-cured tobacco on the farm to which the quota is assigned is determined by the Secretary to be equal to or greater than 90 percent of the farm's acreage allotment, or the planted acreage is determined to be sufficient to produce the farm marketing quota under average conditions; and

"(B) the farm's expected production of flue-cured tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

"(2) Any lease and transfer of quota under this paragraph may be made to any other farm within the same State in accordance with regulations issued by the Secretary.".

(b) Periodic Adjustment of Yield Factor for[2] Flue-Cured Tobacco Acreage-Poundage Quotas.—Section 317(a) of such Act (7 U.S.C. 1314c(a)) is amended by striking out "and at five year intervals thereafter" each place it appears in paragraphs (2), (4), and (6)(A).

(c) Improved Tobacco Field Measurement.—It is the sense of Congress that the Secretary of Agriculture should review current compliance procedures for acreage or poundage quotas with respect to cigar and dark-air and fire-cured tobaccos under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) to determine means of improving such procedures. The Secretary shall recommend to Congress changes in existing law that would be necessary to implement any such improvements.

SEC. 1113. HAYING AND GRAZING.

(a) Wheat.—Effective only for the 1988 through 1990 crops of wheat, section 107D of the Agricultural Act of 1949 (7 U.S.C. 1445b–3) is amended—

(1) in subsection (c)(1)(K)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(4)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(C)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

---

[2] Copy read "For".

(b) FEED GRAINS.—Effective only for the 1988 through 1990 crops of feed grains, section 105C of such Act (7 U.S.C. 1445b-3) is amended— 7 USC 1444e.

(1) in subsection (c)(1)(I)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(4)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(B)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

(c) COTTON.—Effective only for the 1988 through 1990 crops of upland cotton, section 103A of such Act (7 U.S.C. 1444-1) is amended—

(1) in subsection (c)(1)(G)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(3)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(C)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-

month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

(d) RICE.—Effective only for the 1988 through 1990 crops of rice, section 101A of such Act (7 U.S.C. 1441-1) is amended—

(1) in subsection (c)(1)(G)—

(A) in clause (i)—

(i) by striking out "(i)"; and

(ii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(B) by striking out clause (ii);

(2) in subsection (f)(3)—

(A) in subparagraph (B)—

(i) by striking out "Subject to subparagraph (C), the" and inserting in lieu thereof "The"; and

(ii) by striking out "hay and grazing,"; and

(B) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C)(i) Except as provided in clauses (ii) and (iii), haying and grazing of acreage designated as conservation use acreage for the purpose of meeting any requirements established under an acreage limitation program (including a program conducted under subsection (c)(1)(B)), set-aside program, or land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(iii) Haying and grazing shall not be permitted for any crop under clause (i) if the Secretary determines that haying and grazing would have an adverse economic effect.".

Subtitle B—Optional Acreage Diversion

SEC. 1201. WHEAT OPTIONAL ACREAGE DIVERSION PROGRAM.

Effective only for the 1988 through 1990 crops of wheat, section 107D(c)(1)(C) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C)) is amended—

(1) in clause (i)(II), by striking out ", subject to the compliance of the producers with clause (ii)";

(2) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following new clauses:

"(ii) Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the permitted wheat acreage of the farm to conservation uses (or other uses as provided in subparagraph (K)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to wheat and eligible for payments under this subparagraph for such crop at a per-bushel rate established by the Secretary, except that such rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which wheat producers may agree to participate in the program for such crop.

"(iii) The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total amount of wheat acreage that may be taken out of production under this subparagraph, taking into consideration the total amount of wheat acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the amount of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during such crop year."; and

(3) in clause (iv)—

(A) by inserting "(or all)" after "such portion"; and

(B) by inserting "under this subparagraph" after "subparagraph (K))".

SEC. 1202. FEED GRAINS OPTIONAL ACREAGE DIVERSION PROGRAM.

Effective only for the 1988 through 1990 crops of feed grains, section 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1444e(c)(1)(B)) is amended—

(1) in clause (i)(II), by striking out ", subject to the compliance of the producers with clause (ii)";

(2) by striking out clauses (ii) and (iii) and inserting in lieu thereof the following new clauses:

"(ii) Notwithstanding any other provision of this section, any producer who elects to devote all or a portion of the permitted feed grain acreage of the farm to conservation uses (or other uses as provided in subparagraph (I)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to feed grains and eligible for payments under this subparagraph for such crop at a per-bushel rate established by the Secretary, except that such rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which feed grain producers may agree to participate in the program for such crop.

"(iii) The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total amount of feed grain acreage that may be taken out of production under this subparagraph, taking into consideration the total amount of feed grain acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the amount of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during such crop year."; and

(3) in clause (iv)—

(A) by inserting "(or all)" after "such portion"; and

(B) by inserting "under this subparagraph" after "subparagraph (I))".

7 USC 1444e note.

SEC. 1203. REGULATIONS.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations implementing the amendments made to sections 107D(c)(1)(C) and 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C) and 1444e(c)(1)(B)) by sections 1201 and 1202, respectively.

(b) NONREDUCTION OF BASES AND YIELDS.—Such regulations shall include provisions that ensure that the wheat or feed grain crop acreage base and farm program payment yield for any farm will not be reduced if the producers on the farm set aside from production all, or a portion, of the producer's permitted acreage under the acreage diversion program under section 107D(c)(1)(C) or 105C(c)(1)(B) as amended by section 1201 or 1202, respectively.

(c) EFFECT ON LANDLORD-TENANT RELATIONS.—Such regulations shall ensure, to the maximum extent practicable, that the programs authorized under this subtitle will not adversely affect the relationships between landlords and tenants, regarding any crop acreage base entered into such programs, in existence on the date of enactment of this Act.

Subtitle C—Farm Program Payments

SEC. 1301. PREVENTION OF THE CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS.

(a) IN GENERAL.—Effective beginning with the 1989 crops, the Food Security Act of 1985 is amended—

(1) in section 1001(1) (7 U.S.C. 1308), by striking out "For each" and inserting in lieu thereof "Subject to sections 1001A through 1001C, for each";

(2) in section 1001(2)—

(A) in subparagraph (A), by striking out "For each" and inserting in lieu thereof "Subject to sections 1001A through 1001C, for each"; and

(B) in subparagraph (C), by striking out "The total" and inserting in lieu thereof "Subject to sections 1001A through 1001C, the total"; and

(3) by inserting after section 1001 the following new section:

7 USC 1308-1.

"SEC. 1001A. PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS; PAYMENTS LIMITED TO ACTIVE FARMERS.

"(a) PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS.—For the purposes of preventing the use of multiple legal entities to avoid the effective application of the payment limitations under section 1001:

"(1) IN GENERAL.—A person (as defined in section 1001(5)(B)(i)) that receives farm program payments (as described in paragraphs (1) and (2) of this section as being subject to limitation) for a crop year under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) may not also hold, directly or indirectly, substantial beneficial interests in more than two entities (as defined in section 1001(5)(B)(i)(II)) engaged in farm operations that also receive such payments as separate persons, for the purposes of the application of the limitations under section 1001. A person that does not receive such payments for a crop year may not hold, directly or indirectly, substantial beneficial interests in more than three entities that receive such payments as separate persons, for the purposes of the application of the limitations under section 1001.

"(2) Minimal beneficial interests.—For the purpose of this subsection, a beneficial interest in any entity that is less than 10 percent of all beneficial interests in such entity combined shall not be considered a substantial beneficial interest, unless the Secretary determines, on a case-by-case basis, that a smaller percentage should apply to one or more beneficial interests to ensure that the purpose of this subsection is achieved.

"(3) Notification by entities.—To facilitate administration of this subsection, each entity receiving such payments as a separate person shall notify each individual or other entity that acquires or holds a substantial beneficial interest in it of the requirements and limitations under this subsection. Each such entity receiving payments shall provide to the Secretary of Agriculture, at such times and in such manner as prescribed by the Secretary, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest.

"(4) Notification of interest.—

"(A) In general.—If a person is notified that the person holds substantial beneficial interests in more than the number of entities receiving payments that is permitted under this subsection for the purposes of the application of the limitations under section 1001, the person immediately shall notify the Secretary, designating those entities that should be considered as permitted entities for the person for purposes of applying the limitations. Each remaining entity in which the person holds a substantial beneficial interest shall be subject to reductions in the payments to the entity subject to limitation under section 1001 in accordance with this subparagraph. Each such payment applicable to the entity shall be reduced by an amount that bears the same relation to the full payment that the person's beneficial interest in the entity bears to all beneficial interests in the entity combined. Before making such reductions, the Secretary shall notify all individuals or entities affected thereby and permit them to adjust among themselves their interests in the designated entity or entities.

"(B) Notice not provided.—If the person does not so notify the Secretary, all entities in which the person holds substantial beneficial interests shall be subject to reductions in the per person limitations under section 1001 in the manner described in subparagraph (A). Before making such reductions, the Secretary shall notify all individuals or entities affected thereby and permit them to adjust among themselves their interests in the designated entity or entities.".

SEC. 1302. PAYMENTS LIMITED TO ACTIVE FARMERS.

Effective beginning with the 1989 crops, section 1001A of the Food Security Act of 1985, as added by section 1301, is amended by adding at the end the following:

"(b) PAYMENTS LIMITED TO ACTIVE FARMERS.—

"(1) IN GENERAL.—To be separately eligible for farm program payments (as described in paragraphs (1) and (2) of section 1001 as being subject to limitation) under the Agricultural Act of 1949 with respect to a particular farming operation (whether in the person's own right or as a partner in a general partnership, a grantor of a revocable trust, a participant in a joint venture, or a participant in a similar entity (as determined by the Secretary) that is the producer of the crops involved), a person must be an individual or entity described in section 1001(5)(B)(i) and actively engaged in farming with respect to such operation, as provided under paragraphs (2), (3), and (4).

"(2) GENERAL CLASSES ACTIVELY ENGAGED IN FARMING.[3]—For the purposes of paragraph (1), except as otherwise provided in paragraph (3):

"(A) INDIVIDUALS.—An individual shall be considered to be actively engaged in farming with respect to a farm operation if—

"(i) the individual makes a significant contribution (based on the total value of the farming operation) of—

"(I) capital, equipment, or land; and

"(II) personal labor or active personal management;

to the farming operation; and

"(ii) the individual's share of the profits or losses from the farming operation is commensurate with the individual's contributions to the operation; and

"(iii) the individual's contributions are at risk.

"(B) CORPORATIONS OR OTHER ENTITIES.—A corporation or other entity described in section 1001(5)(B)(i)(II) shall be considered as actively engaged in farming with respect to a farming operation if—

"(i) the entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

"(ii) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and

"(iii) the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity.

"(C) ENTITIES MAKING SIGNIFICANT CONTRIBUTIONS.—If a general partnership, joint venture, or similar entity (as determined by the Secretary) separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming with respect to the farming operation involved.

---

[3] Copy read "CLASSES ACTIVELY ENGAGED IN FARMING".

"(D) EQUIPMENT AND PERSONAL LABOR.—In making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area involved to produce program crops.

"(3) SPECIAL CLASSES ACTIVELY ENGAGED IN FARMING.—Notwithstanding paragraph (2), the following persons shall be considered to be actively engaged in farming with respect to a farm operation:

"(A) LANDOWNERS.—A person that is a landowner contributing the owned land to the farming operation if the landowner receives rent or income for such use of the land based on the land's production or the operation's operating results, and the person meets the standard provided in clauses (ii) and (iii) of paragraph (2)(A).

"(B) FAMILY MEMBERS.—With respect to a farming operation conducted by persons, a majority of whom are individuals who are family members, an adult family member who makes a significant contribution (based on the total value of the farming operation) of active personal management or personal labor and, with respect to such contribution, who meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A). For the purposes of the preceding sentence, the term 'family member' means an individual to whom another family member in the farming operation is related as lineal ancestor, lineal descendant, or sibling (including the spouses of those family members who do not make a significant contribution themselves).

"(C) SHARECROPPERS.—A sharecropper who makes a significant contribution of personal labor to the farming operation and, with respect to such contribution, who meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A).

"(4) PERSONS NOT ACTIVELY ENGAGED IN FARMING.—For the purposes of paragraph (1), except as provided in paragraph (3), the following persons shall not be considered to be actively engaged in farming with respect to a farm operation:

"(A) LANDLORDS.—A landlord contributing land to the farming operation if the landlord receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for such use of the land.

"(B) OTHER PERSONS.—Any other person, or class of persons, determined by the Secretary as failing to meet the standards set out in paragraphs (2) and (3).

"(5) CUSTOM FARMING SERVICES.—A person receiving custom farming services will be considered separately eligible for payment limitation purposes if such person is actively engaged in farming based on paragraphs (1) through (3). No other rules with respect to custom farming shall apply.".

SEC. 1303. DEFINITION OF PERSON: ELIGIBLE INDIVIDUALS AND ENTITIES; RESTRICTIONS APPLICABLE TO CASH-RENT TENANTS.

7 USC 1308 note. Effective beginning with the 1989 crops:

(a) IN GENERAL.—Section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)) is amended—

(1) by inserting after the first sentence of subparagraph (A) the following new sentence: "Such regulations shall incorporate the provisions in subparagraphs (B) through (E) of this paragraph, paragraphs (6) and (7), and sections 1001A through 1001C."; Regulations.

(2) by striking out the second sentence of subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(B)(i) For the purposes of the regulations issued under subparagraph (A), subject to clause (ii), the term 'person' means—

"(I) an individual, including any individual participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity (as determined by the Secretary);

"(II) a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity (as determined by the Secretary), including any such entity or organization participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar entity (as determined by the Secretary); and

"(III) a State, political subdivision, or agency thereof.

"(ii)(I) Such regulations shall provide that the term 'person' does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers.

"(II) In defining the term 'person' as it will apply to irrevocable trusts and estates, the Secretary shall ensure that fair and equitable treatment is given to trusts and estates and the beneficiaries thereof.

"(iii) Such regulations shall provide that, with respect to any married couple, the husband and wife shall be considered to be one person, except that any married couple consisting of spouses who, prior to their marriage, were separately engaged in unrelated farming operations, each spouse shall be treated as a separate person with respect to the farming operation brought into the marriage by such spouse so long as such operation remains as a separate farming operation, for the purposes of the application of the limitations under this section.";

(3) by redesignating subparagraph (B) as subparagraph (C); and

(4) by adding at the end thereof the following new subparagraphs:

"(D) Any person that conducts a farming operation to produce a crop subject to limitations under this section as a tenant that rents the land for cash (or a crop share guaranteed as to the amount of the commodity to be paid in rent) and that makes a significant contribution of active personal management but not of personal labor shall be considered the same person as the landlord unless the tenant makes a significant contribution of equipment used in the farming operation.

"(E) The Secretary may not approve (for purposes of the application of the limitations under this section) any change in a farming operation that otherwise will increase the number of persons to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive. In the implementation of the preceding sentence, the addition of a family member to a farming operation under the criteria set out in section 1001A(b)(1)(B) shall be considered a bona fide and substantive change in the farming operation.".

(b) LANDS OWNED BY STATES, POLITICAL SUBDIVISIONS, AND PUBLIC SCHOOLS.—Paragraph (6) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308(6)) is amended to read as follows:

"(6) The provisions of this section that limit payments to any person shall not be applicable to land owned by a public school district or land owned by a State that is used to maintain a public school.".

SEC. 1304. MORE EFFECTIVE AND UNIFORM APPLICATION OF PAYMENT LIMITATIONS.

(a) EDUCATION PROGRAM.

7 USC 1308 note.

(1) IN GENERAL.—The Secretary of Agriculture shall implement a payment provisions education program for appropriate personnel of the Department of Agriculture and members and other personnel of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), for the purpose of fostering more effective and uniform application of the payment limitations and restrictions under sections 1001 through 1001C of the Food Security Act of 1985.

(2) TRAINING.—The education program shall provide training to such personnel in the fair, accurate, and uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1001 through 1001C of the Food Security Act of 1985. Particular emphasis shall be given to the changes in the law made by sections 1301, 1302, and 1303 of this Act.

(3) IMPLEMENTATION.—The education program shall be fully implemented, and the training completed, not later than 30 days after the date final regulations are issued to carry out the amendments made by this subtitle.

(4) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program provided under this subsection through the Commodity Credit Corporation.

(b) SCHEMES OR DEVICES.—Effective beginning with the 1989 crops, the Food Security Act of 1985 is amended by inserting after section 1001A, as added by sections 1301 and 1302 of this Act, the following new section:

"SEC. 1001B. SCHEMES OR DEVICES.

7 USC 1308-2.

"If the Secretary of Agriculture determines that any person has adopted a scheme or device to evade, or that has the purpose of evading, section 1001, 1001A, or 1001C, such person shall be ineligible to receive farm program payments (as described in paragraphs (1) and (2) of section 1001 as being subject to limitation) applicable to the crop year for which such scheme or device was adopted and the succeeding crop year.".

SEC. 1305. REGULATIONS; TRANSITION RULES; EQUITABLE ADJUSTMENTS.

7 USC 1308 note.

(a) REGULATIONS.—

(1) ISSUANCE.—The Secretary of Agriculture shall issue—

(A) proposed regulations to carry out the amendments made by this subtitle not later than April 1, 1988; and

(B) final regulations to carry out such amendments not later than August 1, 1988.

(2) FIELD INSTRUCTIONS.—Any field instructions relating to, or other supplemental clarifications of, the regulations issued under sections 1001 through 1001C of the Food Security Act of 1985 shall not be used in resolving issues involved in the application of the payment limitations or restrictions under such sections or regulations to individuals, other entities, or farming operations until copies of the publication are made available to the public.

(b) ALLOWANCE FOR EQUITABLE REORGANIZATIONS.—To allow for the equitable reorganization of farming operations to conform to the limitations and restrictions contained in the amendments made to the Food Security Act of 1985 by this subtitle in cases in which the application of such limitations and restrictions will reduce payments to the farming operation (as determined by the Secretary), the Secretary may waive the application of the substantive change rule under section 1001(5)(E), as added by section 1303 of this Act, or any regulation of the Secretary containing a comparable rule, to any reorganization applied for prior to the final date when producers are eligible to enter into contracts to participate in the commodity programs established for the 1989 crop year, to the extent the Secretary determines appropriate to facilitate any such equitable reorganizations that does not increase such payments.

(c) GOOD FAITH RELIANCE ON OFFICIAL ADVICE.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by adding at the end thereof the following new paragraph:

"(7) Regulations of the Secretary shall establish time limits for the various steps involved with notice, hearing, decision, and the appeals procedure in order to ensure expeditious handling and settlement of payment limitation disputes. Notwithstanding any other provision of law, actions taken by an individual or other entity in good faith on action or advice of an authorized representative of the Secretary may be accepted as meeting the requirement under this section or section 1001A, to the extent the Secretary deems it desirable in order to provide fair and equitable treatment.".

Contracts.
7 USC 1308 note.

(d) CONSERVATION RESERVE APPLICATION.—Notwithstanding section 1234(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3834(f)), paragraphs (5) through (7) of section 1001, as amended by this subtitle, and sections 1001A through 1001C, of the Food Security Act of 1985 shall apply to the conservation reserve program under subtitle D of title XII of such Act (16 U.S.C. 3831 et seq.) with respect to rental payments to persons under contracts entered into after the date of the enactment of this Act, except with respect to landlords that receive cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.

SEC. 1306. FOREIGN PERSONS MADE INELIGIBLE FOR PROGRAM BENEFITS.

Effective beginning with the 1989 crops, the Food Security Act of 1985 is amended by inserting after section 1001B, as added by section 1304 of this Act, the following new section:

"SEC. 1001C. FOREIGN PERSONS MADE INELIGIBLE FOR PROGRAM BENEFITS.

7 USC 1308-3.

"Notwithstanding any other provision of law:

"(a) In General.—For each of the 1989 and 1990 crops, any person who is not a citizen of the United States or an alien lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall be ineligible to receive any type of production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) with respect to any commodity produced, or land set aside from production, on a farm that is owned or operated by such person, unless such person is an individual who is providing land, capital, and a substantial amount of personal labor in the production of crops on such farm.

"(b) Corporations or Other Entities.—For purposes of subsection (a), a corporation or other entity shall be considered a person that is ineligible for production adjustment payments, price support program loans, payments, or benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the United States or aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act, unless such persons provide a substantial amount of personal labor in the production of crops on such farm. Notwithstanding the foregoing provisions of this subsection, with respect to an entity that is determined to be ineligible to receive such payments, loans, or other benefits, the Secretary may make payments, loans, and other benefits in an amount determined by the Secretary to be representative of the percentage interests of the entity that is owned by citizens of the United States and aliens lawfully admitted into the United States for permanent residence under the Immigration and Nationality Act.

Contracts.

"(c) Prospective Application.—No person shall become ineligible under this section for production adjustment payments, price support program loans, payments or benefits as the result of the production of a crop of an agricultural commodity planted, or commodity program or conservation reserve contract entered into, before the date of the enactment of this section.".

SEC. 1307. HONEY LOAN LIMITATION.

Section 1001(2)(C) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(C)) is amended—

(1) by striking out clause (i); and

(2) in clause (ii), by striking out "(ii)".

Subtitle D—Rural Electrification Administration Programs

CHAPTER 1—PREPAYMENT OF RURAL ELECTRIFICATION LOANS

7 USC 936a note.

SEC. 1401. PREPAYMENT OF LOANS.

(a) ELIGIBILITY TO PRFPAY.—Notwithstanding subsections (c), (d), and (e) of section 306A of the Rural Electrification Act of 1936 (7 U.S.C. 936a (c), (d), and (e)), during fiscal year 1988, a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with subsections (a) and (b) of section 306A of such Act, except that any prepayment that would cause the total amount of such prepayments during fiscal year 1988 to exceed $2,000,000,000 shall be subject solely to the approval of the Secretary of the Treasury.

(b) PRIORITY FOR APPROVAL.—In determining which borrowers shall be permitted to prepay loans under subsection (a):

(1) The Administrator of the Rural Electrification Administration shall give priority to those 8 borrowers that were determined by the Administrator, prior to the date of the enactment of this Act, to be eligible to prepay, or that prepaid, an advance under section 306A of such Act (as in effect prior to the date of the enactment of this Act), except that to retain such priority a borrower shall—

Regulations.

(A) notify the Administrator in writing, within 30 days after the issuance of regulations to carry out this section, of the intent of the borrower to prepay; and

(B) complete such prepayment by disbursing funds to the Federal Financing Bank to prepay loan advances within 120 days after the issuance of such regulations.

(2) In considering requests for prepayment under subsection (a) by borrowers not described in paragraph (1), the Administrator shall permit prepayment based on the order in which borrowers are prepared to disburse funds to the Federal Financing Bank to complete such prepayments. If more than 1 borrower is so prepared at the same time, and if the combined amount of such prepayments would cause the total amount of prepayments during fiscal year 1988, under this section, to exceed $2,000,000,000, the Administrator shall—

(A) base the determination on the date on which prepayment applications have been submitted; or

(B) permit partial prepayment by two or more borrowers.

(c) REGULATIONS.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Rural Electrification Administration shall issue such regulations as are necessary to carry at this section.

(d) STUDY.—Not later than January 1, 1989, the Comptroller General of the United States shall—

(1) study—

(A) all benefits provided by Federal Financing Bank lending and the procedures and conditions for the prepayment of current Federal Financing Bank loans;

(B) the benefits and costs to Federal Financing Bank borrowers of making prepayments; and

(C) alternative conditions and procedures for prepayment of all Federal Financing Bank loans to balance Federal benefits with Federal costs; and

(2) submit to Congress a report describing the results of such study, together with any appropriate recommendations. Reports.

SEC. 1402. USE OF FUNDS.

The Rural Electrification Act of 1936 is amended by inserting after section 311 (7 U.S.C. 940a) the following new section:

"SEC. 312. USE OF FUNDS.

7 USC 940b.

"A borrower of an insured or guaranteed electric loan under this Act may, without restriction or prior approval of the Administrator, invest its own funds or make loans or guarantees, not in excess of 15 percent of its total utility plant.".

SEC. 1403. CUSHION OF CREDIT PAYMENTS PROGRAM.

Title III of the Rural Electrification Act of 1936 (as amended by section 1402 of this Act) is amended by adding at the end thereof the following new section:

"SEC. 313. CUSHION OF CREDIT PAYMENTS PROGRAM.

7 USC 940c.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Administrator shall develop and promote a program to encourage borrowers to voluntarily make deposits into cushion of credit accounts established within the Rural Electrification and Telephone Revolving Fund.

"(2) INTEREST.—Amounts in each cushion of credit account shall accrue interest to the borrower at a rate of 5 percent per annum.

"(3) BALANCE.—A borrower may reduce the balance of its cushion of credit account only if the amount obtained from the reduction is used to make scheduled payments on loans made or guaranteed under this Act.

"(b) USES OF CUSHION OF CREDIT PAYMENTS.—

"(1) IN GENERAL.—

"(A) CASH BALANCE.—Cushion of credit payments shall be held in the Rural Electrification and Telephone Revolving Fund as a cash balance in the cushion of credit accounts of borrowers.

"(B) INTEREST.—All cash balance amounts (obtained from cushion of credit payments, loan payments, and other sources) held by the Fund shall bear interest to the Fund at a rate equal to the weighted average rate on outstanding certificates of beneficial ownership issued by the Fund.

"(C) CREDITS.—The amount of interest accrued on the cash balances shall be credited to the Fund as an offsetting reduction to the amount of interest paid by the Fund on its certificates of beneficial ownership.

"(2) RURAL ECONOMIC DEVELOPMENT SUBACCOUNT.—

"(A) MAINTENANCE OF ACCOUNT.—The Administrator shall maintain a subaccount within the Rural Electrification and Telephone Revolving Fund to which shall be credited, on a monthly basis, a sum determined by multiplying the outstanding cushion of credit payments made after

October 1, 1987, by the difference (converted to a monthly basis) between the average weighted interest rate paid on outstanding certificates of beneficial ownership issued by the Fund and the 5 percent rate of interest provided to borrowers on cushion of credit payments.

"(B) GRANTS.—The Administrator is authorized, from the interest differential sums credited this subaccount and from any other funds made available thereto, to provide grants or zero interest loans to borrowers under this Act for the purpose of promoting rural economic development and job creation projects, including funding for project feasibility studies, start-up costs, incubator projects, and other reasonable expenses for the purpose of fostering rural development.

"(C) REPAYMENTS.—In the case of zero interest loans, the Administrator shall establish such reasonable repayment terms as will ensure borrower participation.

"(D) PROCEEDS.—All proceeds from the repayment of such loans shall be returned to the subaccount.

"(E) NUMBER OF GRANTS.—Such loans and grants shall be made during each fiscal year to the full extent of the amounts held by the rural economic development subaccount, subject only to limitations as may be from time-to-time imposed by law.".

CHAPTER 2—RURAL TELEPHONE BANK BORROWERS

SEC. 1411. RURAL TELEPHONE BANK INTEREST RATES AND LOAN PREPAYMENTS.

7 USC 948 note.

(a) FINDINGS.—Congress finds that—

(1) overcharging of Rural Telephone Bank borrowers has resulted in $179,000,000 in excess profits and has imperiled borrowers by raising costs to ratepayers;

(2) borrowers will be able to seek redress under section 408(b)(3)(G) of the Rural Electrification Act of 1936, as added by subsection (c), or may leave the Rural Telephone Bank, but in no case may the Governor of the Bank issue regulations requiring any penalty from borrowers seeking to retire debt prior to maturity; and

(3) any reduction in Federal Government[4] expenditures in the operation of the Rural Telephone Bank, from borrowers' conduct resulting from the implementation of the amendments made by subsections (b) and (c), should be included in all calculations of the budget of the United States Government, authorized under the[4a] Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

(b) RURAL TELEPHONE BANK LOAN PREPAYMENTS.—[5]

(1) PREPAYMENTS AUTHORIZED.—Section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)) is amended by adding at the end the following new paragraph:

"(8) A borrower with a loan from the Rural Telephone Bank may prepay such loan (or any part thereof) by paying the face amount thereof without being required to pay the prepayment penalty set forth in the note covering such loan, if such prepayment is not made later than September 30, 1988.".

---

[4] Copy read "government".

[4a] Copy read "under of the".

[5] Copy read "PREPAYMENTS.".

7 USC 948 note.

(2) PREPAYMENT REGULATIONS.—The Governor of the Rural Telephone Bank shall issue regulations to carry out the amendment made by paragraph (1) within 30 days after the date of enactment of this Act. Such regulations shall implement the amendment made by paragraph (1) without the addition of any restrictions not set forth in such amendment.

(c) DETERMINATION OF INTEREST RATES ON RURAL TELEPHONE BANK LOANS.—Paragraph (3) of section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(3)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) On and after the date of the enactment of this paragraph, advances made on or after such date of enactment under loan commitments made on or after October 1, 1987, shall bear interest at the rate determined under subparagraph (C), but in no event at a rate that is less than 5 percent per annum.

"(C) The rate determined under this subparagraph shall be—

"(i) for the period beginning on the date the advance is made and ending at the close of the fiscal year in which the advance is made, the average yield (on the date of the advance) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the advance; and

"(ii) after the fiscal year in which the advance is made, the cost of money rate for such fiscal year, as determined under subparagraph (D).

"(D) Within 30 days after the end of each fiscal year, the Governor shall determine to the nearest 0.01 percent the cost of money rate for the fiscal year, by calculating the sum of the results of the following calculations:

"(i) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class A stock, multiplied by the rate of return payable by the telephone bank during the fiscal year, as specified in section 406(c), to holders of class A stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(ii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class B stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, as specified in section 406(d), to holders of class B stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(iii) The aggregate of all amounts received by the telephone bank during the fiscal year from the issuance of class C stock, multiplied by the rate at which dividends are payable by the telephone bank during the fiscal year, under section 406(e), to holders of class C stock, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(iv)(I) The sum of the results of the calculations described in subclause (II).

"(II) The amounts received by the telephone bank during the fiscal year from each issue of telephone debentures and other obligations of the telephone bank, multiplied, respectively, by the rates at which interest is payable during the fiscal year by the telephone bank to holders of each issue, each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(v)(I) The amount by which the aggregate of the amounts advanced by the telephone bank during the fiscal year exceeds the aggregate of the amounts received by the telephone bank from the issuance of class A stock, class B stock, class C stock, and telephone debentures and other obligations of the telephone bank during the fiscal year, multiplied by the historic cost of money rate as of the close of the fiscal year immediately preceding the fiscal year, which product is divided by the aggregate of the amounts advanced by the telephone bank during the fiscal year.

"(II) For purposes of this clause, the term 'historic cost of money rate', with respect to the close of a preceding fiscal year, means the sum of the results of the following calculations: The amounts advanced by the telephone bank in each fiscal year during the period beginning with fiscal year 1974 and ending with the preceding fiscal year, multiplied, respectively, by the cost of money rate for the fiscal year (as set forth in the table in subparagraph (E)) for fiscal years 1974 through 1987, and as determined by the Governor under this subparagraph for fiscal years after fiscal year 1987), each of which products is divided, respectively, by the aggregate of the amounts advanced by the telephone bank during the period.

"(E) For purposes of subparagraph (D)(II), the cost of money rate for the fiscal years in which each advance was made shall be as set forth in the following table:

"For advances made in—	The cost of money rate shall be—
Fiscal year 1974	5.01 percent
Fiscal year 1975	5.85 percent
Fiscal year 1976	5.33 percent
Fiscal year 1977	5.00 percent
Fiscal year 1978	5.87 percent
Fiscal year 1979	5.93 percent
Fiscal year 1980	8.10 percent
Fiscal year 1981	9.46 percent
Fiscal year 1982	8.39 percent
Fiscal year 1983	6.99 percent
Fiscal year 1984	6.55 percent
Fiscal year 1985	5.00 percent
Fiscal year 1986	5.00 percent
Fiscal year 1987	5.00 percent.

For purposes of this subparagraph, the term 'fiscal year' means the 12-month period ending on September 30 of the designated year.

"(F)(i) Notwithstanding subparagraph (B), if a borrower holds a commitment for a loan under this section made on or after October 1, 1987, and before the date of the enactment of this paragraph, part or all of the proceeds of which have not been advanced as of such date of enactment, the borrower may, until the later of the date the next advance under the loan commitment is made or 90 days after such date of enactment, elect to have the interest rate specified in the loan commitment apply to the unadvanced portion of the loan in lieu of the rate which (but for this clause) would apply to the unadvanced portion under this paragraph. If any borrower makes an election under this clause with respect to a loan, the Governor shall adjust the interest rate which applies to the unadvanced portion of the loan accordingly.

"(ii)(I) If the telephone bank, pursuant to section 407(b), issues telephone debentures on any date to refinance telephone debentures or other obligations of the telephone bank, the telephone bank shall, in addition to any interest rate reduction required by any other provision of this paragraph, for the period applicable to the advance, reduce the interest rate charged on each advance made under this section during the fiscal year in which the refinanced debentures or other obligations were originally issued by the amount applicable to the advance.

"(II) For purposes of subclause (I), the term 'the period applicable to the advance' means the period beginning on the issue date described in subclause (I) and ending on the earlier of the date the advance matures or is completely prepaid.

"(III) For purposes of subclause (I), the term 'the amount applicable to the advance' means an amount which fully reflects that percentage of the funds saved by the telephone bank as a result of the refinancing which is equal to the percentage representation of the advance in all advances described in subclause (I).

"(IV) Within 60 days after any issue date described in subclause (I), the Governor shall amend the loan documentation for each advance described in subclause (I), as necessary, to reflect any interest rate reduction applicable to the advance by reason of this clause, and shall notify each affected borrower of the reduction.

"(G) Within 30 days after the publication of any determination made under subparagraph (D), any affected borrower may obtain review of the determination, or any other equitable relief as may be determined appropriate, by the United States court of appeals for the judicial circuit in which the borrower does business by filing a written petition requesting the court to set aside or modify such determination. On receipt of such a petition, the clerk of the court shall transmit a copy of the petition to the Governor. On receipt of a copy of such a petition from the clerk of the court, the Governor shall file with the court the record on which the determination is based. The court shall have jurisdiction to affirm, set aside, or modify the determination.

"(H) Within 5 days after determining the cost of money rate for a fiscal year, the Governor shall—

Federal Register, publication.

"(i) cause the determination to be published in the Federal Register in accordance with section 552 of title 5, United States Code; and

"(ii) furnish a copy of the determination to the Comptroller General of the United States.

Reports.

"(I) The Comptroller General shall review, on an expedited basis, each determination a copy of which is received from the Governor and, within 15 days after the date of such receipt, furnish Congress a report on the accuracy of the determination.

"(J) The telephone bank shall not sell or otherwise dispose of any loan made under this section, except as provided in this paragraph.".

SEC. 1412. INTEREST RATE TO BE CONSIDERED FOR PURPOSES OF ASSESSING ELIGIBILITY FOR LOANS.

Paragraph (4) of section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(4)) is amended by inserting at the end the following: "For purposes of determining the creditworthiness of a borrower for a loan under this paragraph, the Governor shall assume that the loan, if made, would bear interest at a rate equal to the average yield (on the date of the determination) on outstanding marketable obligations of the United States having a final maturity comparable to the final maturity of the loan.".

SEC. 1413. ESTABLISHMENT OF RESERVE FOR LOSSES DUE TO INTEREST RATE FLUCTUATIONS.

7 USC 946.

(a) Establishment of Reserve; Funding.—Section 406 of the Rural Electrification Act of 1936 (7 U.S.C. 947) is amended by adding at the end the following:

"(h) There is hereby established in the telephone bank a reserve for losses due to interest rate fluctuations. Within 30 days after the date of the enactment of this subsection, the Governor of the telephone bank shall transfer to the reserve for losses due to interest rate fluctuations all amounts in the reserve for contingencies as of the date of the enactment of this subsection. Amounts in the reserve for interest rate fluctuations may be expended only to cover operating losses of the telephone bank (other than losses attributable to loan defaults) and only after taking into consideration any recommendations made by the General Accounting Office under section 1413(b) of the Rural Telephone Bank Borrowers Fairness Act of 1987.".

Reports.

(b) Study by General Accounting Office.—Within 180 days after the date of the enactment of this Act, the General Accounting Office shall complete a study of operations of the telephone bank and report its recommendations to the Committees on Agriculture and Government Operations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate with respect to—

(1) the appropriate level of funding for the reserve for losses due to interest rate fluctuations established in section 406(h) of the Rural Electrification Act of 1936 (7 U.S.C. 947(h)) (as added by subsection (a));

(2) the circumstances under which amounts in the reserve for losses due to interest rate fluctuations should be expended;

(3) the circumstances under which amounts should be added to the reserve for losses due to interest rate fluctuations; and

(4) the disposition of excess reserves.

In such study, the General Accounting Office shall consider the effects of such recommendations on telephone bank borrowers, the subscribers of such borrowers, and the United States Government.

7 USC 946.

(c) Limitation on Establishment of New Reserves.—Subsection (g) of section 406 of the Rural Electrification Act of 1936 (7 U.S.C. 947(g)) is amended—

(1) by striking out "reserves for losses," and inserting in lieu thereof "the reserve for loan losses,"; and

(2) by adding at the end the following: "The telephone bank may not establish any reserve other than the reserves referred to in this subsection and in subsection (h).".

SEC. 1414. PUBLICATION OF RURAL TELEPHONE BANK POLICIES AND REGULATIONS.

Federal Register, publication.
Grants.
Contracts.
7 USC 944a.

Notwithstanding the exemption contained in section 553(a)(2) of title 5, United States Code, the Governor of the telephone bank shall cause to be published in the Federal Register, in accordance with section 553 of title 5, United States Code, all rules, regulations, bulletins, and other written policy standards governing the operation of the telephone bank's programs relating to public property, loans, grants, benefits, or contracts. After September 30, 1988, the telephone bank may not deny a loan or advance to, or take any other adverse action against, any applicant or borrower for any reason which is based upon a rule, regulation, bulletin, or other written policy standard which has not been published pursuant to such section.

Subtitle E—Miscellaneous

SEC. 1501. MARKETING ORDER PENALTIES.

Section 8c(14) of the Agricultural Adjustment Act of 1933 (7 U.S.C. 608c(14)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by inserting "(A)" before "Any"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) may be assessed a civil penalty by the Secretary not exceeding $1,000 for each such violation. Each day during which such violation continues shall be deemed a separate violation, except that if the Secretary finds that a petition pursuant to paragraph (15) was filed and prosecuted by the handler in good faith and not for delay, no civil penalty may be assessed under this paragraph for such violations as occurred between the date on which the handler's petition was filed with the Secretary, and the date on which notice of the Secretary's ruling thereon was given to the handler in accordance with regulations prescribed pursuant to paragraph (15). The Secretary may issue an order assessing a civil penalty under this paragraph only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable in the district courts of the United States in any district in which the handler subject to the order is an inhabitant, or has the handler's principal place of business. The validity of such order may not be reviewed in an action to collect such civil penalty.".

SEC. 1502. STUDY OF USE OF AGRICULTURAL COMMODITY FUTURES AND OPTIONS MARKETS.

The last sentence of section 1742 of the Food Security Act of 1985 (7 U.S.C. 1421 note) is amended by striking out "1988" and inserting in lieu thereof "1989".

SEC. 1503. AUTHORIZATION OF APPROPRIATIONS FOR PHILIPPINE FOOD AID INITIATIVE.

Section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) is amended by adding at the end thereof the following new paragraph:

"(12) There is authorized to be appropriated for fiscal year 1988, in addition to any other funds authorized to be appropriated, $1,000,000 for technical assistance for the sale or barter of commodities under paragraph (7) to strengthen nonprofit private organizations and cooperatives in the Philippines.".

SEC. 1504. RURAL INDUSTRIALIZATION ASSISTANCE.

Section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)) is amended—

(1) by inserting "and private nonprofit corporations" after "public bodies"; and

(2) by striking out "to facilitate development of" and inserting in lieu thereof "to finance and facilitate development of small and emerging".

SEC. 1505. PLANT VARIETY PROTECTION FEES.

Section 31 of the Plant Variety Protection Act (7 U.S.C. 2371) is amended to read as follows:

"SEC. 31. PLANT VARIETY PROTECTION FEES.

"(a) In General.—The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees for services performed under this Act.

"(b) Late Payment Penalty.—On failure to pay such fees, the Secretary shall assess a late payment penalty. Such overdue fees shall accrue interest as required by section 3717 of title 31, United States Code.

"(c) Disposition of Funds.—Such fees, late payment penalties, and accrued interest collected shall be credited to the account that incurs the cost and shall remain available without fiscal year limitation to pay the expenses incurred by the Secretary in carrying out this Act. Such funds collected (including late payment penalties and any interest earned) may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

"(d) Actions for Nonpayment.—The Attorney General may bring an action for the recovery of charges that have not been paid in accordance with this Act against any person obligated for payment of such charges under this Act in any United States district court or other United States court for any territory or possession in any jurisdiction in which the person is found, resides, or transacts business. The court shall have jurisdiction to hear and decide the action.

"(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this Act.".

SEC. 1506. ANNUAL APPROPRIATIONS TO REIMBURSE THE COMMODITY CREDIT CORPORATION FOR NET REALIZED LOSSES.

(a) In General.—The first sentence of section 2 of Public Law 87-155 (15 U.S.C. 713a-11) is amended by striking out ", commencing with the fiscal year ending June 30, 1961" and inserting in lieu thereof "by means of a current, indefinite appropriation".

(b) Operating Expenses.—No funds may be appropriated for operating expenses of the Commodity Credit Corporation except as authorized under section 2 of Public Law 87-155 to reimburse the Corporation for net realized losses. 15 USC 713a-11 note.

(c) Effective Date.—This section and the amendment made by this section shall apply beginning with fiscal year 1988. 15 USC 713a-11 note.

SEC. 1507. FEDERAL CROP INSURANCE.

7 USC 1508 note.

It is the sense of Congress that, in carrying out the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation—

(1) should not be required to assume 100 percent of all loss adjustments in the Federal crop insurance program; and

(2) should assume and perform the loss adjustment obligations of a reinsured company if the Corporation determines that such company's loss adjustment performance and practices are not carried out in accordance with the applicable reinsurance agreement.

SEC. 1508. ETHANOL USAGE.

42 USC 7545 note.

(a) Findings.—Congress finds that—

(1) the United States is dependent for a large and growing share of its energy needs on the Middle East at a time when world petroleum reserves are declining;

(2) the burning of gasoline causes pollution;

(3) ethanol can be blended with gasoline to produce a cleaner source of fuel;

(4) ethanol can be produced from grain, a renewable resource that is in considerable surplus in the United States;

(5) the conversion of grain into ethanol would reduce farm program costs and grain surpluses; and

(6) increasing the quantity of motor fuels that contain at least 10 percent ethanol from current levels to 50 percent by 1992 would create thousands of new jobs in ethanol production facilities.

(b) Sense of Congress.—It is the sense of Congress that the Administrator of the Environmental Protection Agency should use authority provided under the Clean Air Act (42 U.S.C. 7401 et seq.) to require greater use of ethanol as motor fuel.

SEC. 1509. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

The Food Stamp Act of 1977 is amended by adding after section 20 (7 U.S.C. 2029) the following new section:

"SEC. 21. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

7 USC 2030.

"(a) In General.—Upon written application of the State of Washington (in this section referred to as the 'State') and after the approval of such application by the Secretary, the State may conduct a Family Independence Demonstration Project (in this section referred to as the 'Project') in all or in part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

"(b) Nature of Project.—In an application submitted under subsection (a), the State shall provide the following:

"(1) Except as provided in this section, the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project.

"(2) All of the following terms and conditions shall be in effect under the Project:

"(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act, and such other individuals as are included in the Project pursuant to chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program and cash assistance under any other Federal program covered by the Project.

"(ii) Individuals who receive only child care or medical benefits under the Project shall not be eligible to receive food assistance under the Project. Such individuals may receive coupons under the food stamp program if eligible.

"(B) Individuals who participate in the Project shall receive for each month an amount of cash assistance that is not less than the total value of the assistance such individuals would otherwise receive, in the aggregate, under the food stamp program and any cash-assistance Federal program covered by the Project for such month, including income and resource exclusions and deductions, and benefit levels.

"(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month an amount of cash that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

"(ii) The State may provide a cash benefit for food assistance equal to the value of the thrifty food plan.

"(D) Each month participants in the Project shall be notified by the State of the amount of Project assistance that is provided as food assistance for such month.

"(E) The State shall have a program to require participants to engage in employment and training activities carried out under chapter 434 of the 1987 Washington Laws, as enacted in May 1987.[6]

"(F) Food assistance shall be provided under the Project—

"(i) to any individual who is accepted for participation in the Project, not later than 30 days after such individual applies to participate in the Project;

"(ii) to any participant for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

"(iii) until—

"(I) the participant's cash assistance under the Project is terminated;

---

[6] Copy read "May, 1987.".

"(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

"(III) the State determines whether such participant will be eligible to receive coupons as a member of a household under the food stamp program; and

"(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

"(G)(i)[7] Paragraphs (1)(B), (8), (10), and (19) of section 11(e) shall apply with respect to the participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

"(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file on the same day that such contact is first made, an application form to participate in the Project.

"(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly persons, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

"(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, in the case of the review process, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

"(I) restrict the number of individuals who may be represented by such person; and

"(II) otherwise establish criteria and verification standards for representation under this clause.

"(v) The State shall provide a method for reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

"(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

"(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State over the period of the Project will exceed the sum of—

---

[7] Copy read " '(H)(i)".

"(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program; and

"(B) the portion of the administrative costs for which the State would have received reimbursement under—

"(i) subsections (a) and (g) of section 16 (without regard to the first proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

"(ii) section 16(h) if the individuals who participated in the Project had participated in an employment and training program under section 6(d)(4);

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food stamp program in the absence of a cash out of such benefits as a result of changes in economic, demographic, and other conditions in the State or a subsequent change in the benefit levels approved by the State legislature.

"(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

"(6) If there is a change in existing State law that would eliminate guaranteed benefits or reduce the rights of applicants or participants under this section during, or as a result of participation in, the Project, the Project shall be terminated.

"(7) An assurance that the Project shall include procedures and due process guarantees no less beneficial than those which are available under Federal law and under State law to participants in the food stamp program.

"(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project.

Termination date.

"(B) The Project may be terminated 180 days after—

"(i) the State gives notice to the Secretary that it intends to terminate the Project; or

"(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

"(c) FUNDING.—If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b), then the Secretary shall—

"(1) approve such application; and

"(2) from funds appropriated under this Act, pay the State for—

"(A) the actual cost of the food assistance provided under the Project; and

"(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available, that was paid under subsections (a), (g), and (h) of section 16 of this Act.

"(d)(1) PROJECT APPLICATION.—Unless and until an application to participate in the Project is approved, and food assistance under the Project is made available to the applicant—

"(A) such application shall also be treated as an application to participate in the food stamp program; and

"(B) section 11(e)(9) shall apply with respect to such application.

"(2) Coupons provided under the food stamp program with respect to an individual who—

"(A) is participating in such program; and

"(B) applies to participate in the Project;

may not be reduced or terminated because such individual applies to participate in the Project.

"(3) For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be members of a household during the period of such participation.

"(e) WAIVER.—The Secretary shall (with respect to the Project) waive compliance with any requirement contained in this Act (other than this section) that (if applied) would prevent the State from carrying out the Project or effectively achieving its purpose.

"(f) CONSTRUCTION.—For purposes of any other Federal, State or local law—

"(1) cash assistance provided under the Project that represents food assistance shall be treated in the same manner as coupons provided under the food stamp program are treated; and

[8] "(2) participants in the program who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

"(g) PROJECT AUDITS.—The Comptroller General of the United States shall—

"(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (b)(4); and

"(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

"(h) EVALUATION.—With funds appropriated under section 18(a)(1), the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the Project.".

TITLE II—NATIONAL ECONOMIC COMMISSION

SEC. 2101. ESTABLISHMENT OF COMMISSION.

2 USC 901 note.

There is established a commission to be known as the National Economic Commission (in this subtitle referred to as the "Commission").

---

[8] Copy had wrong indention for paragraph " '(2)".

2 USC 901 note.

SEC. 2102. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—The Commission shall be initially composed of 12 members, appointed not later than March 1, 1988. After the meeting of the Presidential Electors in December 1988, the Commission shall be expanded to 14 members. The members shall be as follows:

President of U.S.

(1) 2 citizens of the United States, appointed by the President.

(2) 1 Senator and 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader of the Senate.

(3) 1 Senator and 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate.

(4) 1 Member of the House of Representatives and 2 citizens of the United States, appointed by the Speaker of the House of Representatives.

(5) 1 Member of the House of Representatives and 1 citizen of the United States, appointed by the Minority Leader of the House of Representatives.

President of U.S.

(6) 2 citizens of the United States, 1 of whom is a Democrat and 1 of whom is a Republican, appointed by the President-elect as established by the allocation of electoral college votes in the Presidential election of November 8, 1988.

(b) ADDITIONAL QUALIFICATIONS.—

(1) Individuals appointed under subsection (a)(1) may be officers or employees of the Executive Branch or may be private citizens.

(2) Individuals who are not Members of the Congress, and are appointed under paragraphs (2) through (6) of subsection (a) shall be individuals who—

(A) are leaders of business or labor, distinguished academics, State or local government officials, or other individuals with distinctive qualifications or experience; and

(B) are not officers or employees of the United States.

(c) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(f) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(g) PROHIBITION OF ADDITIONAL PAY.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

2 USC 901 note.

SEC. 2103. FUNCTIONS OF COMMISSION.

(a) SPECIFIC RECOMMENDATIONS.—The Commission shall make specific recommendations regarding the following:

(1) Methods to reduce the Federal budget deficit while promoting economic growth and encouraging saving and capital formation.

(2) A means of ensuring that the burden of achieving the Federal budget deficit reduction goals of the United States does not undermine economic growth and is equitably distributed and not borne disproportionately by any one economic group, social group, region or State.

(b) FINAL REPORT.—

(1) Subject to section 2103(b)(3), the Commission shall submit to the President and to the Congress on March 1, 1989, a final report which shall contain a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action that the Commission considers advisable.

(2) Any recommendation may be made by the Commission to the President and to the Congress only if adopted by a majority vote of the members of the Commission who are present and voting.

(3) On February 1, 1989, the President may issue an order extending the date for submission of the final report to September 1, 1989. President of U.S.

SEC. 2104. POWERS OF COMMISSION. 2 USC 901 note.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this subtitle, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this subtitle. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a non-reimburseable basis, to assist the Commission in carrying out its duties under this subtitle, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 2105(b).

(c) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(d) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this subtitle, subject to the limitation on total expenses set forth in section 2105(b).

(e) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 2105(b)) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(f) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

2 USC 901 note.

SEC. 2105. EXPENSES OF COMMISSION.

(a) IN GENERAL.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) LIMITATION.—The total expenses of the Commission shall not exceed $1,000,000.

(c) GAO AUDIT.—Prior to the termination of the Commission, pursuant to section 2106, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

2 USC 901 note.

SEC. 2106. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report.

TITLE III—EDUCATION PROGRAMS

Subtitle A—Guaranteed Student Loan Program Savings

SEC. 3001. RECOVERY OF EXCESS CASH RESERVES ACCUMULATED UNDER THE GUARANTEED STUDENT LOAN PROGRAM.

(a) IN GENERAL.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding at the end thereof the following new subsection:

"(e) REDUCTION OF EXCESS CASH RESERVES.—

"(1) LIMITATION ON MAXIMUM CASH RESERVES.—A guaranty agency shall not accumulate cash reserves in excess of the greater of—

"(A) 40 percent of the total amount paid by that agency on insurance claims during the preceding fiscal year;

"(B) 0.3 percent of original principal amount of loans that are insured by that agency and that are outstanding at the end of such preceding fiscal year;

"(C) an amount which, when combined with all other parts of total agency reserves, equals 0.4 percent of such original principal amount;

"(D) $500,000; or

"(E) the amount required to comply with the reserve requirements of a State law as in effect on October 17, 1986.

"(2) RECOVERY OF EXCESS CASH RESERVES.—The Secretary shall, not later than March 31, 1988, determine for each guaranty agency the maximum cash reserve permitted under paragraph (1) for fiscal year 1986. Subject to paragraphs (3) and (4), if the Secretary determines that any guaranty agency had, at the end of fiscal year 1986, a cash reserve that exceeded such maximum, the Secretary shall direct the agency to eliminate such excess by any one or more of the following methods, as selected by the guaranty agency:

"(A) by repaying any advances to such agency made by the Secretary under this section that are not required to be repaid under subsection (d);

"(B) by withholding and canceling claims for reimbursement otherwise payable under section 428(c)(1);

"(C) by reducing the amount of payments for which application will be made by such agency under section 428(f); or

"(D) by any other method of reducing payments from or increasing payments to the Federal Government, including payment of additional reinsurance fees in addition to the fees required by section 428(c)(9), as proposed by the agency and agreed to by the Secretary.

"(3) APPEALS BASED ON SPECIAL CIRCUMSTANCES.—(A) If the Secretary determines, on the basis of an application from a guaranty agency, that—

"(i) the agency's financial position has deteriorated significantly since the end of the preceding fiscal year;

"(ii) significant changes in the economic circumstances (such as a change in agency current cash reserves) or the loan insurance program render the limitations of paragraph (1) inadequate for the continued functioning of the agency; or

"(iii) in recovering funds as required by this subsection, a guaranty agency would be compelled to violate contractual obligations existing on the date of enactment of this subsection that require a specified level of reserve funds to be maintained by such agency;

the Secretary may waive, in whole or in part, the imposition of the remedies required by paragraph (2) for such agency.

"(B) The Secretary shall respond to request for waivers from guaranty agencies in an expedited manner and, except for unusual circumstances or with the consent of the guaranty agency, shall resolve such request within 6 weeks of submission.

"(4) RECOVERY LIMITS.—The Secretary shall not require a total reduction of cash reserves for all guaranty agencies in excess of $250,000,000 during fiscal year 1988. If the total of cash reserves of all guaranty agencies exceeds the maximum amounts permitted under paragraph (1) by more than $250,000,000, the

Secretary shall ratably reduce the amounts that guaranty agencies are directed to eliminate under paragraph (2), so that the total excess cash reserves to be eliminated equals $250,000,000.

"(5) DEFINITIONS.—As used in this subsection—

"(A) the 'cash reserves' for any guaranty agency for any fiscal year are equal to the agency's cumulative cash receipts less the agency's cumulative cash disbursements at the end of such fiscal year;

"(B) the 'total reserves' for any guaranty agency for any fiscal year are equal to the agency's cash reserves plus the agency's cumulative accounts receivable less the agency's accounts payable, as of the end of such fiscal year;

"(C) the term 'cumulative cash receipts' includes such receipts as insurance premiums, Federal reinsurance payments, and collections on defaulted loans;

"(D) the term 'cumulative cash disbursements' includes such disbursements as payments for default claims, repayment of Federal advances, transfers to other State activities, and payment of collection costs and other operating costs;

"(E) the term 'accounts receivable' includes Federal reinsurance payments and administrative cost allowances owed but not yet paid to the guaranty agency, as of the end of a fiscal year; and

"(F) the term 'accounts payable' includes collections and reinsurance fees due (but not paid) to the Department of Education, as of the end of a fiscal year.".

(b) CONFORMING AMENDMENTS.—

(1) The second sentence of section 428(c)(1)(A) of such Act (20 U.S.C. 1078(c)(1)(A)) is amended by striking out "shall be deemed" and inserting "shall, subject to section 422(e), be deemed".

(2) Section 428(c)(9)(A) of such Act is amended by striking out "an amount equal to" and inserting "an amount, subject to section 422(e), equal to".

(3) The second sentence of section 428(f)(1)(B) of such Act is amended by striking out "shall be deemed" and inserting "shall, subject to section 422(e), be deemed".

SEC. 3002. REPEAL.

(a) IN GENERAL.—Subsection (e) of section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is repealed on September 30, 1989.

(b) CONFORMING AMENDMENTS.—

(1) Effective September 30, 1989, the second sentence of section 428(c)(1)(A) of such Act (20 U.S.C. 1078(c)(1)(A)) is amended by striking out "shall, subject to section 422(e), be deemed" and inserting "shall be deemed".

(2) Effective September 30, 1989, section 428(c)(9)(A) of such Act is amended by striking out "an amount, subject to section 422(e), equal to" and inserting "an amount equal to".

(3) Effective September 30, 1989, the second sentence of section 428(f)(1)(B) of such Act is amended by striking out "shall, subject to section 422(e), be deemed" and inserting "shall be deemed".

SEC. 3003. INFORMATION ON DEFAULTS REQUIRED.

(a) General Rule.—The first sentence of section 428(k)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078(k)(1)) is amended—

(1) by striking out "In" and inserting in lieu thereof "Notwithstanding any other provision of law, in"; and

(2) by striking out "may" and inserting in lieu thereof "shall".

(b) Conforming Amendment.—The second sentence of section 428(k)(1) of such Act is amended by striking out "may" and inserting in lieu thereof "shall".

Subtitle B—Sale of College Facilities and Housing Loans

SEC. 3101. SALE OF COLLEGE FACILITIES AND HOUSING LOANS.

Section 783 of the Higher Education Act of 1965 (20 U.S.C. 1132i-2) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this title, after September 30, 1988, the Secretary shall not sell any of such obligations. Any agreement providing for delaying payment (with respect to obligations sold) until after September 30, 1988, or for delaying delivery of such obligations or delaying taking other actions in furtherance of such a sale until after such date, shall be considered to be a violation of the preceding sentence.".

TITLE IV—MEDICARE, MEDICAID, AND OTHER HEALTH-RELATED PROGRAMS

TABLE OF CONTENTS OF TITLE

TITLE IV—MEDICARE, MEDICAID, AND OTHER HEALTH-RELATED PROGRAMS

Subtitle A—Medicare

Part 1—Relating Only to Part A

Sec. 4001. Extension of reductions under sequester order.
Sec. 4002. Basic hospital prospective payment rates.
Sec. 4003. Increase in disproportionate share adjustment and reduction in indirect medical education payments.
Sec. 4004. Provisions relating to wage index.
Sec. 4005. Rural hospitals.
Sec. 4006. Payments for hospital capital.
Sec. 4007. Reporting hospital information.
Sec. 4008. Other provisions relating to payment for inpatient hospital services.
Sec. 4009. Miscellaneous provisions.

Part 2—Provisions Relating to Parts A and B

SUBPART A—HEALTH MAINTENANCE ORGANIZATION REFORMS

Sec. 4011. Beneficiary protection.
Sec. 4012. Payments for hospital services.
Sec. 4013. Two-year extension on period for benefit stabilization.
Sec. 4014. Civil money penalties and intermediate sanctions against HMOs/CMPs.
Sec. 4015. Medicare payment demonstration projects.
Sec. 4016. Delay in effective date in physician incentive rules for health maintenance organizations.
Sec. 4017. GAO study and reports on medicare capitation.
Sec. 4018. Special rules.

SUBPART B—HOME HEALTH QUALITY

Sec. 4021. Conditions of participation for home health agencies.
Sec. 4022. Standard and extended survey.
Sec. 4023. Enforcement.
Sec. 4024. Requirement that individual be confined to home.
Sec. 4025. Home health toll-free hotline and investigative unit.
Sec. 4026. Home health agency cost limits.
Sec. 4027. Home health prospective payment demonstration project.

SUBPART C—OTHER PROVISIONS

Sec. 4031. Payment cycle standards.
Sec. 4032. Denials and reconsiderations of claims for home health services, extended care services, and post-hospital extended care services.
Sec. 4033. Permitting disabled individuals to renew entitlement to medicare after gainful employment without a 2-year waiting period.
Sec. 4034. Application of secondary payer provisions to governmental entities.
Sec. 4035. Publication and notification of policies.
Sec. 4036. End-stage renal disease amendments.
Sec. 4037. Medicare hearings and appeals.
Sec. 4038. Rural health medical education demonstration project.
Sec. 4039. Miscellaneous and technical provisions.

PART 3—RELATING TO PART B

SUBPART A—PROVISIONS RELATING TO PAYMENTS FOR PHYSICIANS' SERVICES

Sec. 4041. Freeze in payments for physicians' services; extension of sequester order.
Sec. 4042. General update in payments for physicians' services.
Sec. 4043. Incentive payments for physicians' services furnished in underserved areas.
Sec. 4044. Adjustment in prevailing charge level for primary care services.
Sec. 4045. Reduction in prevailing charge level for overpriced procedures.
Sec. 4046. Limits on payment for ophthalmic ultrasound.
Sec. 4047. Customary charges for primary care services of new physicians.
Sec. 4048. Payment for physician anesthesia services.
Sec. 4049. Fee schedules for radiologist services.
Sec. 4050. Fee schedules for physician pathology services.
Sec. 4051. Elimination of markup for certain purchased services.
Sec. 4052. Collection of past-due amounts owed by physicians who breached contracts under the National Health Service Corps Scholarship Program.
[9] Sec. 4053. Elimination of 1975 floor for prevailing physician charges.
[10] Sec. 4054. Application of maximum allowable actual charge (MAAC).
[11] Sec. 4055. Applying copayment and deductible to certain outpatient physicians' services.
[12] Sec. 4056. Physician payment studies.

SUBPART B—PROVISIONS RELATING TO PAYMENTS FOR OTHER SERVICES

Sec. 4061. Extension of reduction for other part B items and services payments under sequester order.
Sec. 4062. Payments for durable medical equipment, prosthetic devices, orthotics, and prosthetics.
Sec. 4063. Payment for intraocular lenses.
Sec. 4064. Clinical diagnostic laboratory tests.
Sec. 4065. Return on equity payments to outpatient departments.
Sec. 4066. Payments to hospital outpatient departments for radiology.
Sec. 4067. Updating maximum rate of payment per visit for independent rural health clinics.
Sec. 4068. Payment for ambulatory surgery at eye, and eye and ear, specialty hospitals.

SUBPART C—ELIGIBILITY AND BENEFITS CHANGES

Sec. 4070. Coverage of mental health services.
Sec. 4071. Coverage of influenza vaccine and its administration.
Sec. 4072. Payment for therapeutic shoes for individuals with severe diabetic foot disease.
Sec. 4073. Coverage of certified nurse-midwife services.

---

[9] Copy read "Sec. 4052.".
[10] Copy read "Sec. 4053.".
[11] Copy read "Sec. 4054.".
[12] Copy read "Sec. 4055.".

Sec. 4074. Coverage of social worker services furnished by a health maintenance organization to its members.
Sec. 4075. Clarification of coverage of drugs used in immunosuppressive therapy.
Sec. 4076. Services of a physician assistant.
Sec. 4077. Psychologist services in clinics.
Sec. 4078. Provision of offsite comprehensive outpatient rehabilitation services.
Sec. 4079. Demonstration projects to provide payment on a prepaid, capitated basis for community nursing and ambulatory care furnished to medicare beneficiaries.
Sec. 4080. Part B premium.

SUBPART D—OTHER PROVISIONS

Sec. 4081. Submission of claims to supplemental insurance carriers.
Sec. 4082. Revision of part B hearings.
Sec. 4083. Provisions relating to Physician Payment Review Commission.
Sec. 4084. Technical amendments related to certified registered nurse anesthetists.
Sec. 4085. Miscellaneous and technical provisions.

PART 4—PEER REVIEW ORGANIZATIONS

Sec. 4091. Contract provisions.
Sec. 4092. Preference in contracting with in-State organizations.
Sec. 4093. Requiring reasonable notice and opportunity for discussion prior to denial of claim.
Sec. 4094. Peer [13] review norms and education.
Sec. 4095. Preexclusion hearings.
Sec. 4096. Limitation of beneficiary liability for services disallowed by peer review organizations.
Sec. 4097. Separate funding levels.

Subtitle B—Medicaid

PART 1—ELIGIBILITY AND BENEFITS

Sec. 4101. Medicaid benefits for poor children and pregnant women.
Sec. 4102. Home and community-based services for the elderly.
Sec. 4103. Physicians' services furnished by dentists.
Sec. 4104. Optional medicaid coverage of individuals in certain States [14] receiving only optional State [14] supplementary payments.
Sec. 4105. Miscellaneous SSI-related amendments.
Sec. 4106. Clarification of coverage of clinic services furnished to homeless outside facility.
Sec. 4107. Medically needy income levels for certain 2-member couples in California.[15]

PART 2—OTHER PROVISIONS

Sec. 4111. Increasing the maximum annual medicaid payments that may be made to the commonwealths and territories.
Sec. 4112. Adjustment in medicaid payment for inpatient hospital services furnished by disproportionate share hospitals.
Sec. 4113. HMO-related provisions.
Sec. 4114. Medicaid waiver for hospice care for AIDS patients.
Sec. 4115. State demonstration projects.
Sec. 4116. Waiver authority under the medicaid program for the Northern Mariana Islands.[16]
Sec. 4117. Delay quality control sanctions for medicaid.
Sec. 4118. Technical and miscellaneous amendments.

Subtitle C—Nursing Home Reform

PART 1—MEDICARE PROGRAM

Sec. 4201. Requirements for skilled nursing facilities.
Sec. 4202. Survey and certification process.
Sec. 4203. Enforcement process.
Sec. 4204. Effective dates.
Sec. 4205. Annual report.
Sec. 4206. Construction.

---

[13] Copy read "reer".
[14] Copy read "states", and "state", respectively.
[15] Copy read "california.".
[16] Copy read "northern mariana islands.".

PART 2—MEDICAID PROGRAM

Sec. 4211. Requirements for nursing facilities.
Sec. 4212. Survey and certification process.
Sec. 4213. Enforcement process.
Sec. 4214. Effective dates.
Sec. 4215. Annual report.
Sec. 4216. Construction.
Sec. 4217. Final regulations with respect to plans of correction or reduction.
Sec. 4218. Medicaid certifications and recertifications for certain services.

Subtitle D—Vaccine Compensation

Sec. 4301. Short title, reference.
Sec. 4302. Effective date.
Sec. 4303. Compensation.
Sec. 4304. Petitions.
Sec. 4305. Citizen's actions.
Sec. 4306. Vaccine[16a] administrators.
Sec. 4307. Court jurisdiction.

Subtitle E—Rural Health

Sec. 4401. Office of Rural Health Policy.
Sec. 4402. Impact analyses of medicare rules and regulations on small rural hospitals.
Sec. 4403. Set aside for experiments and demonstration projects relating to rural health care issues.

PART 1—RELATING ONLY TO PART A

2 USC 902 note.
President of U.S.

SEC. 4001. EXTENSION OF REDUCTIONS UNDER SEQUESTER ORDER.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through—

(1) March 31, 1988, with respect to payments for inpatient hospital services under such title (including payments under section 1886 of such title attributable or allocated to part A of such title); and

(2) December 31, 1987, with respect to payments for other items and services under part A of such title.

SEC. 4002. BASIC HOSPITAL PROSPECTIVE PAYMENT RATES.

(a) BASIC UPDATE FACTOR FOR PPS HOSPITALS.—Clause (i) of section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking "and for fiscal year 1988" in subclause (II) and all that follows through the end of such clause and inserting after such subclause the following:

"(III) for fiscal year 1988, 3.0 percent for hospitals located in a rural area, 1.5 percent for hospitals located in a large urban area (as defined in subsection (d)(2)(D)), and 1.0 percent for other hospitals,

"(IV) for fiscal year 1989, the market basket percentage increase minus 1.5 percent for hospitals located in a rural area, the market basket percentage increase minus 2.0 percent for hospitals located in a large urban area, and the market basket percentage increase minus 2.5 percent for other hospitals, and

"(V) for fiscal year 1990 and each subsequent fiscal year, the market basket percentage for hospitals in all areas.".

[16a] Copy read "Vacine".

(b) LARGE URBAN AREA DEFINED.—The second sentence of section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)) [16b] is amended by inserting after "under subsection (a) by regulation;" the following: "the term 'large urban area' means, with respect to a fiscal year, such an urban area which the Secretary determines (in the publication described in subsection (e)(5)(B) before the fiscal year) has a population of more than 1,000,000 (as determined by the Secretary based on the most recent available population data published by the Bureau of the Census);".

(c) ADJUSTMENT FOR HOSPITALS IN LARGE URBAN AREAS OR IN RURAL AREAS.—

(1) IN GENERAL.—Section 1886(d)(3) of such Act (42 U.S.C. 1395ww(d)(3)) is amended—

(A) in the matter before subparagraph (A), by striking "urban or rural areas" and inserting "large urban, other urban, or rural areas";

(B) in first sentence of subparagraph (A)—

(i) by striking "The Secretary" and inserting "(i) For discharges occuring in a fiscal year beginning before October 1, 1987, the Secretary",

(ii) by striking "each of fiscal years 1985, 1986, 1987, and 1988" and inserting "the fiscal year involved", and

(iii) by striking ", and adjusted for subsequent fiscal years in accordance with the final determination of the Secretary under subsection (e)(4), and adjusted to reflect the most recent case-mix data available,";

(C) by adding at the end of subparagraph (A) the following new clauses:

"(ii) For discharges occurring in a fiscal year beginning on or after October 1, 1987, the Secretary shall compute an average standardized amount for hospitals located in a large urban area, for hospitals located in a rural area, and for hospitals located in urban areas, within the United States and within each region, equal to the respective average standardized amount computed for the previous fiscal year under this subparagraph increased by the applicable percentage increase under subsection (b)(3)(B)(i) with respect to hospitals located in the respective areas for the fiscal year involved.

"(iii) Average standardized amounts computed under this paragraph shall be adjusted to reflect the most recent case-mix data available."; and

(D) in subparagraph (D)—

(i) by striking "URBAN AND RURAL HOSPITALS" in the heading and inserting "HOSPITALS IN DIFFERENT AREAS",

(ii) in clause (i), by inserting "(or, for discharges occurring on or after April 1, 1988, in a large urban area or other urban area)" after "urban area" the first place it appears, and

(iii) in clause (i), by inserting "such" before "an urban area" the second place it appears.

(2) CONFORMING AMENDMENTS.—Section 1886(d)(9)(A) of such Act (42 U.S.C. 1395ww(d)(9)(A)) is amended—

(A) in clause (ii)(I), by striking "an urban area, and" and inserting "a large urban area,";

[16b] Copy read "(42 U.S.C. 1395www(d)(2)(D))".

(B) by redesignating subclause (II) of clause (ii) as subclause (III); and

(C) by inserting after subclause (I) of clause (ii) the following new subclause:

"(II) such rate for hospitals located in other urban areas, and".

(d) ESTABLISHMENT OF REGIONAL FLOOR.—Section 1886(d)(1)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by inserting before the period at the end the following: ", or, if greater for discharges occurring during the period beginning on April 1, 1988, and ending on September 30, 1990, the sum of (I) 85 percent of the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges, and (II) 15 percent of the regional adjusted DRG prospective payment rate determined under such paragraph".

(e) UPDATE FOR PPS-EXEMPT HOSPITALS.—Section 1886(b)(3)(B) of such Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(1) in clause (i), by striking "subparagraph (A) for 12-month cost reporting periods beginning during a fiscal year and for purposes of",

(2) in clause (ii), by striking "(ii) For purposes of clause (i)" and inserting "(iii) For purposes of this subparagraph", and

(3) by inserting after clause (i) the following new clause:

"(ii) For purposes of subparagraph (A), the 'applicable percentage increase' for 12-month cost reporting periods beginning during—

"(I) fiscal year 1986, is 0.5 percent,

"(II) fiscal year 1987, is 1.15 percent,

"(III) fiscal year 1988, is the market basket percentage increase minus 2.0 percentage points, and

"(IV) subsequent fiscal years is the market basket percentage increase.".

(f) RELATED CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 1886 of such Act (42 U.S.C. 1395ww) is further amended—

(A) by adding at the end of subsection (d)(2)(D) the following new sentence: "For purposes of payment under this subsection, a hospital is considered to be located in an urban area or large urban area, respectively, if the hospital is paid under this subsection at the rate for hospitals located in such an area.";

(B) in subsection (e)(3)(B), by striking "or determine";

(C) in subsection (e)(4)—

(i) by striking "for fiscal year 1988" and inserting "for each fiscal year (beginning with fiscal year 1988)",

(ii) by striking "and shall determine for each subsequent fiscal year" and all that follows through "fiscal year, and", and

(iii) by amending the last sentence to read as follows: "The appropriate change factor may be different for all large urban subsection (d) hospitals, other urban subsection (d) hospitals, urban subsection (d) Puerto Rico hospitals, rural subsection (d) hospitals, and rural subsection (d) Puerto Rico hospitals, and all other hospitals and units not paid under subsection (d), and may vary among such other hospitals and units."; and

(D) in paragraph (5), by striking "or determination" each place it appears.

(2) Subsection (a)(1)(B)(ii) of section 107 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) is amended, effective as of the date of the enactment of such Act, by inserting ", the target percentage and DRG percentage shall be those specified in subsection (d)(1)(C)(iv) of such section, and the applicable percentage increase in a hospital's target amount shall be deemed to be 0 percent" before the period at the end.

42 USC 1395ww note.

(g) EFFECTIVE DATES.—

42 USC 1395ww note.

(1) PPS HOSPITALS, DRG PORTION OF PAYMENT.—In the case of a subsection (d) hospital (as defined in paragraph (6))—

(A) the amendments made by subsections (a) and (c) shall apply to payments made under section 1886(a)(1)(A)(iii) of the Social Security Act on the basis of discharges occurring on or after April 1, 1988, and

(B) for discharges occurring on or after October 1, 1988, the applicable percentage increase (described in section 1886(d)(3)(B) of such Act) [17] for discharges occurring during fiscal year 1987 is deemed to have been such percentage increase as amended by subsection (a).

(2) PPS SOLE COMMUNITY HOSPITALS, HOSPITAL SPECIFIC PORTION OF PAYMENT.—In the case of a subsection (d) hospital which receives payments made under section 1886(d)(1)(A) of the Social Security Act because it is a sole community hospital—

(A) the amendment made by subsections (a) and (c) shall apply to payments under section 1886(d)(1)(A)(ii)(I) of the Social Security Act made on the basis of discharges occurring during a cost reporting period of a hospital, for the hospital's cost reporting period beginning on or after October 1, 1987;

(B) notwithstanding subparagraph (A), for cost reporting period beginning during fiscal year 1988, the applicable percentage increase (as defined in section 1886(d)(3)(B) of such Act) for the—

(i) first 51 days of the cost reporting period shall be 0 percent,

(ii) next 132 days of such period shall be 2.7 percent, and

(iii) remainder of such period of the cost reporting period shall be the applicable percentage increase (as so defined, as amended by subsection (a)); and

(C) for cost reporting periods beginning on or after October 1, 1988, the applicable percentage increase (as so defined) with respect to the previous cost reporting period shall be deemed to have been the applicable percentage increase (as so defined, as amended by subsection (a)).

(3) PPS-EXEMPT HOSPITALS.—In the case of a hospital that is not a subsection (d) hospital—

(A) the amendments made by subsection (e) shall apply to cost reporting periods beginning on or after October 1, 1987;

(B) notwithstanding subparagraph (A), for the hospital's cost reporting period beginning during fiscal year 1988, payment under title XVIII of the Social Security Act shall be made as though the applicable percentage increase described in section 1886(b)(3)(B) of such Act were equal to the product of 2.7 percent and the ratio of 315 to 366; and

---

[17] Copy read "Act))".

(C) for cost reporting periods beginning on or after October 1, 1988, the applicable percentage increase (as so defined) with respect to the cost reporting period beginning during fiscal year 1988 shall be deemed to have been 2.7 percent.

Effective date.

(4) DEFINITION, REGIONAL FLOOR, AND TECHNICAL AND CONFORMING AMENDMENTS.—The amendments made by subsections (b) and (d) and paragraphs (1) and (2) of subsection (f) shall take effect on the date of the enactment of this Act.

(5) TRANSITION FOR LARGE URBAN AREA RATES.—In computing the average standardized amount for hospitals located in a large urban area or other urban area under section 1886(d)(3)(A)(ii) of the Social Security Act (as amended by subsection (c)) for fiscal year 1988, the reference to "the respective average standardized amount computed for the previous fiscal year under this subparagraph" is deemed a reference to the average standardized amount computed for hospitals located in an urban area for the 51-day period beginning on October 1, 1987.

(6) DEFINITION.—In this subsection, the term "subsection (d) hospital" has the meaning given such term in section 1886(d)(10)(B) of the Social Security Act.

SEC. 4003. INCREASE IN DISPROPORTIONATE SHARE ADJUSTMENT AND REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.—

(1) Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) in subclause (I), by striking "2" and inserting in lieu thereof "1.89"; and

(B) in subclause (II), by striking "1.5" and inserting in lieu thereof "1.43".

(2) Section 1886(d)(3)(C)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended by inserting "and by section 4003(a)(1) of the Omnibus Budget Reconciliation Act of 1987" after "1985" each place it appears in subclauses (I) and (II).

(b) INCREASE IN DISPROPORTIONATE SHARE ADJUSTMENT.—Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(B))—

(1) in clause (iii), by striking "15 percent" and inserting "25 percent", and

(2) in clause (iv)(I), by striking "the lesser of 15 percent, or".

(c) EXTENSION OF DISPROPORTIONATE SHARE ADJUSTMENT.—Sections 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)), 1886(d)(3)(C)(ii)(I) (42 U.S.C. 1395ww(d)(3)(C)(ii)(I)), 1886(d)(3)(C)(ii)(II) (42 U.S.C. 1395ww(d)(3)(C)(ii)(II)), 1886(d)(5)(B)(ii)(I) (42 U.S.C. 1395ww(d)(5)(B)(ii)(I)), 1886(d)(5)(B)(ii)(II) (42 U.S.C. 1395ww(d)(5)(B)(ii)(II)), and 1886(d)(5)(F)(i) (42 U.S.C. 1395ww(d)(5)(F)(i)) of the Social Security Act are each amended by striking "1989" and inserting in lieu thereof "1990".

(d) SPECIAL RULE.—In the case of a hospital which—

(1) consists of 2 inpatient hospital facilities which are more than 4 miles apart and each of which is in a separate political jurisdiction within the same State and one of which meets the criteria under section 1886(d)(5)(F) of the Social Security Act for serving a significantly disproportionate number of low-income patients as if that facility were a separate hospital; and

(2) receives payments for inpatient hospital services under title XVIII of the Social Security Act which are less than the hospital's reasonable costs,

the Secretary of Health and Human Services, upon application by the hospital, may treat each of the facilities of hospital as separate hospitals for purposes of applying section 1886(d)(5)(F) of the Social Security Act, for discharges occurring on or after October 1, 1988.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for discharges occurring on or after October 1, 1988. 42 USC 1395ww note.

SEC. 4004. PROVISIONS RELATING TO WAGE INDEX.

(a) SURVEY.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by adding at the end the following: "Not later than October 1, 1990 (and at least every 36 months thereafter), the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs of subsection (d) hospitals in the United States. To the extent determined feasible by the Secretary, such survey shall measure the earnings and paid hours of employment by occupational category and shall exclude data with respect to the wages and wage-related costs incurred in furnishing skilled nursing facility services.".

(b) CLINIC HOSPITAL WAGE INDICES.—In calculating the wage index under section 1886(d) of the Social Security Act for purposes of making payment adjustments after September 30, 1988, as required under paragraphs (2)(H) and (3)(E) of such section, in the case of any institution which received the waiver specified in section 602(k) of the Social Security Amendments of 1983, the Secretary of Health and Human Services shall include wage costs paid to related organization employees directly involved in the delivery and administration of care provided by the related organization to hospital inpatients. For purposes of the preceding sentence, the term "wage costs" does not include costs of overhead or home office administrative salaries or any costs that are not incurred in the hospital's Metropolitan Statistical Area. 42 USC 1395ww note.

SEC. 4005. RURAL HOSPITALS.

(a) REVISION OF STANDARDS FOR INCLUDING A RURAL COUNTY IN AN URBAN AREA.—

(1) TREATING CERTAIN RURAL HOSPITALS ADJACENT TO URBAN AREAS AS URBAN HOSPITALS.—Section 1886(d)(8) of the Social Security Act (42 U.S.C. 1395ww(d)(8))—

(A) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively,

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by inserting "(A)" after "(8)", and

(D) by adding at the end the following new subparagraph:

"(B) The Secretary shall treat a hospital located in a rural county adjacent to one or more urban areas as being located in the urban metropolitan statistical area to which the greatest number of workers in the county commute, if—

"(i) the rural county would otherwise be considered part of an urban area but for the fact that the rural county does not meet the standard relating to the rate of commutation between the rural county and the central county or counties of any adjacent urban area; and

"(ii) either (I) the number of residents of the rural county who commute for employment to the central county or counties of any adjacent urban area is equal to at least 15 percent of the number of residents of the rural county who are employed, or (II) the sum of the number of residents of the rural county who commute for employment to the central county or counties of any adjacent urban area and the number of residents of any adjacent urban area who commute for employment to the rural county is at least equal to 20 percent of the number of residents of the rural county who are employed.

"(C) The Secretary shall make a proportional adjustment in the standardized amount determined under paragraph (3) for hospitals located in an urban area to assure that the provisions of subparagraph (B) do not result in aggregate payments under this section that are greater or less than those that would otherwise be made. The Secretary shall make such adjustment in payments under this section to hospitals located in rural areas as are necessary to assure that the aggregate of payments to rural hospitals not affected by subparagraph (B) are not changed as a result of the application of subparagraph (B).".

(2) LOCATION OF HOSPITAL.—For purposes of section 1886 of the Social Security Act, Watertown Memorial Hospital in Watertown, Wisconsin is deemed to be located in Jefferson County, Wisconsin.

42 USC 1395ww note.

(3) EFFECTIVE DATE.—This section, and the amendments made by paragraph (1), shall apply to discharges occurring on or after October 1, 1988.

(b) EXPANSION OF SWING-BED PROGRAM.—

(1) EXPANSION TO HOSPITALS WITH FEWER THAN 100 BEDS.—Section 1883(b)(1) of the Social Security Act (42 U.S.C. 1395tt(b)(1)) is amended by striking "50 beds" and inserting "100 beds".

(2) REQUIREMENTS FOR HOSPITALS WITH MORE THAN 49 BEDS.—

42 USC 1395tt.

Section 1883(d) of such Act (42 U.S.C. 1395dd(d)) is amended—

(A) by inserting "(1)" after "(d)", and

(B) by adding at the end the following new paragraphs:

"(2)(A) Any agreement under this section with a hospital with more than 49 beds shall provide that no payment may be made for extended care services which are furnished to an extended care patient after the end of the 5-day period (excluding weekends and holidays) beginning on an availability date for a skilled nursing facility, unless the patient's physician certifies, within such 5-day period, that the transfer of that patient to that facility is not medically appropriate on the availability date. The Secretary shall prescribe regulations to provide for notice by skilled nursing facilities of availability dates to hospitals which have agreements under this section and which are located within the same geographic region (as defined by the Secretary).

Regulations.

"(B) In this paragraph:

"(i) The term 'availability date' means, with respect to an extended care patient at a hospital, any date on which a bed is available for the patient in a skilled nursing facility located within the geographic region in which the hospital is located.

"(ii) The term 'extended care patient' means an individual being furnished extended care services at a hospital pursuant to an agreement with the Secretary under this section.

"(3) In the case of an agreement for a cost reporting period under this section with a hospital that has more than 49 beds, payment may not be made in the period for patient-days of extended care services that exceed 15 percent of the product of the number of days in the period and the average number of licensed beds in the hospital in the period.".

(3) Report.—The Secretary of Health and Human Services shall report to Congress, not later than February 1, 1989, concerning— 42 USC 1395tt note.

(A) the proportion of admissions to hospitals for extended care services under section 1883 of the Social Security Act which are denied or approved by a peer review organization under section 1154(a)(1) of such Act, and

(B) on recommendations for methods of encouraging hospitals that—

(i) have a low occupancy rate,

(ii) are eligible to enter (but have not entered) into an agreement under section 1883 of such Act, and

(iii) are located in areas with a need for additional providers of extended care services,

to enter into such agreements.

(4) Effective date.—The amendments made by paragraphs (1) and (2) shall apply to agreements under section 1883 of the Social Security Act entered into after March 31, 1988. 42 USC 1395tt note.

(c) Payments to Sole Community Hospitals.—

(1) Section 1886(d)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(ii)) is amended—

(A) by striking "1988" in the second sentence and inserting "1990", and

(B) by inserting after the second sentence the following: "A subsection (d) hospital that meets the criteria for classification as a sole community hospital and otherwise qualifies for the adjustment authorized by the preceding sentence may qualify for such an adjustment without regard to the formula by which payments are determined for the hospital under paragraph (1)(A).".

(2)(A) The amendments made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1987 42 USC 1395ww note.

(B) The Secretary of Health and Human Services shall take appropriate steps to ensure that the total amount paid in a fiscal year under title XVIII of the Social Security Act by reason of the amendment made by paragraph (1)(B) does not exceed $5,000,000 in the case of fiscal year 1988 and $10,000,000 for fiscal year 1989.

(d) Medicare Classification of Rural Referral Centers.—

(1) Extension of classification.—

(A) In general.—The first sentence of section 1886(d)(5)(C)(i)(I) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(i)(I)) is amended by striking "500" and inserting "275".

(B) Effective date.—The amendment made by subparagraph (A) shall apply to discharges occurring on or after April 1, 1988. 42 USC 1395ww note.

(2) Study.— 42 USC 1395ww note.

(A) In general.—The Secretary of Health and Human Services shall provide for a study of the criteria used for the classification of hospitals as rural referral centers under section 1886(d)(5)(C)(i) of the Social Security Act. The study shall include an examination of—

(i) the extent that hospitals classified as rural referral centers receive more or less than their actual costs of providing inpatient hospital services, and

(ii) the appropriateness of providing for payment for such centers at a rate other than the rate for a hospital located in an other urban area.

(B) Report.—The Secretary shall report to Congress, by not later than March 1, 1989, on the study conducted under subparagraph (A) and on recommendations for the criteria that should be applied under section 1886(d)(5)(C)(i) of the Social Security Act for the classification of hospitals as rural referral centers for cost reporting periods beginning on or after October 1, 1989.

42 USC 1395ww note.

(e) Grant Program for Rural Health Care Transition.—

(1) The Administrator of the Health Care Financing Administration, in consultation with the Assistant Secretary for Health (or a designee), shall establish a program of grants to assist eligible small rural hospitals and their communities in the planning and implementation of projects to modify the type and extent of services such hospitals provide in order to adjust for one or more of the following factors:

(A) Changes in clinical practice patterns.

(B) Changes in service populations.

(C) Declining demand for acute-care inpatient hospital capacity.

(D) Declining ability to provide appropriate staffing for inpatient hospitals.

(E) Increasing demand for ambulatory and emergency services.

(F) Increasing demand for appropriate integration of community health services.

(G) The need for adequate access (including appropriate transportation) to emergency care and inpatient care in areas in which a significant number of underutilized hospital beds are being eliminated.

(H) The Administrator shall submit a final report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

Each demonstration project under this subsection shall demonstrate methods of strengthening the financial and managerial capability of the hospital involved to provide necessary services. Such methods may include programs of cooperation with other health care providers, of diversification in services furnished (including the provision of home health services), of physician recruitment, and of improved management systems.

(2) For purposes of this subsection, the term "eligible small rural hospital" [18] means any non-Federal, short-term general acute care hospital that—

---

[18] Copy read " 'eligible small rural hospital' ".

(A) is located in a rural area (as determined in accordance with subsection (d)),

(B) has less than 100 beds, and

(C) is not for profit.

(3)(A) Any eligible small rural hospital that desires to modify the type or extent of health care services that it provides in order to adjust for one or more of the factors specified in paragraph (1) may submit an application to the Governor of the State in which it is located. The application shall specify the nature of the project proposed by the hospital, the data and information on which the project is based, and a timetable (of not more than 24 months) for completion of the project. The application shall be submitted on or before a date specified by the Administrator and shall be in such form as the Administrator may require.

(B) The Governor shall transmit any application submitted pursuant to subparagraph (A) to the Secretary not later than 30 days after it is received by the Governor, accompanied by any comments with respect to the application that the Governor deems appropriate.

(C) The Governor of a State may designate an appropriate State agency to receive and comment on applications submitted under subparagraph (A).

(4) A hospital shall be considered to be located in a rural area for purposes of this subsection if it is treated as being located in a rural area for purposes of section 1886(d)(3)(D) of the Social Security Act.

(5) In determining which hospitals making application under paragraph (3) will receive grants under this subsection, the Administrator shall take into account—

(A) any comments received under paragraph (3)(B) with respect to a proposed project;

(B) the effect that the project will have on—

(i) reducing expenditures from the Federal Hospital Insurance Trust Fund,

(ii) improving the access of medicare beneficiaries to health care of a reasonable quality;

(C) the extent to which the proposal of the hospital, using appropriate data, demonstrates an understanding of—

(i) the primary market or service area of the hospital, and

(ii) the health care needs of the elderly and disabled that are not currently being met by providers in such market or area, and

(D) the degree of coordination that may be expected between the proposed project and—

(i) other local or regional health care providers, and

(ii) community and government leaders,

as evidenced by the availability of support for the project (in cash or in kind) and other relevant factors.

(6) A grant to a hospital under this subsection may not exceed $50,000 a year and may not exceed a term of 2 years.

(7)(A) Except as provided in subparagraphs (D) and (C), a hospital receiving a grant under this subsection may use the grant for any of expenses incurred in planning and implementing the project with respect to which the grant is made.

(B) A hospital receiving a grant under this subsection for a project may not use the grant to retire debt incurred with respect to any capital expenditure made prior to the date on which the project is initiated.

(C) Not more than one-third of any grant made under this subsection may be expended for capital-related costs (as defined by the Secretary for purposes of section 1886(a)(4) of the Social Security Act) of the project.

(8)(A) A hospital receiving a grant under this section shall furnish the Administrator with such information as the Administrator may require to evaluate the project with respect to which the grant is made and to ensure that the grant is expended for the purposes for which it was made.

Reports.

(B) The Administrator shall report to the Congress at least once every 6 months on the program of grants established under this subsection. The report shall assess the functioning and status of the program, shall evaluate the progress made toward achieving the purposes of the program, and shall include any recommendations the Secretary may deem appropriate with respect to the program. In preparing the report, the Secretary shall solicit and include the comments and recommendations of private and public entities with an interest in rural health care.

Reports.

(C) The Administrator shall submit a final report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

(9) For purposes of carrying out the program of grants under this subsection, there are authorized to be appropriated from the Federal Hospital Insurance Trust Fund $15,000,000 for each of the fiscal years 1989 and 1990.

SEC. 4006. PAYMENTS FOR HOSPITAL CAPITAL.

(a) REDUCTIONS IN PAYMENTS FOR CAPITAL.—Section 1886(g)(3)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)) is amended—

(A) in clause (ii), by striking ", and" and inserting "on or after October 1, 1987, and before January 1, 1988,",

(B) by striking clause (iii) and inserting the following:

"(iii) 12 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) in fiscal year 1988, occurring on or after January 1, 1988, and

"(iv) 15 percent to portions of cost reporting periods or discharges (as the case may) be occurring during fiscal year 1989.".

(b) PROSPECTIVE PAYMENT FOR CAPITAL-RELATED COSTS.—

(1) IN GENERAL.—Paragraph (1) of section 1886(g) of such Act (42 U.S.C. 1395ww(g)) is amended to read as follows:

"(g)(1)(A) Notwithstanding section 1861(v), instead of any amounts that are otherwise payable under this title with respect to the reasonable costs of subsection (d) hospitals and subsection (d) Puerto Rico hospitals for capital-related costs of inpatient hospital services, the Secretary shall, for hospital cost reporting periods beginning on or after October 1, 1991, provide for payments for such costs in accordance with a prospective payment system established by the Secretary.

"(B) Such system—

"(i) shall provide for (I) a payment on a per discharge basis, and (II) an appropriate weighting of such payment amount as relates to the classification of the discharge;

"(ii) may provide for an adjustment to take into account variations in the relative costs of capital and construction for the different types of facilities or areas in which they are located;

"(iii) may provide for such exceptions (including appropriate exceptions to reflect capital obligations) as the Secretary determines to be appropriate, and

"(iv) may provide for suitable adjustment to reflect hospital occupancy rate.

"(C) In this paragraph, the term 'capital-related costs' has the meaning given such term by the Secretary under subsection (a)(4) as of September 30, 1987, and does not include a return on equity capital.".

(2) CONFORMING AMENDMENT.—Section 1886 of such Act is amended—

42 USC 1395ww.

(A) in subsection (a)(4), by striking "with respect to costs incurred in cost reporting periods beginning prior to October 1 of 1987 (or of such later year as the Secretary may, in his discretion, select), other capital-related costs, as defined by the Secretary" and inserting "other capital-related costs (as defined by the Secretary for periods before October 1, 1987)", and

(B) by striking subparagraph (C) of subsection (g)(3).

(3) EFFECTIVE DATES.—The amendment made by paragraph (1) shall take effect on October 1, 1987. The amendments made by paragraph (2) shall apply to cost reporting periods beginning on or after October 1, 1987.

42 USC 1395ww note.

(c) PROPAC REPORT ON ADJUSTMENT FOR HOSPITAL OCCUPANCY.—The Prospective Payment Assessment Commission shall study and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, by not later than May 1, 1988, on the suitability and feasibility of linking payment for capital-related costs under part A of title XVIII of the Social Security Act to hospital occupancy rates.

SEC. 4007. REPORTING HOSPITAL INFORMATION.

42 USC 1395ww note.

(a) DEVELOPMENT OF DATA BASE.—The Secretary of Health and Human Services (in [19] this section referred to as the "Secretary") shall develop and place into effect not later than June 1, 1989, a data base of the operating costs of inpatient hospital services with respect to all hospitals under title XVIII of the Social Security Act, which data base shall be updated at least once every quarter (and maintained for the 12-month period preceding any such update). The data base under this subsection may include data from preliminary cost reports (but the Secretary shall make available an updata analysis of the differences between preliminary and settled cost reports).

(b) REPORTING OF INFORMATION ELECTRONICALLY.—

[20] (1) Subject to paragraph (2), with respect to hospital cost reporting periods beginning on or after October 1, 1989, the Secretary shall place into effect a standardized electronic cost reporting format for hospitals under the medicare program.

(2) The Secretary may delay or waive the implementation of such format in particular instances where such implementation

---

[19] Copy read "Services, (in".

[20] Copy read "ELECTRONICALLY.—Subject"

would result in financial hardship (in particular with respect to a small percentage of medicare volume).

(c) DEMONSTRATION PROJECT.—

(1) The Secretary of Health and Human Services shall provide for a 3-year demonstration project to develop, and determine the costs and benefits of establishing a uniform system for the reporting by medicare participating hospitals of balance sheet and information described in paragraph (2). In contracting the project, the Secretary shall require hospitals in at least 2 States, one of which maintains a uniform hospital reporting system, to report such information based on standard information established by the Secretary.

Contracts.

(2) The information described in this paragraph is as follows:

(A) Hospital discharges (classified by category of service and by class of primary payer).

(B) Patient days (classified by category of service and by class of primary payer).

(C) Licensed beds, staffed beds, and occupancy (by category of service).

(D) Outpatient visits (classified by class of primary payer).

(E) Inpatient charges and revenues (classified by class of primary payer).

(F) Outpatient charges and revenues (classified by class of primary payer).

(G) Inpatient and outpatient hospital expenses (by cost-center classified for operating and capital).

(H) Reasonable costs.

(I) Other income.

(J) Uncompensated care (classified by bad debt and charity care).

(K) Capital acquisitions.

(L) Capital assets.

(3) The Secretary shall develop the system under subsection (c) in a manner so as—

(A) to facilitate the submittal of the information in the report in an electronic form, and

(B) to be compatible with the needs of the medicare prospective payment system.

(4) The Secretary shall prepare and submit, to the Prospective Payment Assessment Commission, the Comptroller General, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, by not later than 45 days after the end of each calendar quarter, data collected under the system.

(5) In paragraph (3):

(A) The terms "bad debt" and "charity care" have such meanings as the Secretary establishes.

(B) The term "class" means, with respect to payers, the programs under this title VIII of the Social Security Act, a State plan approved under title XIX of such Act, other third party-payers, and self-paying individuals.

(6) [21] The Secretary shall set aside at least $1,000,000 for each of fiscal years 1988, 1989, and 1990 from existing research funds

---

[21] Copy read "(7)"

to develop the format, according to paragraph (1), and at least $2,000,000 from program operations funds for data collection and analysis, but total funds shall not exceed $15,000,000 over 3 years.

(7) [22].The Comptroller General shall analyze the adequacy of the existing system for reporting of hospital information and the costs and benefits of data reporting under the demonstration system and will recommend improvements in hospital data collection and in analysis and display of data in support of policy making.

[23] (d) Consultation.—The Secretary shall consult representatives of the hospital industry in carrying out the provisions of this section.

SEC. 4008. OTHER PROVISIONS RELATING TO PAYMENT FOR INPATIENT HOSPITAL SERVICES.

(a) Massachusetts Medicare Repayment.—The Secretary of Health and Human Services shall not, on or after the date of the enactment of this Act, and before January 1, 1989, recoup from, or otherwise reduce payments to, hospitals in the State of Massachusetts because of alleged overpayments to such hospitals under part A of title XVIII of the Social Security Act which occurred during the period of the statewide hospital reimbursement demonstration project conducted in that State, between October 1, 1982, and June 30, 1986, under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972.

(b) Clarification of Section 1814(b) State Waiver Authority.—

(1) Application of aggregate test.—Section 1814(b)(3)(B) of the Social Security Act (42 U.S.C. 1395f(b)(3)(B)) is amended by striking "rate of increase for the previous three-year period" and inserting "aggregate rate of increase from October 1, 1983, to the most recent date for which annual data are available".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act. 42 USC 1395f note.

(c) Continuation of Bad Debt Recognition for Hospital Services.—In making payments to hospitals under title XVIII of the Social Security Act, the Secretary of Health and Human Services shall not make any change in the policy in effect on August 1, 1987, with respect to payment under title XVIII of the Social Security Act to providers of service for reasonable costs relating to unrecovered costs associated with unpaid deductible and coinsurance amounts incurred under such title (including criteria for what constitutes a reasonable collection effort). 42 USC 1395f note.

(d) Hospital Outlier Payments and Policy.— 42 USC 1395ww note.

(1) Increase in outlier payments for burn center DRGs.—

(A) In general.—For discharges classified in diagnosis-related groups relating to burn cases and occurring on or after April 1, 1988, and before October 1, 1989, the marginal cost of care permitted by the Secretary of Health and Human Services under section 1886(d)(5)(A)(iii) of the Social Security Act shall be 90 percent of the appropriate per diem cost of care or 90 percent of the cost for cost outliers.

(B) Budget neutrality.—Subparagraph (A) shall be implemented in a manner that ensures that total payments under section 1886 of the Social Security Act are not increased or decreased by reason of the adjustments required by such subparagraph.

---

[22] Copy read "(8)".

[23] "(d)" Paragraph had wrong indention.

(2) LIMITATION ON CHANGES IN OUTLIER REGULATIONS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute, the Secretary of Health and Human Services is not authorized to issue in final form, after the date of the enactment of this Act and before September 1, 1988, any final regulation which changes the method of payment for outlier cases under section 1886(d)(5)(A) of the Social Security Act.

(B) PROPAC [24] REPORT.—The chairman of the Prospective Payment Assessment Commission shall report to the Congress and the Secretary of Health and Human Services, by not later than June 1, 1988, on the method of payment for outlier cases under such section and providing more adequate and appropriate payments with respect to burn outlier cases.

(3) REPORT ON OUTLIER PAYMENTS.—The Secretary of Health and Human Services shall include in the annual report submitted to the Congress pursuant to section 1875(b) of the Social Security Act a comparison with respect to hospitals located in an urban area and hospitals located in a rural area in the amount of reductions under section 1886(d)(3)(B) of the Social Security Act and additional payments under section 1886(d)(5)(A) of such Act.

42 USC 1395ww note.

(e) MISCELLANEOUS ACCOUNTING PROVISION.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, subsection (d) of section 9307 of such Act is amended to read as follows:

"(d) MISCELLANEOUS ACCOUNTING PROVISION.—Notwithstanding any other provision of law, for purposes of section 1886(d)(1)(A) of the Social Security Act, in the case of a hospital that—

"(1) had a cost reporting period beginning on September 28, 29, or 30 of 1985,

"(2) is located in a State in which inpatient hospital services were paid in fiscal year 1985 pursuant to a Statewide demonstration project under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972, and

"(3) elects, by notice to the Secretary of Health and Human Services by not later than April 1, 1988, to have this subsection apply,

during the first 7 months of such cost reporting period the 'target percentage' shall be 75 percent and the 'DRG percentage' shall be 25 percent, and during the remaining 5 months of such period the 'target percentage' and the 'DRG percentage' shall each be 50 percent.".

SEC. 4009. MISCELLANEOUS PROVISIONS.

(a) RESPONSIBILITIES OF MEDICARE HOSPITALS IN EMERGENCY CASES.—

(1) INCREASE IN CIVIL MONETARY PENALTY.—Section 1867(d)(2) of the Social Security Act (42 U.S.C. 1395dd(d)(2)) is amended by striking "$25,000" and inserting "$50,000".

---

[24] Copy read "ProPAC"

(2) EXCLUSION FROM MEDICARE PROGRAM FOR VIOLATIONS.—Section 1867(d)(1) of such Act is amended by adding at the end the following new sentence:

"If a civil money penalty is imposed on a responsible physician under paragraph (2), the Secretary may impose the sanction described in section 1842(j)(2)(A) (relating to barring from participation in the medicare program) in the same manner as it is imposed under section 1842(j).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions occurring on or after the date of the enactment of this Act. 42 USC 1395dd note.

(b) DESIGNATION OF PEDIATRIC HOSPITALS AS MEETING CERTIFICATION AS HEART TRANSPLANT FACILITY.—For purposes of determining whether a pediatric hospital that performs pediatric heart transplants meets the criteria established by the Secretary of Health and Human Services for facilities in which the heart transplants performed will be considered to meet the requirement of section 1862(a)(1)(A) of the Social Security Act, the Secretary shall treat such a hospital as meeting such criteria if— 42 USC 1395y note.

(1) the hospital's pediatric heart transplant program is operated jointly by the hospital and another facility that meets such criteria,

(2) the unified program shares the same transplant surgeons and quality assurance program (including oversight committee, patient protocol, and patient selection criteria), and

(3) the hospital demonstrates to the satisfaction of the Secretary that it is able to provide the specialized facilities, services, and personnel that are required by pediatric heart transplant patients.

(c) WAIVER OF INPATIENT LIMITATIONS FOR THE CONNECTICUT HOSPICE.[25]—Subsection (a) of section 9307 of the Omnibus Budget Reconciliation Act of 1986 is amended— 100 Stat. 1995.

(1) by striking "TEMPORARY" in the heading, and

(2) by striking "for hospice care provided before October 1, 1988,".

(d) REVISION OF APPOINTMENT PROCESS FOR PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—

(1) IN GENERAL.—Section 1886(e)(6)(B) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(B)) is amended—

(A) in the first sentence, by striking "provide expertise and experience in the provision and financing of health care" and inserting "include individuals with national recognition for their expertise in health economics, hospital reimbursement, hospital financial management, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives,"; and

(B) by striking the last sentence.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to appointments made after the date of the enactment of this Act. 42 USC 1395ww note.

(e) PSYCHOLOGISTS' SERVICES FURNISHED TO HOSPITAL INPATIENTS.—

---

[25] Copy read "LIMITATIONS FOR THE CONNECTICUT HOSPICE.".

(1) IN GENERAL.—Section 1861(b)(3) of such Act (42 U.S.C. 1395x(b)(3)) is amended by inserting "(including clinical psychologist (as defined by the Secretary))" after "others" the first place it appears.

42 USC 1395x note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services furnished on or after April 1, 1988.

(f) HOSPITAL CONDITION OF PARTICIPATION RELATED TO INDIVIDUAL RESPONSIBLE FOR CARE OF PATIENT.—Section 1861(e)(4) of such Act (42 U.S.C. 1395x(e)(4)) is amended by inserting "with respect to whom payment may be made under this title" after "patient".

42 USC 1320b-8 note.

(g) DELAY IN REQUIREMENTS RELATING TO HOSPITAL STANDARDS FOR ORGAN TRANSPLANTS AND STANDARDS FOR ORGAN PROCUREMENT AGENCIES.—

(1) Section 9318(b)(2) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 107(c) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is amended by striking "November 21, 1987" and inserting "March 31, 1988".

Effective date. 42 USC 1320b-8 note.

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

42 USC 1395ww note.

(h) ProPAC STUDIES AND REPORTS.—

(1) PROPAC REPORTS ON STUDY OF DRG RATES FOR HOSPITALS IN RURAL AND URBAN AREAS.—The Prospective Payment Assessment Commission shall evaluate the study conducted by the Secretary of Health and Human Services pursuant to section 603(a)(2)(C)(i) of the Social Security Amendments of 1983 (relating to the feasibility, impact, and desirability of eliminating or phasing out separate urban and rural DRG prospective payment rates) and report its conclusions and recommendations to the Congress not later than March 1, 1988.

(2) PROPAC REPORT ON SEPARATE URBAN PAYMENT RATES.—The Prospective Payment Assessment Commission shall evaluate the desirability of maintaining separate DRG prospective payment rates for hospitals located in large urban areas (as defined in section 1886(d)(2)(D)) of the Social Security Act) and in other urban areas, and shall report to Congress on such evaluation not later than January 1, 1989.

(3) REPORT ON ADJUSTMENT FOR NON-LABOR COSTS.—The Prospective Payment Assessment Commission shall perform an analysis to determine the feasibility and appropriateness of adjusting the non-wage-related portion of the adjusted average standardized amounts under section 1886(d)(3) of the Social Security Act based on area differences in hospitals' costs (other than wage-related costs) and input prices. The Commission shall report to the Congress on such analysis by not later than October 1, 1989.

42 USC 1395ww note.

(i) SPECIAL RULE.—In the case of New England county metropolitan areas, the Secretary of Health and Human Services shall apply the second sentence of section 1886(d)(2)(D) of the Social Security Act, as amended by section 4001(b) of this subtitle, as though 970,000 were substituted for 1,000,000.

(j) TECHNICAL CORRECTIONS.—

(1) Section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)) is amended by inserting a comma after "educational activities".

(2) Section 1886(d)(5)(C)(i)(II) of such Act (42 U.S.C. 1395ww(d)(5)(C)(i)(II)) is amended by inserting "index" after "case mix" both places it appears.

(3) Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in clause (i)(II), by striking "such revenues" the second place it appears and inserting "such net inpatient care revenues", and

(B) in clause (iv)(I), by striking "subclause (III)" and inserting "clause (v)".

(4) Section 1886(d)(9) of such Act (42 U.S.C. 1395ww(d)(9)) is amended by moving the matter in subparagraph (B) before clause (i) 2 ems to the left so the left margin of such matter is aligned with the left margin of the matter in subparagraph (A) before clause (i).

(5) Section 1886(h)(4)(C) of such Act (42 U.S.C. 1395ww(h)(4)(C)) is amended by striking "subparagraph (E)" and inserting "subparagraph (D)".

(6) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986—

(A) subparagraph (B) of section 9307(c)(1) of such Act is amended to read as follows: 42 USC 1395ww.

"(B) in paragraph (2)—

"(i) by striking subparagraphs (A) and (B),

"(ii) in subparagraph (C), by striking 'such subsection' and inserting 'of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)' and by redesignating such subparagraph as subparagraph (A), and

"(iii) by amending subparagraph (D) to read as follows:

" '(B) The amendments made by subparagraph (A) apply to discharges occurring on or after May 1, 1986.' "; 42 USC 1395ww note.

(B) section 9302(a)(2)(C) of such Act is amended by striking "1866(e)(5)" and inserting "1886(e)(5)"; 42 USC 1395ww.

(C) section 9320(h)(1) of such Act is amended by striking "before the period" and inserting "before the semicolon"; 42 USC 1395y.

(D) section 9321(c)(4) of such Act is amended by striking "second sentence" and all that follows through "operating costs" and inserting "second sentence of section 1886(a)(4) of the Social Security Act, from the term 'operating costs"; 42 USC 1395ww note.

(E) the second sentence of section 9335(d)(2) of such Act is amended by striking "establish" and inserting "designate"; and 42 USC 1395rr note.

(F) section 9321(c)(3) of such Act is amended by inserting "section 1861(v)(1)(O) and 1886(g)(2) of the Social Security Act and" after "implementing". 42 USC 1395ww note.

(7) Section 218(v) of the Social Security Act (42 U.S.C. 418(v)) is amended by striking paragraph (3).

(8) Effective as if included in the Tax Reform Act of 1986, section 1895(d)(6)(C) of such Act is amended by striking "603" and inserting "2203". 42 USC 300bb-6.

PART 2—PROVISIONS RELATING TO PARTS A AND B

Subpart A—Health Maintenance Organization Reforms

SEC. 4011. BENEFICIARY PROTECTION.

(a) Post-Contract Protection for Enrollees with Eligible Organizations Under [26] the Medicare Program.—

(1) Section 1876(c)(3) of such Act (42 U.S.C. 1395mm(b)(2)) is amended by adding at the end the following new subparagraph:

"(F) Each eligible organization that provides items and services pursuant to a contract under this section shall provide assurances to the Secretary that in the event the organization ceases to provide such items and services, the organization shall provide or arrange for supplemental coverage of benefits under this title related to a pre-existing condition with respect to any exclusion period, to all individuals enrolled with the entity who receive benefits under this title, for the lesser of six months or the duration of such period.".

42 USC 1395mm note.

(2) The amendment made by paragraph (1) shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

(b) Notification of Termination of Risk-Sharing Contract.—

(1) Section 1876(c)(3) of such Act, as amended by subsection (a)(1), is further amended by adding at the end the following new subparagraph:

"(G)(i) Each eligible organization having a risk-sharing contract under this section shall notify individuals eligible to enroll with the organization under this section and individuals enrolled with the organization under this section that—

"(I) the organization is authorized by law to terminate or refuse to renew the contract, and

"(II) termination or nonrenewal of the contract may result in termination of the enrollments of individuals enrolled with the organization under this section.

"(ii) The notice required by clause (i) shall be included in—

"(I) any marketing materials described in subparagraph (C) that are distributed by an eligible organization to individuals eligible to enroll under this section with the organization, and

"(II) any explanation provided to enrollees by the organization pursuant to subparagraph (E).".

42 USC 1395mm note.

(2) The amendment made by paragraph (1) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act.

SEC. 4012. PAYMENTS FOR HOSPITAL SERVICES.

(a) In General.—Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended by inserting immediately after subparagraph (N) the following new subparagraph:

Contracts.

"(O) in the case of hospitals and skilled nursing facilities, to accept as payment in full for inpatient hospital and extended care services that are covered under this title and are furnished to any individual enrolled with an eligible organization with a risk-sharing contract under section 1876 the amounts (in the case of hospitals) or limits (in the case of skilled nursing facilities) that would be made as a payment in full under this title if the individuals were not so enrolled.".

---

[26] Copy read "UNDER".

(b) REPEAL.—Section 1876(g)(4) of the Social Security Act (42 U.S.C. 1395mm(g)(4)) is repealed.

42 USC 1395mm note.

(c) IMPLEMENTATION.—The Secretary of Health and Human Services shall provide (in machine readable form) to eligible organizations under section 1876 of the Social Security Act medicare DRG rates for payments required by the amendment made by paragraph (2) and data on cost pass-through items for all inpatient services provided to medicare beneficiaries enrolled with such organizations.

42 USC 1395mm note.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to admissions occurring on or after April 1, 1988, or, if later, the earliest date the Secretary can provide the information required under subsection (c) in machine readable form.

SEC. 4013. TWO-YEAR EXTENSION ON PERIOD FOR BENEFIT STABILIZATION.

(a) IN GENERAL.—Section 1876(g)(5) of the Social Security Act (42 U.S.C. 1395mm(g)(5)), as added by the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984, is amended by striking "four" and inserting "six".

42 USC 1395mm note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984.

SEC. 4014. CIVIL MONEY PENALTIES AND INTERMEDIATE SANCTIONS AGAINST HMOS/CMPS.

Section 1876(i)(6) of the Social Security Act (42 U.S.C. 1395mm) is amended to read as follows:

Contracts.

"(6)(A) If the Secretary determines that an eligible organization with a contract under this section—

"(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this section in excess of the premiums permitted;

"(iii) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this section;

"(iv) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this section) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(v) misrepresents or falsifies information that is furnished—

"(I) to the Secretary under this section, or

"(II) to an individual or to any other entity under this section; or

"(vi) fails to comply with the requirements of subsection (g)(6)(A);

the Secretary may provide for any of the remedies described in subparagraph (B).

"(B) The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A) or, with respect to a determination under clause (iv) or (v)(I), of not more than $100,000 for each such determination,

"(ii) suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(iii) suspension of payment to the organization under this section for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty under that section.".

42 USC 1395mm note.

SEC. 4015. MEDICARE PAYMENT DEMONSTRATION PROJECTS.

(a) MEDICARE INSURED GROUP DEMONSTRATION PROJECTS.—

Contracts.

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") may provide for capitation demonstration projects (in this subsection referred to as "projects") with an entity which is an eligible organization with a contract with the Secretary under section 1876 of the Social Security Act or which meets the restrictions and requirements of this subsection. The Secretary may not approve a project unless it meets the requirements of this subsection.

(2) The Secretary may not conduct more than 3 projects and may not expend, from funds under title XVIII of the Social Security Act, more than $600,000,000 in any fiscal year for all such projects.

(3) The per capita rate of payment under a project—

(A) may be based on the adjusted average per capita cost (as defined in section 1876(a)(4) of the Social Security Act) determined only with respect to the group of individuals involved (rather than with respect to medicare beneficiaries generally), but

(B) the rate of payment may not exceed the lesser of—

(i) 95 percent of the adjusted average per capita cost described in subparagraph (A), or

(ii)(I) in the 4th year or 5th year of a project, 115 percent of the adjusted average per capita cost (as defined in section 1876(a)(4) of such Act) for classes of individuals described in section 1876(a)(1)(B) of that Act, or

(II) in any subsequent year of a project, 95 percent of the adjusted average per capita cost (as defined in section 1876(a)(4)) for such classes.

(4) If the payment amounts made to a project are greater than the costs of the project (as determined by the Secretary or, if applicable, on the basis of adjusted community rates described in section 1876(e)(3) of the Social Security Act), the project—

(A) may retain the surplus, but not to exceed 5 percent of the average adjusted per capita cost determined in accordance with paragraph (3)(A), and

(B) with respect to any additional surplus not retained by the project, shall apply such surplus to additional benefits for individuals served by the project or return such surplus to the Secretary.

(5) Enrollment under the project shall be voluntary. Individuals enrolled with the project may terminate such enrollment as of the beginning of the first calendar month following the date on which the request is made for such termination. Upon such termination, such individuals shall retain the same rights to other health benefits that such individuals would have had if they had never enrolled with the project without any exclusion or waiting period for pre-existing conditions.

(6) The requirements of—

(A) subsection (c)(3)(C) (relating to dissemination of information),

(B) subsection (c)(3)(E) (annual statement of rights),

(C) subsection (c)(5) (grievance procedures),

(D) subsection (c)(6) (on-going quality),

(E) subsection (g)(6) (relating to prompt payment of claims),

(F) subsection (i)(3)(A) and (B) (relating to access to information and termination notices),

(G) subsection (i)(6) (relating to providing necessary services), and

(H) subsection (i)(7) (relating to agreements with peer review organizations),

Contracts.

of section 1876 of the Social Security Act shall apply to a project in the same manner as they apply to eligible organizations with risk-sharing contracts under such section.

(7) The benefits provided under a project must be at least actuarially equivalent to the combination of the benefits available under title XVIII of the Social Security Act and the benefits available through any alternative plans in which the individual can enroll through the the employer. The project shall guarantee the actuarial value of benefits available under the employer plan for the duration of the project.

(8) A project shall comply with all applicable State laws.

(9) The Secretary may not authorize a project unless the entity offering the project demonstrates to the satisfaction of the Secretary that it has the necessary financial reserves to pay for any liability for benefits under the project (including those liabilities for health benefits under medicare and any supplemental benefits).

Reports.

(10) The Comptroller General shall monitor projects under this subsection and shall report periodically (not less often than once every year) to the Committee on Finance of the Senate and the Committee on Energy and Commerce and Committee on Ways and Means of the House of Representatives on the status of such projects and the affect on such projects of the requirements of this section and shall submit a final report to each such committee on the results of such projects.

(b) **PAYMENT METHODOLOGY REFORM DEMONSTRATIONS PROJECTS.**—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") is specifically au-

thorized to conduct demonstration projects under this subsection for the purpose of testing alternative payment methodologies pertaining to capitation payments under title XVIII of the Social Security Act, including—

(A) computing adjustments to the average per capita cost under section 1876 of such Act on the basis of health status or prior utilization of services, and

(B) accounting for geographic variations in cost in the adjusted average per capita costs applicable to an eligible organization under such section which differs from payments currently provided on a county-by-county basis.

(2) No project may be conducted under this subsection—

(A) with an entity which is not an eligible organization (as defined in section 1876(b) of the Social Security Act), and

(B) unless the project meets all the requirements of subsections (c) and (i)(3) of section 1876 of such Act.

Appropriation authorization.

(3) There are authorized to be appropriated to carry out projects under this subsection $5,000,000 in each of fiscal years 1989 and 1990.

(c) Application of Provisions.—The provisions of subsection (a)(2) and the first sentence of subsection (b) of section 402 of the Social Security Amendments of 1967 shall apply to the demonstration projects under this section in the same manner as they apply to experiments under subsection (a)(1) of that section.

42 USC 1320a-7a note.

SEC. 4016. DELAY IN EFFECTIVE DATE IN PHYSICIAN INCENTIVE RULES FOR HEALTH MAINTENANCE ORGANIZATIONS.

100 Stat. 2002.

Section 9313(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "April 1, 1989" and inserting "April 1, 1990".

42 USC 1395mm note.

SEC. 4017. GAO STUDY AND REPORTS ON MEDICARE CAPITATION.

(a) Study.—The Comptroller General shall conduct a study on medicare capitation rates that shall include an analysis and assessment of—

(1) the current method for computing per capita rates of payment under section 1876 of the Social Security Act (including the method for determining the United States per capita cost);

(2) the method for establishing relative costs for geographic areas and the data used to establish age, sex, and other weighting factors;

(3) ways to refine the calculation of adjusted average per capita costs under section 1876 of such Act (including making adjustments for health status or prior utilization of services and improvements in the definition of geographic areas);

Contracts.

(4) the extent to which individuals enrolled with organizations with a risk-sharing contract with the Secretary under section 1876 of such Act differ in utilization and cost from fee-for-service beneficiaries and ways for modifying enrollment patterns through program changes or for reflecting the differences in rates through group experience rating or other means;

(5) approaches for limiting the liability of the contracting organization under section 1876 of such Act in catastrophic cases;

(6) ways of establishing capitation rates on a basis other than fee-for-service experience in areas with high prepaid market penetration; and

(7) methods for providing the rate levels necessary to maintain access to quality prepaid services in rural or medically underserved areas (while maintaining cost savings).

(b) REPORTS.—

(1) Not later than January 1 of 1989 and 1990, the Comptroller General shall submit to the Committee on Finance of the Senate and the Committee on Energy and Commerce and Committee on Ways and Means of the House of Representatives interim reports on the progress of the study conducted under subsection (a).

(2) Not later than January 1, 1991, the Comptroller General shall submit to each such committee a final report on the results of such study.

SEC. 4018. SPECIAL RULES.

(a) ASSIGNMENT OF MEMBERS FOR HIP HEALTH MAINTENANCE ORGANIZATION.—Section 1876(f) of such Act (42 U.S.C. 1395mm(f)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3)(A) An eligible organization described in subparagraph (B) may elect, for purposes of determining the compliance of a subdivision, subsidiary, or affiliate described in subparagraph (B)(iii) with the requirement of paragraph (1) for the period before October 1, 1992, to have members of the subdivision, subsidiary, or affiliate considered to be members of the parent organization.

"(B) An eligible organization described in this subparagraph is an eligible organization which—

"(i) is described in section 1903(m)(2)(B)(iii);

"(ii) has members who have a collectively bargained contractual right to obtain health benefits from the organization;

"(iii) elects to provide benefits under a risk-sharing contract to individuals residing in a service area, who have a collectively bargained contractual right to obtain benefits from the organization, through a subdivision, subsidiary, or affiliate which itself is an eligible organization serving the area and which is owned or controlled by the parent eligible organization; and Contracts.

"(iv) has assumed any risk of insolvency and quality assurance with respect to individuals receiving benefits through such a subdivision, subsidiary, or affiliate.".

(b) EXTENSION OF WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.—

(1) The Secretary of Health and Human Services shall extend without interruption, through September 30, 1992, the approval of waivers granted under subsection (a) of section 2355 of the Deficit Reduction Act of 1984 for the demonstration project described in subsection (b) of that section, subject to the terms and conditions (other than duration of the project) established under that section (as amended by paragraph (2) of this subsection).

(2) Section 2355(b)(5) of the Deficit Reduction Act of 1984 is amended by inserting "and in succeeding years" after "third year". 98 Stat. 1103.

(3) Section 2355(d)(2) of the Deficit Reduction Act of 1984 is amended by striking "final" and inserting "interim".

Reports.

(4) The Secretary of Health and Human Services shall submit a final report to the Congress on the project referred to in paragraph (1) not later than March 31, 1993.

(c) TREATMENT OF MICHIGAN BLUE CARE HMO NETWORK UNDER [27] 50 PERCENT RULE.—Blue Care, Inc., a nonprofit corporation which is indirectly owned and operated by Blue Cross and Blue Shield of Michigan, Inc. and which enrolls individuals for the purpose of providing them with health care services through assignment to health maintenance organizations which are indirectly or wholly owned and operated by Blue Cross and Blue Shield of Michigan, Inc., is deemed to meet the requirement of section 1876(f)(1) of the Social Security Act (relating to limitation on enrollment of medicare and medicaid beneficiaries with an eligible organization) if—

(1) such requirement would be met if applied to all individuals enrolled with (or otherwise assigned to) each of such health maintenance organizations, and

(2) not more than 20 percent of the number of individuals who are members of (or otherwise assigned to) each such organization consists of individuals who are entitled to benefits under title XVIII of the Social Security Act.

42 USC 1395mm note.

Grants.

(d) TEMPORARY WAIVER FOR WATTS HEALTH FOUNDATION.—Section 9312(c)(3) of the Omnibus Budget Reconciliation Act of 1986 is amended by adding at the end the following new subparagraph:

"(D) TREATMENT OF CERTAIN WAIVERS.—In the case of an eligible organization (or successor organization) that is described in clauses (i) and (ii) of subparagraph (C) and that received a grant or grants totaling at least $3,000,000 in fiscal year 1987 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act—

"(i) before January 1, 1990, section 1876(f) of the Social Security Act shall not apply to the organization;

"(ii) beginning on January 1, 1990, the Secretary of Health and Human Services shall waive the requirement of such section with respect to the organization if—

"(I) before such date, the organization has submitted to the Secretary a schedule for the organization to comply with the requirement of section 1876(f)(1) of such Act, and the Secretary has found such schedule to be reasonable and has approved such schedule; and

"(II) periodically after such date, the Secretary reviews the organization's compliance with such schedule and determines that the organization has complied, or made significant progress towards compliance, with such schedule; and

"(iii) after January 1, 1990, if the Secretary has approved a schedule under clause (ii)(I) and has determined, in a periodic review under clause (ii)(II), that the organization has not complied, or made significant progress towards compliance, with such schedule, the Secretary may provide for a sanction described in section 1876(f)(3) of the Social Security Act effective with respect to individuals enrolling with the organization after the date the Secretary notifies the organization of such noncompliance.".

---

[27] Copy read "UNDER".

Subpart B—Home Health Quality

SEC. 4021. CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES.

(a) Definition of Home Health Agency.—Section 1861(o)(6) of the Social Security Act (42 U.S.C. 1395x(o)(6)) is amended by inserting "the conditions of participation specified in section 1891(a) and" after "meets".

(b) Conditions of Participation.—Title XVIII of such Act is amended by adding at the end the following new section:

"CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES; HOME HEALTH QUALITY

"Sec. 1891. (a) The conditions of participation that a home health agency is required to meet under this subsection are as follows: 42 USC 1395bbb.

"(1) The agency protects and promotes the rights of each individual under its care, including each of the following rights:

"(A) The right to be fully informed in advance about the care and treatment to be provided by the agency, to be fully informed in advance of any changes in the care or treatment to be provided by the agency that may affect the individual's well-being, and (except with respect to an individual adjudged incompetent) to participate in planning care and treatment or changes in care or treatment.

"(B) The right to voice grievances with respect to treatment or care that is (or fails to be) furnished without discrimination or reprisal for voicing grievances.

"(C) The right to confidentiality of the clinical records described in section 1861(o)(3).

"(D) The right to have one's property treated with respect.

"(E) The right to be fully informed orally and in writing (in advance of coming under the care of the agency) of—

"(i) all items and services furnished by (or under arrangements with) the agency for which payment may be made under this title,

"(ii) the coverage available for such items and services under this title, title XIX, and any other Federal program of which the agency is reasonably aware,

"(iii) any charges for items and services not covered under this title and any charges the individual may have to pay with respect to items and services furnished by (or under arrangements with) the agency, and

"(iv) any changes in the charges or items and services described in clause (i), (ii), or (iii).

"(F) The right to be fully informed in writing (in advance of coming under the care of the agency) of the individual's rights and obligations under this title.

"(G) The right to be informed of the availability of the State home health agency hot-line established under section 1864(a).

"(2) The agency notifies the State entity responsible for the licensing or certification of the agency of a change in—

"(A) the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the agency,

"(B) the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of the agency, and

"(C) the corporation, association, or other company responsible for the management of the agency.

Such notice shall be given at the time of the change and shall include the identity of each new person or company described in the previous sentence.

"(3)(A) The agency must not use as a home health aide (on a full-time, temporary, per diem, or other basis), any individual who is not a licensed health care professional (as defined in subparagraph (F)) to provide items or services described in section 1861(m) on or after January 1, 1990, unless the individual—

"(i) has completed a training and competency evaluation program, or a competency evaluation program, that meets the minimum standards established by the Secretary under subparagraph (D), and

"(ii) is competent to provide such items and services.

For purposes of clause (i), an individual is not considered to have completed a training and competency evaluation program, or a competency evaluation program if, since the individual's most recent completion of such a program, there has been a continuous period of 24 consecutive months during none of which the individual provided items and services described in section 1861(m) for compensation.

"(B)(i) The agency must provide, with respect to individuals used as a home health aide by the agency as of July 1, 1989, for a competency evaluation program (as described in subparagraph (A)(i)) and such preparation as may be necessary for the individual to complete such a program by January 1, 1990.

"(ii) The agency must provide such regular performance review and regular in-service education as assures that individuals used to provide items and services described in section 1861(m) are competent to provide those items and services.

"(C) The agency must not permit an individual, other than in a training and competency evaluation program that meets the minimum standards established by the Secretary under subparagraph (D), to provide items or services of a type for which the individual has not demonstrated competency.

"(D)(i) The Secretary shall establish minimum standards for the programs described in subparagraph (A) by not later than October 1, 1988.

"(ii) Such standards shall include the content of the curriculum, minimum hours of training, qualification of instructors, and procedures for determination of competency.

"(iii) Such standards may permit approval of programs offered by or in home health agencies, as well as outside agencies (including employee organizations), and of programs in effect on the date of the enactment of this section; except that they may not provide for the approval of a program offered by or in a home health agency which has been determined to be out of compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) within the previous 2 years.

"(iv) Such standards shall permit a determination that an individual who has completed (before July 1, 1989) a training and competency evaluation program or a competency evaluation program shall be deemed for purposes of subparagraph (A) to have completed a program that is approved by the Secretary under the standards established under this subparagraph if the Secretary determines that, at the time the program was offered, the program met such standards.

"(E) In this paragraph, the term 'home health aide' means any individual who provides the items and services described in section 1861(m), but does not include an individual—

"(i) who is a licensed health professional (as defined in subparagraph (F)), or

"(ii) who volunteers to provide such services without monetary compensation.

"(F) In this paragraph, the term 'licensed health professional' means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, registered professional nurse, licensed practical nurse, or licensed or certified social worker.

"(4) With respect to durable medical equipment furnished to individuals for whom the agency provides items and services, suppliers of such equipment do not use (on a full-time, temporary, per diem, or other basis) any individual who does not meet minimum training standards (established by the Secretary by October 1, 1988) for the demonstration and use of any such equipment furnished to individuals with respect to whom payments may be made under this title.

"(5) The agency includes an individual's plan of care required under section 1861(m) as part of the clinical records described in section 1861(o)(3).

"(6) The agency operates and provides services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with accepted professional standards and principles which apply to professionals providing items and services in such an agency.

"(b) It is the duty and responsibility of the Secretary to assure that the conditions of participation and requirements specified in or pursuant to section 1861(o) and subsection (a) of this section and the enforcement of such conditions and requirements are adequate to protect the health and safety of individuals under the care of a home health agency and to promote the effective and efficient use of public moneys.".

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by subsections (a) and (b) shall apply to home health agencies as of the first day of the 18th calendar month that begins after the date of the enactment of this Act.

42 USC 1395x note.

SEC. 4022. STANDARD AND EXTENDED SURVEY.

(a) IN GENERAL.—Section 1891 of the Social Security Act (as added by section 4021) is amended by adding at the end the following new subsections:

"(c)(1) Any agreement entered into or renewed by the Secretary pursuant to section 1864 relating to home health agencies shall provide that the appropriate State or local agency shall conduct, without any prior notice, a standard survey of each home health agency. Any individual who notifies (or causes to be notified) a home health agency of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The Secretary shall provide for imposition of civil money penalties under this clause in a manner similar to that for the imposition of civil money penalties under section 1128A. The Secretary shall review each State's or local agency's procedures for scheduling and conduct of standard surveys to assure that the State or agency has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(2)(A) Except as provided in subparagraph (B), each home health agency shall be subject to a standard survey not later than 15 months after the date of the previous standard survey conducted under this paragraph. The statewide[27a] average interval between standard surveys of any home health agency shall not exceed 12 months.

"(B) If not otherwise conducted under subparagraph (A), a standard survey (or an abbreviated standard survey) of an agency—

"(i) may be conducted within 2 months of any change of ownership, administration, or management of the agency to determine whether the change has resulted in any decline in the quality of care furnished by the agency, and

"(ii) shall be conducted within 2 months of when a significant number of complaints have been reported with respect to the agency to the Secretary, the State, the entity responsible for the licensing of the agency, the State or local agency responsible for maintaining a toll-free hotline and investigative unit (under section 1864(a)), or any other appropriate Federal, State, or local agency.

"(C) A standard survey conducted under this paragraph with respect to a home health agency—

"(i) shall include (to the extent practicable), for a case-mix stratified sample of individuals furnished items or services by the agency—

"(I) visits to the homes of such individuals, but only with the consent of such individuals, for the purpose of evaluating (in accordance with a standardized reproducible assessment instrument (or instruments) approved by the Secretary under subsection (d)) the extent to which the quality and scope of items and services furnished by the agency attained and maintained the highest practicable functional capacity of each such individual as reflected in such individual's written plan of care required under section 1861(m) and clinical records required under section 1861(o)(3); and

"(II) a survey of the quality of care and services furnished by the agency as measured by indicators of medical, nursing, and rehabilitative care;

"(ii) shall be based upon a protocol that is developed, tested, and validated by the Secretary not later than January 1, 1989; and

"(iii) shall be conducted by an individual—

[27a] Copy read "Statewide".

"(I) who meets minimum qualifications established by the Secretary not later than July 1, 1989,

"(II) who is not serving (or has not served within the previous 2 years) as a member of the staff of, or as a consultant to, the home health agency surveyed respecting compliance with the conditions of participation specified in or pursuant to section 1861(o) or subsection (a) of this section, and

"(III) who has no personal or familial financial interest in the home health agency surveyed.

"(D) Each home health agency that is found, under a standard survey, to have provided substandard care shall be subject to an extended survey to review and identify the policies and procedures which produced such substandard care and to determine whether the agency has complied with the conditions of participation specified in or pursuant to section 1861(o) or subsection (a) of this section. Any other agency may, at the Secretary's or State's discretion, be subject to such an extended survey (or a partial extended survey). The extended survey shall be conducted immediately after the standard survey (or, if not practical, not later than 2 weeks after the date of completion of the standard survey).

"(E) Nothing in this paragraph shall be construed as requiring an extended (or partial extended) survey as a prerequisite to imposing a sanction against an agency under subsection (e) on the basis of the findings of a standard survey.

"(d)(1) Not later than January 1, 1989, the Secretary shall designate an assessment instrument (or instruments) for use by an agency in complying with subsection (c)(2)(C)(I).

"(2)(A) Not later than January 1, 1991, the Secretary shall—

"(i) evaluate the assessment process,

"(ii) report to Congress on the results of such evaluation, and

Reports.

"(iii) based on such evaluation, make such modifications in the assessment process as the Secretary determines are appropriate.

Reports.

"(B) The Secretary shall periodically update the evaluation conducted under subparagraph (A), report the results of such update to Congress, and, based on such update, make such modifications in the assessment process as the Secretary determines are appropriate.

"(3) The Secretary shall provide for the comprehensive training of State and Federal surveyors in matters relating to the performance of standard and extended surveys under this section, including the use of any assessment instrument (or instruments) designated under paragraph (1).".

42 USC 1395bbb note.

(b) Effective Date.—Except as otherwise specifically provided in section 1891(d) of the Social Security Act (as added by subsection (a)), the amendment made by subsection (a) shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act.

SEC. 4023. ENFORCEMENT.

Section 1891 of the Social Security Act (as added by section 4021 and amended by section 4022) is further amended by adding at the end the following new subsections:

"(e)(1) If the Secretary determines on the basis of a standard, extended, or partial extended survey or otherwise, that a home health agency that is certified for participation under this title is no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) and determines that the deficiencies involved immediately jeopardize the health and safety of the individuals to whom the agency furnishes items and services, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subsection (f)(2)(A)(iii) or terminate the certification of the agency, and may provide, in addition, for 1 or more of the other remedies described in subsection (f)(2)(A).

"(2) If the Secretary determines on the basis of a standard, extended, or partial extended survey or otherwise, that a home health agency that is certified for participation under this title is no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) and determines that the deficiencies involved do not immediately jeopardize the health and safety of the individuals to whom the agency furnishes items and services, the Secretary may (for a period not to exceed 6 months) impose intermediate sanctions developed pursuant to subsection (f), in lieu of terminating the certification of the agency. If, after such a period of intermediate sanctions, the agency is still no longer in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a), the Secretary shall terminate the certification of the agency.

"(3) If the Secretary determines that a home health agency that is certified for participation under this title is in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subsection (f)(2)(A)(i) for the days in which it finds that the agency was not in compliance with such requirements.

"(4) The Secretary may continue payments under this title with respect to a home health agency not in compliance with the requirements specified in or pursuant to section 1861(o) or subsection (a) over a period of not longer than 6 months, if—

"(A) the State or local survey agency finds that it is more appropriate to take alternative action to assure compliance of the agency with the requirements than to terminate the certification of the agency,

"(B) the agency has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(C) the agency agrees to repay to the Federal Government payments received under this subparagraph if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for approval of corrective actions requested by home health agencies under this subparagraph.

"(f)(1) The Secretary shall develop and implement, by not later than April 1, 1989—

"(A) a range of intermediate sanctions to apply to home health agencies under the conditions described in subsection (e), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) civil money penalties for each day of noncompliance, "(ii) suspension of all or part of the payments to which a home health agency would otherwise be entitled under this title with respect to items and services furnished by a home health agency on or after the date on which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (e)(2), and

"(iii) the appointment of temporary management to oversee the operation of the home health agency and to protect and assure the health and safety of the individuals under the care of the agency while improvements are made in order to bring the agency into compliance with all the requirements specified in or pursuant to section 1861(o) or subsection (a).

The temporary management under clause (iii) shall not be terminated until the Secretary has determined that the agency has the management capability to ensure continued compliance with all the requirements referred to in that clause.

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law and shall not be construed as limiting other remedies, including any remedy available to an individual at common law.

"(C) A finding to suspend payment under subparagraph (A)(ii) shall terminate when the Secretary finds that the home health agency is in substantial compliance with all the requirements specified in or pursuant to section 1861(o) and subsection (a).

"(3) The Secretary shall develop and implement, by not later than April 1, 1989, specific procedures with respect to the conditions under which each of the intermediate sanctions developed under paragraph (1) is to be applied, including the amount of any fines and the severity of each of these sanctions. Such procedures shall be designed so as to minimize the time between identification of deficiencies and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

(b) Effective Date.—Except as otherwise specifically provided in subsections (e) and (f) of section 1891 of the Social Security Act (as added by subsection (a)), the amendment made by subsection (a) shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act.

42 USC 1395bbb note.

SEC. 4024. REQUIREMENT THAT INDIVIDUAL BE CONFINED TO HOME.

(a) Part A.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended by adding at the end the following: "For purposes of paragraph (2)(C), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment.".

(b) PART B.—Section 1835(a) of such Act (42 U.S.C. 1395n(a)) is amended by adding at the end the following: "For purposes of paragraph (2)(A), an individual shall be considered to be 'confined to his home' if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered 'confined to his home', the condition of the individual should be such that there exists a normal inability to leave home, that leaving home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment.".

42 USC 1395f note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items and services provided on or after January 1, 1988.

SEC. 4025. HOME HEALTH TOLL-FREE HOTLINE AND INVESTIGATIVE UNIT.

(a) IN GENERAL.—Section 1864(a) of the Social Security Act (42 U.S.C. 1395aa(a)) is amended by adding at the end the following: "Any agreement under this subsection shall provide for the appropriate State or local agency to maintain a toll-free hotline (1) to collect, maintain, and continually update information on home health agencies located in the State or locality that are certified to participate in the program established under this title (which information shall include any significant deficiencies found with respect to patient care in the most recent certification survey conducted with respect to the agency, when that survey was completed, whether corrective actions have been taken or are planned, and the sanctions, if any, imposed under this title with respect to the agency) and (2) to receive complaints (and answer questions) with respect to home health agencies in the State or locality. Any such agreement shall provide for such agency to maintain a unit for investigating such complaints that possesses enforcement authority and has access to survey and certification reports, information gathered by any private accreditation agency pursuant to an agreement with the Secretary under section 1864, and consumer medical records (but only with the consent of the consumer or his or her legal representative).".

42 USC 1395aa note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to agreements entered into or renewed on or after the date of enactment of this Act.

SEC. 4026. HOME HEALTH AGENCY COST LIMITS.

(a) DATA USED TO DETERMINE LIMITS.—

(1) Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iii) In establishing limits under this subparagraph, the Secretary shall—

"(I) utilize a wage index that is based on audited wage data obtained from home health agencies, and

"(II) base such limits on the most recent audited wage data available, which data may be for cost reporting periods beginning no earlier than July 1, 1985.".

(2) The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 1988.

42 USC 1395x note.

(b) STUDY OF LIMITS.—The Secretary of Health and Human Services shall study and report to the Congress, not later than June 1, 1988, on—

Reports.

(1) whether the separate schedules of cost limits currently applied to home health agencies under title XVIII of the Social Security Act located in urban and rural areas accurately reflect differences in the costs of urban and rural home health agencies, and

(2) the appropriateness of modifying such limits to take into account the proportion of agency patients who are from urban and rural areas.

SEC. 4027. HOME HEALTH PROSPECTIVE PAYMENT DEMONSTRATION PROJECT.

42 USC 1395n note.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide for a demonstration project to develop and test alternative methods of paying home health agencies on a prospective basis for services furnished under the medicare and medicaid programs. The project shall be designed in a manner to enable the Secretary to evaluate the effects of various methods of prospective payment (including payments on a per-visit, per-case, and per-episode basis) on program expenditures, access to, and quality of, home health care, and home health agency operations. The Secretary shall assure that services are first furnished under the project not later than July 1, 1988, and, for this purpose, the Secretary may reinstate a previously awarded contract, or award a sole source contract, to carry out the project.

Contracts.

(b) FUNDING.—The provisions of subsection (a)(2) and the first sentence of subsection (b) of section 402 of the Social Security Amendments of 1967 shall apply to the demonstration project under subsection (a) of this section as they apply to experiments under subsection (a)(1) of that section.

(c) REPORT.—The Secretary shall submit to Congress, not later than one year after the date of the enactment of this Act, an interim report on the demonstration project and, not later than four years after the date of the enactment of this Act, a final report on the results of the project.

Subpart C—Other Provisions

SEC. 4031. PAYMENT CYCLE STANDARDS.

(a) PAYMENT FLOOR STANDARDS.—

(1) Section 1816(c) of the Social Security Act (42 U.S.C. 1395h(c)) is amended by adding at the end the following new paragraph:

"(3)(A) Each agreement under this section shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days, and

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 14 days.".[27b]

(2) Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

Contracts.

"(3)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days, and

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 14 days.".[27b]

42 USC 1395h note.

(3)(A) The amendments made by paragraphs (1) and (2) shall apply to claims received on or after July 1, 1988.

Contracts. Regulations.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 of the Social Security Act and contracts under section 1842 of such Act, and regulations, to such extent as may be necessary to implement the provisions of this subsection on a timely basis.

42 USC 1395h note.

(b) PROHIBITION OF OTHER POLICIES INTENDED TO SLOW DOWN MEDICARE PAYMENTS.—Notwithstanding any other provision of law, except as specifically provided in this section, the Secretary of Health and Human Services is not authorized to issue, after the date of the enactment of this Act, and before October 1, 1990, any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down claims processing, or delaying payment of claims, under title XVIII of the Social Security Act.

42 USC 1395h note.

(c) BUDGET CONSIDERATIONS.—For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this section is a necessary (but secondary) result of a significant policy change.

SEC. 4032. DENIALS AND RECONSIDERATIONS OF CLAIMS FOR HOME HEALTH SERVICES, EXTENDED CARE SERVICES, AND POST-HOSPITAL EXTENDED CARE SERVICES.

(a) NOTIFICATION AND PHYSICIAN REVIEW.—Section 1816 of the Social Security Act (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(j) An agreement with an agency or organization under this section shall require that, with respect to a claim for home health services, extended care services, or post-hospital extended care services submitted by a provider to such agency or organization that is denied, such agency or organization—

"(1) furnish the provider and the individual with respect to whom the claim is made with a written explanation of the denial and of the statutory or regulatory basis for the denial; and

"(2) promptly notify such individual and the provider of disposition of such reconsideration.".

[27b] Copy read "days."

(b) PERFORMANCE STANDARDS FOR FISCAL INTERMEDIARIES AND CARRIERS.—Section 1816(f) of such Act (42 U.S.C. 1395h(f)) is amended by adding at the end the following: "Such standards and criteria shall include with respect to claims for services furnished under this part by any provider of services other than a hospital whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in the case of the fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days and the extent to which its determinations are reversed on appeal.".

(c) EFFECTIVE DATE.—

42 USC 1395h note.

(1)(A) The amendment made by subsection (a) shall apply with respect to claims received on or after January 1, 1988.

(B) The amendment made by subsection (b) shall apply with respect to claims filed on or after October 1, 1988.

Contracts. Regulations.

(2) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 and contracts under section 1842 of the Social Security Act, and regulations, to such extent as may be necessary to implement the amendments made by subsections (a) and (b) on a timely basis.

SEC. 4033. PERMITTING DISABLED INDIVIDUALS TO RENEW ENTITLEMENT TO MEDICARE AFTER GAINFUL EMPLOYMENT WITHOUT A 2-YEAR WAITING PERIOD.

(a) IN GENERAL.—

(1) Section 226(f) of the Social Security Act (42 U.S.C. 426(f)) is amended by inserting before the period at the end the following: ", unless the physical or mental impairment which is the basis for disability is the same as (or directly related to) the physical or mental impairment which served as the basis for disability in such previous period".

42 USC 426 note.

(2)(A) The amendment made by subsection (a) shall apply to months beginning after the end of the 60-day period beginning on the date of enactment of this Act.

(B) The amendment made by subsection (a) shall not apply so as to include (for the purposes described in section 226(f) of the Social Security Act) monthly benefits paid for any month in a previous period (described in that section) that terminated before the end of the 60-day period described in paragraph (1).

SEC. 4034. APPLICATION OF SECONDARY PAYER PROVISIONS TO GOVERNMENTAL ENTITIES.

(a) IN GENERAL.—Section 1862(b)(4)(B)(i) of the Social Security Act (42 U.S.C. 1395y(b)(4)(B)(i)), as added by the amendment made by section 9319(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "section 5000(b) of the Internal Revenue Code of 1986" and inserting "subsection (b) of section 5000 of the Internal Revenue Code of 1986 without regard to subsection (d) of such section".

42 USC 1395y note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of section 9319(a) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4035. PUBLICATION AND NOTIFICATION OF POLICIES.

Federal Register, publication.

(a) REQUIRING PUBLICATION OF INTERMEDIARY AND CARRIER BUDGET METHODOLOGY.—

(1) Section 1816(c)(1) of the Social Security Act (42 U.S.C. 1395h(c)(1)) is amended by adding at the end the following sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for fiscal intermediaries under this section for that fiscal year, and shall cause to be published in the Federal Register for public comment, at least 90 days before such data, standards, and methodology are published, the data, standards, and methodology proposed to be used.".

(2) Section 1842(c)(1) of such Act (42 U.S.C. 1395u(c)(1)) is amended by adding at the end the following sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for carriers under this section for that fiscal year, and shall cause to be published in the Federal Register for public comment, at least 90 days before such data, standards, and methodology are published, the data, standards, and methodology proposed to be used.".

Effective date. 42 USC 1395h note.

(3) The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to budgets for fiscal years beginning with fiscal year 1989.

(b) PUBLICATION AS REGULATIONS OF SIGNIFICANT POLICIES.—Section 1871(a) of such Act (42 U.S.C. 1395hh(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) No rule, requirement, or other statement of policy (other than a national coverage determination) that establishes or changes a substantive legal standard governing the scope of benefits, the payment for services, or the eligibility of individuals, entities, or organizations to furnish or receive services or benefits under this title shall take effect unless it is promulgated by the Secretary by regulation under paragraph (1).".

(c) MISCELLANEOUS PUBLICATION AND INFORMATION ACCESS PROVISIONS.—Section 1871 of such Act (42 U.S.C. 1395hh) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall publish in the Federal Register, not less frequently than every 3 months, a list of all manual instructions, interpretative rules, statements of policy, and guidelines of general applicability which—

"(A) are promulgated to carry out this title, but

"(B) are not published pursuant to subsection (a)(1) and have not been previously published in a list under this subsection.

Effective date.

"(2) Effective June 1, 1988, each fiscal intermediary and carrier administering claims for extended care, post-hospital extended care, home health care, and durable medical equipment benefits under this title shall make available to the public all interpretative materials, guidelines, and clarifications of policies which relate to payments for such benefits.

"(3) The Secretary shall to the extent feasible make such changes in automated data collection and retrieval by the Secretary and fiscal intermediaries with agreements under section 1816 as are necessary to make easily accessible for the Secretary and other appropriate parties a data base which fairly and accurately reflects the provision of extended care, post-hospital extended care and home health care benefits pursuant to this title, including such categories as benefit denials, results of appeals, and other relevant factors, and selectable by such categories and by fiscal intermediary, service provider, and region.".

SEC. 4036. END-STAGE RENAL DISEASE AMENDMENTS.

(a) IMPLEMENTATION OF PRIMARY PAYER REQUIREMENTS FOR END-STAGE RENAL DISEASE PROGRAM.—

(1) Section 1862(b)(2)(A) of the Social Security Act (42 U.S.C. 1395y(b)(2)(A)) is amended by striking "(ii)" and all that follows through "under this title" and inserting "(ii) can reasonably be expected to be made under such a plan".

Effective date. 42 USC 1395y note.

(2) The amendment made by paragraph (1) shall apply with respect to items and services furnished on or after 30 days after the date of the enactment of this Act.

(b) LIMITATION OF MINIMUM UTILIZATION RATE REQUIREMENT FOR END-STAGE RENAL DISEASE TRANSPLANTATIONS.—The last sentence of section 1881(b)(1) of such Act (42 U.S.C. 1395rr(b)(1)) is amended by striking "covered procedures and for self-dialysis training programs" and inserting "transplantations".

(c) EXTENSION OF DEADLINE FOR ESTABLISHING PROTOCOLS ON REUSE OF DIALYSIS FILTERS AND OTHER DIALYSIS SUPPLIES AS IT RELATES TO THE REUSE OF BLOODLINES.—

42 USC 1395rr note.

(1)(A) Section 9335(k)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by inserting "(or July 1, 1988, with respect to protocols that relate to the reuse of bloodlines)" after "October 1, 1987".

42 USC 1395rr note.

(B) The amendment made by subparagraph (A) shall be effective as if included in the enactment of section 9335(k)(2) of the Omnibus Budget Reconciliation Act of 1986.

(2) Section 1881(f)(7)(B) of the Social Security Act (42 U.S.C. 1395rr(f)(7)(B)) is amended by inserting "(or July 1, 1988, with respect to protocols that relate to the reuse of bloodlines)" after "January 1, 1988".

42 USC 1395rr note.

(d) STUDIES OF END-STAGE RENAL DISEASE PROGRAM.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall arrange for a study of the end-stage renal disease program within the medicare program.

(2) Among other items, the study shall address—

(A) access to treatment by both individuals eligible for medicare benefits and those not eligible for such benefits;

(B) the quality of care provided to end-stage renal disease beneficiaries, as measured by clinical indicators, functional status of patients, and patient satisfaction;

(C) the effect of reimbursement on quality of treatment;

(D) major epidemiological and demographic changes in the end-stage renal disease population that may affect access to treatment, the quality of care, or the resource requirements of the program; and

(E) the adequacy of existing data systems to monitor these matters on a continuing basis.

Reports.

(3) The Secretary shall submit to Congress, not later than 3 years after the date of the enactment of this Act, a report on the study.

(4) The Secretary shall request the National Academy of Sciences, acting through the Institute of Medicine, to submit an application to conduct the study described in this section. If the

Academy submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study. If the Academy does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

(5) Section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended—

(A) in subsection (c)(2)(F), by striking "and subsection (g)",

(B) by striking the last sentence of subsection (c)(6),

(C) by striking subsection (g), and

(D) by redesignating subsection (h), as added by section 20 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), as subsection (g).

42 USC 1395ff note.

SEC. 4037. MEDICARE HEARINGS AND APPEALS.

(a) Maintaining Current System for Hearings and Appeals.—Any hearing conducted under section 1869(b)(1) of the Social Security Act prior to the earliest of the date on which the Secretary of Health and Human Services submits the report required to be submitted by the Secretary under subsection (b)(1) or September 1 shall be conducted by Administrative Law Judges of the Office of Hearings and Appeals of the Social Security Administration in the same manner as are hearings conducted under section 205(b)(1) of such Act.

(b) Study and Report on Use of Telephone Hearings.—

(1) The Secretary of Health and Human Services and the Comptroller General of the United States shall each conduct a study on holding hearings under section 1869(b)(1) of the Social Security Act by telephone and shall each report the results of the study not later than 6 months after the date of enactment of this Act.

(2) The studies under paragraph (1) shall focus on whether telephone hearings allow for a full and fair evidentiary hearing, in general, or with respect to any particular category of claims and shall examine the possible improvements to the hearing process (such as cost-effectiveness, convenience to the claimant, and reduction in time under the process) resulting from the use of such hearings as compared to the adoption of other changes to the process (such as expansions in staff and resources).

42 USC 1395ww note.

SEC. 4038. RURAL HEALTH MEDICAL EDUCATION DEMONSTRATION PROJECT.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with four sponsoring hospitals submitting applications under this subsection to conduct demonstration projects to assist resident physicians in developing field clinical experience in rural areas.

(b) Nature of Project.—Under a demonstration project conducted under subsection (a), a sponsoring hospital entering into an agreement with the Secretary under such subsection shall enter into arrangements with a small rural hospital to provide to such rural hospital, for a period of one to three months of training, physicians (in such number as the agreement under subsection (a) may provide) who have completed one year of residency training.

(c) SELECTION.—In selecting from among applications submitted under subsection (a), the Secretary shall ensure that four small rural hospitals located in different counties participate in the demonstration project and that—

(1) two of such hospitals are located in rural counties of more than 2,700 square miles (one of which is east of the Mississippi River and one of which is west of such river); and

(2) two of such hospitals are located in rural counties with (as determined by the Secretary) a severe shortage of physicians (one of which is east of the Mississippi River and one of which is west of such river).

(d) CLARIFICATION OF PAYMENT.—For purposes of section 1886 of the Social Security Act—

(1) with respect to subsection (d)(5)(B) of such section, any resident physician participating in the project under subsection (a) for any part of a year shall be treated as if he or she were working at the appropriate sponsoring hospital with an agreement under subsection (a) on September 1 of such year (and shall not be treated as if working at the small rural hospital); and

(2) with respect to subsection (h) of such section, the payment amount permitted under such subsection for a sponsoring hospital with an agreement under subsection (a) shall be increased (for the duration of the project only) by an amount equal to the amount of any direct graduate medical education costs (as defined in paragraph (5) of such subsection (h)) incurred by such hospital in supervising the education and training activities under a project under subsection (a).

(e) DURATION OF PROJECT.—Each demonstration project under subsection (a) shall be commenced not later than six months after the date of enactment of this Act and shall be conducted for a period of three years.

(f) DEFINITION.—In this section, the term "sponsoring hospital" means a hospital that receives payments under sections 1886(d)(5)(B) and 1886(h) of the Social Security Act.

SEC. 4039. MISCELLANEOUS AND TECHNICAL PROVISIONS.

(a) CLARIFICATION OF CRIMINAL PENALTIES FOR WILLFUL MISREPRESENTATIONS.—Subsection (c) of section 1128B of the Social Security Act (42 U.S.C. 1320a-7(b)),[28] as redesignated by section 4(d) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), is amended—

42 USC 1320a-7b.

(1) by striking "institution or facility" each place it appears and inserting "institution, facility, or entity", and

(2) by inserting "(including an eligible organization under section 1876(b))" after "other entity".

(b) PODIATRISTS.—

(1) Section 1861(r)(3) of the Social Security Act (42 U.S.C. 1395x(r)(3)) is amended—

(A) by striking "subsection (s) of this section" and inserting "subsections (k), (m), (p)(1), and (s) of this section and sections 1814(a), 1832(a)(2)(F)(ii), and 1835", and

(B) by striking "; and for the purposes" and all that follows through "which he is legally authorized to perform".

---

[28] Copy read "1320a-7b),".

(2) Section 1861(b)(6) of such Act (42 U.S.C. 1395x(b)(6)) is amended by striking "Council on Podiatry Education of the American Podiatry Association" and inserting "Council on Podiatric Medical Education of the American Podiatric Medical Association".

(c) RECOVERY OF PAYMENTS FOR CERTAIN PACEMAKER DEVICES.—

(1) Section 1862(h) of such Act (42 U.S.C. 1395y(h)) is amended—

(A) in paragraph (1)(B), by striking "law," and inserting "law (and any amount paid to a provider under any such warranty),";

(B) in paragraph (1)(D), by striking "(3)," and inserting "(3), in determining the amount subject to repayment under paragraph (2)(C),";

(C) in paragraph (2)—

(i) by striking "and" at the end of subparagraph (A),

(ii) by striking the period at the end of subparagraph (B) and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(C) to make repayment to the Secretary of amounts paid under this title to the provider with respect to any cardiac pacemaker device or lead which has been replaced by the manufacturer, or for which the manufacturer has made payment to the provider, under an express or implied warranty."; and

(D) in paragraph (4)(B)—

(i) by striking "or has" and inserting ", has", and

(ii) by striking "(2)(B)," and inserting "(2)(B), or has failed to make repayment to the Secretary as required under paragraph (2)(C),".

Effective date.
42 USC 1395y note.

(2) The amendments made by paragraph (1) shall become effective on January 1, 1988.

42 USC 1395ww note.

(d) EXTEND AND CLARIFY PROHIBITION ON COST SAVINGS POLICIES BEFORE BEGINNING OF FISCAL YEAR.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute, the Secretary of Health and Human Services is not authorized to issue in final form, after the date of the enactment of this Act and before October 15, 1988, any regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in fiscal year 1989 of more than $50,000,000.

42 USC 1395x note.

(e) MORATORIUM ON PRIOR AUTHORIZATION FOR HOME HEALTH AND POST-HOSPITAL EXTENDED CARE SERVICES.—The Secretary of Health and Human Services shall not implement any voluntary or mandatory program of prior authorization for home health services, extended care services, or post-hospital extended care services under part A or B of title XVIII of the Social Security Act at any time prior to six months after the date on which the Congress receives the report required under section 9305(k)(4) of the Omnibus Budget Reconciliation Act of 1986.

Federal Register, publication.
42 USC 1395x note.

(f) DELAY IN PUBLISHING REGULATIONS WITH RESPECT TO DEEMING THE STATUS OF ENTITIES.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall not deem any entity to be a provider of services (as defined in section 1861(u) of the Social Security Act) for purposes of title XVIII of such Act—

(1) on any date prior to 6 months after the date on which the Secretary has published a proposed rule with respect to the deeming of the entity, and

(2) until the Secretary publishes a final rule with respect to the deeming of the entity.

42 USC 1395hh note.

(g) Use of Interim Final Regulations.—The Secretary of Health and Human Services shall issue such regulations (on an interim or other basis) as may be necessary to implement this subtitle and the amendments made by this subtitle.

PART 3—RELATING TO PART B

Subpart A—Provisions Relating to Payments for Physicians' Services

SEC. 4041. FREEZE IN PAYMENTS FOR PHYSICIANS' SERVICES; EXTENSION OF SEQUESTER ORDER.

(a) Three-Month Freeze on Increases in Physician Payments.—

(1) In general.—Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended—

(A) in subsection (b)(4)—

(i) in subparagraph (A), by redesignating clause (v) as clause (vi) and by inserting after clause (iv) the following new clause:

"(v) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning January 1, 1987.", and

(ii) in subparagraph (B), by adding at the end the following new clause:

"(iii) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning January 1, 1987."; and

(B) in subsection (j)(1)(C), by adding at the end thereof the following new clause:

Effective date.

"(vii) Notwithstanding any other provision of this subparagraph, the maximum allowable actual charge for a particular physician's service furnished by a nonparticipating physician to individuals enrolled under this part during the 3-month period beginning on January 1, 1988, shall be the amount determined under this subparagraph for 1987. The maximum allowable actual charge for any such service otherwise determined under this subparagraph for 1988 shall take effect on April 1, 1988.".

42 USC 1395u note.

(2) Extension of physician participation agreements and related provisions.—Notwithstanding any other provision of law—

(A) subject to the last sentence of this paragraph, each agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall remain in effect for the 3-month period beginning on January 1, 1988;

(B) the effective period for agreements under such section entered into for 1988 shall be the nine-month period beginning on April 1, 1988, and the Secretary shall provide an opportunity for physicians to enroll as participating physicians prior to April 1, 1988;

(C) instead of publishing, under section 1842(h)(4) of the Social Security Act at the beginning of 1988, directories of participating physicians for 1988, the Secretary shall provide for such publication, at the beginning of the 9-month period beginning on April 1, 1988, of such directories of participating physicians for such period; and

(D) instead of providing to nonparticipating physicians, under section 1842(b)(3)(G) of the Social Security Act at the beginning of 1988, a list of maximum allowable actual charges for 1988, the Secretary shall provide, at the beginning of the 9-month period beginning on April 1, 1988, to such physicians such a list for such 9-month period.

An agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in subparagraph (A) if the participating physician requests on or before December 31, 1987, that the agreement be terminated.

(3)(A) Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended—

(i) in subsection (b)(2), by adding at the end the following: "In establishing such standards and criteria, the Secretary shall provide a system to measure a carrier's performance of responsibilities described in paragraph (3)(H) and subsection (h)."; and

(ii) in subsection (c)(1), by inserting "(A)" after "(c)(1)" and by adding at the end the following new subparagraph:

"(B) Of the amounts appropriated for administrative activities to carry out this part, the Secretary shall provide payments, totaling 1 percent of the total payments to carriers for claims processing in any fiscal year, to carriers under this section, to reward carriers for their success in increasing the proportion of physicians in the carrier's service area who are participating physicians or in increasing the proportion of total payments for physicians' services which are payments for such services rendered by participating physicians.".

(B) Section 9332(a) of the Omnibus Budget Reconciliation Act of 1986 is amended—

42 USC 1395u notes. (i) by striking paragraphs (2) and (3),

42 USC 1395u note. (ii) in paragraph (4)(B), by striking "under paragraph (2)" and inserting "under the last sentence of section 1842(b)(2) of the Social Security Act", and

42 USC 1395u note. (iii) in paragraph (4)(C)—

(I) by striking "under paragraph (3)" and inserting "under section 1842(c)(1)(B) of the Social Security Act",

(II) by striking "April" and inserting "July", and

(III) by striking "at the end of 1987" and inserting "before April 1, 1988".

President of U.S. 2 USC 902 note. (b) EXTENSION OF REDUCTION UNDER SEQUESTER ORDER.—Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through March 31, 1988, with respect to payments for physicians' services under part B of such title.

SEC. 4042. GENERAL UPDATE IN PAYMENTS FOR PHYSICIANS' SERVICES.

(a) INCREASE IN MEI FOR 1988 AND 1989.—Section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended by adding at the end the following new subparagraph:

"(F)(i) For purposes of this part for physicians' services furnished in 1987, the percentage increase in the MEI is 3.2 percent.

"(ii) For purposes of this part for physicians' services furnished in 1988, on or after April 1, the percentage increase in the MEI is—

"(I) 3.6 percent for primary care services (as defined in subparagraph (E)(iii)), and

"(II) 1 percent for other physicians' services.

"(iii) For purposes of this part for physicians' services furnished in 1989, the percentage increase in the MEI is—

"(I) 3.0 percent for primary care services; and

"(II) 1 percent for other physician's services.".

(b) PRIMARY CARE SERVICES DEFINED.—Section 1842(b)(4)(E) of such Act (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end thereof the following new clause:

"(iii) The term 'primary care services' means physicians' services which constitute office medical services, emergency department services, home medical services, skilled nursing, intermediate care, and long-term care medical services, or nursing home, boarding home, domiciliary, or custodial care medical services.".

(c) PARTICIPATING PHYSICIAN DIFFERENTIAL.—Section 1842(b)(4)(A)(iv) of such Act (42 U.S.C. 1395u(b)(4)(A)(iv)) is amended—

(1) by striking "96 percent" and inserting "applicable percent", and

(2) by adding at the end the following: "In the previous sentence, the term 'applicable percent' means for services furnished (I) on or after January 1, 1987, and before April 1, 1988, 96 percent, (II) on or after April 1, 1988, and before January 1, 1988, 95.5 percent, and (III) on or after January 1, 1989, 95 percent.".

SEC. 4043. INCENTIVE PAYMENTS FOR PHYSICIANS' SERVICES FURNISHED IN UNDERSERVED AREAS.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(m) In the case of physicians' services furnished to an individual, who is covered under the insurance program established by this part and who incurs expenses for such services, in an area that is designated (under section 332(a)(1)(A) of the Public Health Service Act) as a class 1 or class 2 health manpower shortage area, in addition to the amount otherwise paid under this part, there also shall be paid to the physician (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Insurance Trust Fund an amount equal to 5 percent of the payment amount for the service under this part.".

Reports.
42 USC 1395*l* note.

(b) STUDY.—The Secretary of Health and Human Services shall study and report to Congress, by not later than January 1, 1990, on the feasibility of making additional payments described in section 1833(m) of the Social Security Act with respect to physician services which are performed in health manpower shortage areas located in urban areas.

42 USC 1395*l* note.

(c) EFFECTIVE DATE.—The amendments made by this subsection (a) shall apply with respect to services furnished in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act)[29] on or after January 1, 1989, and to other services furnished on or after January 1, 1991.

SEC. 4044. ADJUSTMENT IN PREVAILING CHARGE LEVEL FOR PRIMARY CARE SERVICES.

(a) INCREASE IN PREVAILING CHARGES FOR PRIMARY CARE SERVICES.—Section 1842(b)(4)(A) of the Social Security Act (42 U.S.C. 1395u(b)(4)(A)), as amended by section 4041(a)(1) of this subtitle, is further amended by redesignating clause (vi) as clause (vii) and by inserting after clause (v) the following new clause:

"(vi) Before each year (beginning with 1989), the Secretary shall establish a prevailing charge floor for primary care services (as defined in subparagraph (E)(iii)) equal to 50 percent of the average of the prevailing charge levels (determined, for participating physicians under the third and fourth sentences of paragraph (3) and under paragraph (4), without regard to this clause and without regard to physician specialty) for such service for all localities in the United States (weighted by the relative frequency of the service in each locality) for the year.".

42 USC 1395u note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payment for physicians' services furnished on or after January 1, 1989.

SEC. 4045. REDUCTION IN PREVAILING CHARGE LEVEL FOR OVERPRICED PROCEDURES.

(a) IN GENERAL.—Paragraph (10) of section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended to read as follows:

"(10)(A)(i) In determining the reasonable charge under paragraph (3) for procedures described in subparagraph (C) and performed during the 9-month period beginning on April 1, 1988, the prevailing charge for such procedure for participating and nonparticipating physicians shall be the prevailing charge otherwise recognized for such procedure for 1987—

"(I) subject to clause (iii), reduced by 2.0 percent, and

"(II) further reduced by the applicable percentage specified in clause (ii).

"(ii) For purposes of clause (i), the applicable percentage specified in this clause is—

"(I) 15 percent, in the case of a prevailing charge otherwise recognized (without regard to this paragraph and determined without regard to physician specialty) that is at least 150 percent of the weighted national average (as determined by the Secretary) of such prevailing charges for such procedure for all localities in the United States for 1987;

"(II) 0 percent, in the case of a prevailing charge that does not exceed 85 percent of such weighted national average; and

---

[29] Copy read "Act))".

"(III) in the case of any other prevailing charge, a percent determined on the basis of a straight-line sliding scale, equal to $\frac{3}{13}$ of a percentage point for each percent by which the prevailing charge exceeds 85 percent of such weighted national average.

"(iii) In no case shall the reduction under clause (i) for a procedure result in a prevailing charge in a locality for 1988 which is less than 85 percent of the Secretary's estimate of the weighted national average of such prevailing charges for such procedure for all localities in the United States for 1987 (based upon the best available data and determined without regard to physician specialty) after making the reduction described in clause (i)(II).

"(B) The procedures described in this subparagraph are as follows: bronchoscopy,[29a] carpal tunnel repair, cataract surgery, coronary artery bypass surgery, diagnostic and/or therapeutic dilation and curettage, knee arthroscopy, knee arthroplasty, pacemaker implantation surgery, total hip replacement, suprapubic prostatectomy, transurethral resection of the prostate, and upper gastrointestinal endoscopy.

"(C) In the case of a reduction in the reasonable charge for a physicians' service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of such reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).

"(D) There shall be no administrative or judicial review section 1869 or otherwise of any determination under subparagraph (A) or under[29b] paragraph (11)(B)(ii).".

(b) MODIFICATION OF GEOGRAPHIC INDEX.—Section 1845(e)(4)(A)(i) of such Act (42 U.S.C. 1395w-1(e)(4)(A)(i)) is amended by inserting "and costs of living" after "costs of practice".

(c) CONSOLIDATED CHARGE LIMITATION PROVISIONS.—

(1) PENALTIES FOR EXCESS CHARGES.—Section 1842 of such Act is further amended—

(A) in subsection (b)(11)(C)—

(i) in clause (i), by striking "(subject to clause (iv))" and all that follows through the end and inserting the following: ", the physician's actual charge is subject to a limit under subsection (j)(1)(D).";

(ii) in clause (i), by striking "(i)" after "(C)"; and

(iii) by striking clauses (ii) through (iv); and

(B) in subsection (j)(1), by adding at the end the following new subparagraph:

"(D)(i) If an action described in clause (ii) results in a reduction in a reasonable charge for a physicians' service or item and a nonparticipating physician furnishes the service or item to an individual entitled to benefits under this part after the effective date of such action, the physician may not charge the individual more than 125 percent of the reduced payment allowance (as defined in clause (iii)) plus (for services or items furnished during the 12-month period (or 9-month period in the case of an action described in clause (ii)(II)) beginning on the effective date of the action) ½ of the amount by which the physician's maximum allowable actual charge for the service or item for the previous 12-month period exceeds such 125 percent level.

"(ii) The first sentence of clause (i) shall apply to—

[29a] Copy read "bronschoscopy,".

[29b] Copy read "under under".

"(I) an adjustment under subsection (b)(8)(B) (relating to inherent reasonableness),

"(II) a reduction under subsection (b)(10)(A) (relating to certain overpriced procedures),

"(III) a reduction under subsection (b)(11)(B) (relating to certain cataract procedures), and

"(IV) an adjustment under section 1833(l)(3)(B) (relating to physician supervision of certified registered nurse anesthetists).

"(iii) In clause (i), the term 'reduced payment allowance' means, with respect to an action—

"(I) under subsection (b)(8)(B), the inherently reasonable charge established under subsection (b)(8); or

"(II) under subsection (b)(10)(A) or (b)(11)(B) or under section 1833(l)(3)(B), the prevailing charge for the service after the action.

"(iv) If a physician knowingly and willfully imposes a charge in violation of clause (i) (whether or not such charge violates subparagraph (B)), the Secretary may apply sanctions against such physician in accordance with paragraph (2).

"(v) Clause (i) shall not apply to items and services furnished after the earlier of (I) December 31, 1990, or (II) one-year after the date the Secretary reports to Congress, under section 1845(e)(3), on the development of the relative value scale under section 1845.".

(2) CONFORMING AMENDMENTS.—(A) Section 1833(l)(6) of such Act (42 U.S.C. 1395l(l)(6)) is amended—

(i) in subparagraph (A), by striking "(subject to subparagraph (D))" and all that follows through the end and inserting the following: "after the effective date of the reduction, the physician's actual charge is subject to a limit under section 1842(j)(1)(D).";

(ii) in subparagraph (A), by striking "(A)" after "(6)"; and

(iii) by striking subparagraphs (B) through (D).

(B) Section 1842(b)(11)(B)(i) of such Act (42 U.S.C. 1395u(b)(11)(B)(i)) is amended by striking "and shall be further reduced" and all that follows through "1988".

42 USC 1395u note.

(C) Section 9334(b)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "1842(b)(10)" and inserting "1842(j)(1)(D)".

42 USC 1395u note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after April 1, 1988, except the amendment made by subsection (c)(2)(B) shall apply to services furnished on or after January 1, 1988.

SEC. 4046. LIMITS ON PAYMENT FOR OPHTHALMIC ULTRASOUND.

(a) IN GENERAL.—Section 1842 of the Social Security Act (42 U.S.C. 1395u), as previously amended by this subpart is amended—

(1) in subsection (b)(11)—

(A) in subparagraph (C), as redesignated under section 4045(c)(1)(A)(ii) of this title, by inserting "or (C)" after "subparagraph (B)";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) The prevailing charge level determined with respect to A-mode ophthalmic ultrasound procedures may not exceed 5 percent of the prevailing charge level established with respect to extracapsular cataract removal with lens implantation."; and

(2) in subparagraph (D) of subsection (j)(1), as added by section 4045(c)(1)(B) of this subtitle—

(A) in clause (ii), by striking "and" at the end of subclause (III), by redesignating subclause (IV) as subclause (V) and by inserting before such subclause the following new subclause:

"(IV) a prevailing charge limit is established under subsection (b)(11)(C)(i), and"; and

(B) in clause (iii)(II), by striking "or (b)(11)(B)" and inserting ", (b)(11)(B), or (b)(11)(C)(i)".

(b) Effective Date.—The amendments made by subsection (a) shall apply to services furnished on or after April 1, 1988. 42 USC 1395u note.

SEC. 4047. CUSTOMARY CHARGES FOR PRIMARY CARE SERVICES OF NEW PHYSICIANS.

(a) In General.—Section 1842(b)(4) of the Social Security Act, as amended by section 4042(a), is further amended by adding at the end thereof the following new subparagraph:

"(G) In determining the customary charges for physicians' services (other primary care services and other than services furnished in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area) for which adequate actual charge data are not available because a physician has not yet been in practice for a sufficient period of time, the Secretary shall set a customary charge at a level no higher than 80 percent of the prevailing charge (as determined under the third and fourth sentences of paragraph (3) and under paragraph (4)) for a service.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to physicians who first furnish services to medicare beneficiaries after April 1, 1988. 42 USC 1395u note.

SEC. 4048. PAYMENT FOR PHYSICIAN ANESTHESIA SERVICES.

(a) In General.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is further amended by adding at the end the following new paragraph:

"(14)(A) In determining the reasonable charge under paragraph (3) of a physician for medical direction of two or more nurse anesthetists performing, on or after April 1, 1988, and before January 1, 1991, anesthesia services in whole or in part concurrently, the number of base units which may be recognized with respect to such medical direction for each concurrent procedure (other than cataract surgery or an iridectomy) shall be reduced by—

"(i) 10 percent, in the case of medical direction of 2 nurse anesthetists concurrently,

"(ii) 25 percent, in the case of medical direction of 3 nurse anesthetists concurrently, and

"(iii) 40 percent, in the case of medical direction of 4 nurse anesthetists concurrently.

"(B) In determining the reasonable charge under paragraph (3) of a physician for medical direction of two or more nurse anesthetists performing, on or after January 1, 1989, and before January 1, 1991, anesthesia services in whole or in part concurrently, the number of base units which may be recognized with respect to such medical direction for each concurrent cataract surgery or iridectomy procedure shall be reduced by 10 percent.

"(C) The Secretary shall require claims for physicians' services for medical direction of nurse anesthetists during the periods in which the provisions of subparagraph (A) or (B) apply to indicate the number of such anesthetists being medically directed concurrently at any time during the procedure, the name of each nurse anesthetist being directed, and the type of procedure for which the services are provided.".

Regulations.
42 USC 1395u note.

(b) DEVELOPMENT OF UNIFORM RELATIVE VALUE GUIDE.—The Secretary of Health and Human Services, in consultation with groups representing physicians who furnish anesthesia services, shall establish by regulation a relative value guide for use in all carrier localities in making payment for physician anesthesia services furnished under part B of title XVIII of the Social Security Act on and after January 1, 1989. Such guide shall be designed so as to result in expenditures under such title for such services in an amount that would not exceed the amount of such expenditures which would otherwise occur.

Reports.
42 USC 1395u note.

(c) STUDY OF PREVAILING CHARGES FOR ANESTHESIA SERVICES.—The Secretary of Health and Human Services shall conduct a study of the variations in conversion factors used by carriers under section 1842(b) of the Social Security Act to determine the prevailing charge for anesthesia services and shall report the results of the study and make recommendations for appropriate adjustments in such factors not later than January 1, 1989.

42 USC 1395u note.

(d) GAO STUDIES.—(1) The Comptroller General shall conduct a study—

(A) to determine the average anesthesia times reported for medicare reimbursement purposes,

(B) to verify those times from patient medical records,

(C) to compare anesthesia times to average surgical times, and

(D) to determine whether the current payments for physician supervision of nurse anesthetists are excessive.

Reports.

The Comptroller General shall report to Congress, by not later than January 1, 1989, on such study and in the report include recommendations regarding the appropriateness of the anesthesia times recognized by medicare for reimbursement purposes and recommendations regarding adjustments of payments for physician supervision of nurse anesthetists.

Reports.

(2) The Comptroller General shall conduct a study on the impact of the amendment made by subsection (a), and shall report to Congress on the results of such study by April 1, 1990.

SEC. 4049. FEE SCHEDULES FOR RADIOLOGIST SERVICES.

(a) IN GENERAL.—Part B of title XVIII of the Social Security Act is amended—

(1) in section 1833(a)(1) (42 U.S.C. 1395l(a)(1)), as amended by section 4062(c)(3) of this subtitle by striking "and" before "(I)", and by adding at the end the following new clause: "and (J) with respect to expenses incurred for radiologist services (as defined in section 1834(b)(5)), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount provided under the fee schedule established under section 1834(b),"; and

(2) by adding at the end of section 1834, as subsequently inserted by section 4062(a) of this subtitle, the following new subsection:

"(b) FEE SCHEDULES FOR RADIOLOGIST SERVICES.— 42 USC 1395m.

"(1) DEVELOPMENT.—The Secretary shall develop—

"(A) a relative value scale to serve as the basis for the payment for radiologist services under this part, and

"(B) using such scale and appropriate conversion factors, fee schedules (on a regional, statewide, or carrier service area basis) for payment for radiologist services under this part, to be implemented for such services furnished during 1989.

"(2) CONSULTATION.—In carrying out paragraph (1), the Secretary shall regularly consult closely with the Physician Payment Review Commission, the American College of Radiology, and other organizations representing physicians or suppliers who furnish radiologist services and shall share with them the data and data analysis being used to make the determinations under paragraph (1), including data on variations in current medicare payments by geographic area, and by service and physician specialty.

"(3) CONSIDERATIONS.—In developing the relative value scale and fee schedules under paragraph (1), the Secretary—

"(A) shall take into consideration variations in the cost of furnishing such services among geographic areas and among different sites where services are furnished, and

"(B) may also take into consideration such other factors respecting the manner in which physicians in different specialties furnish such services as may be appropriate to assure that payment amounts are equitable and designed to promote effective and efficient provision of radiologist services by physicians in the different specialties.

"(4) SAVINGS.—

"(A) BUDGET NEUTRAL FEE SCHEDULES.—The Secretary shall develop preliminary fee schedules for 1989, which are designed to result in the same amount of aggregate payments (net of any insurance and deductibles under section 1835(a)(1)(I) and 1833(b)) for radiologist services furnished in 1989 as would have been made if this subsection had not been enacted.

"(B) INITIAL SAVINGS.—The fee schedules established for payment purposes under this subsection for services furnished in 1989 shall be 97 percent of the amounts permitted under these [30] preliminary fee schedules developed under subparagraph (A).

"(C) SUBSEQUENT UPDATING.—Radiologist services furnished in subsequent years, the fee schedules shall be the schedules for the previous year updated by the percentage increase in the MEI (as defined in section 1842(b)(4)(E)(ii)) for the year.

"(D) [31] NONPARTICIPATING PHYSICIANS.—Each fee schedule so established shall provide that the payment rate recognized for nonparticipating physicians and suppliers is equal to the appropriate percent (as defined in section 1842(b)(4)(A)(iv)) of the payment rate recognized for participating physicians and suppliers.

---

[30] Copy read "this".

[31] Copy read " '(C)".

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of radiologist services furnished after January 1, 1989, for which payment is made under a fee schedule under this subsection, if a nonparticipating physician or supplier furnishes the service to an individual entitled to benefits under this part, the physician or supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to a service furnished—

"(i) in 1989, 125 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1),

"(ii) in 1990, 120 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1), and

"(iii) after 1990, 115 percent of the amount specified for the service in the appropriate fee schedule established under paragraph (1).

"(C) ENFORCEMENT.—If a physician or supplier knowingly and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).

"(6)[32] RADIOLOGIST SERVICES DEFINED.—For the purposes of this subsection, section 1833(a)(1)(I), and section 1842(h)(1)(B), the term 'radiologist services' only includes radiologic services performed by, or under the direction or supervision of, a physician—

"(A) who is certified, or eligible to be certified, by the American Board of Radiology, or

"(B) for whom radiologic services account for at least 50 percent of billings made under this part.".

Reports.
42 USC 1395m note.

(b) DEADLINES AND EFFECTIVE DATE.—

(1) The Secretary of Health and Human Services shall establish the relative value scale and fee schedules for radiologist services (under section 1834(b) of the Social Security Act) by not later than August 1, 1988, and shall report to Congress on the development of such fee schedules not later than August 1, 1988.

(2) The amendments made by this section shall apply to services performed on or after January 1, 1989, and until such time as the Secretary of Health and Human Services implements physician fee schedules based on the relative value scale developed under section 1845(e) of the Social Security Act.

42 USC 1395*l* note.

SEC. 4050. FEE SCHEDULES FOR PHYSICIAN PATHOLOGY SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall develop—

---

[32] Copy read "(5)".

(1) a relative value scale to serve as the basis for the payment for physician pathology services under part B of title XVIII of the Social Security Act,

(2) using such scale and appropriate conversion factors, proposed fee schedules (on a regional, statewide, or carrier service area basis) for payment for physician pathology services under such part, that could be implemented for such services furnished during 1990, and

(3) an appropriate index to be applied to updating such fee schedules annually for physician pathology services furnished in years after 1990.

(b) CONSULTATION.—In carrying out subsection (a), the Secretary shall regularly consult closely with the Physician Payment Review Commission, the College of American Pathologists, and other organizations representing physicians who furnish physician pathology services and shall share with them the data and data analysis being used to make the determinations under subsection (a), including data on variations in current medicare payments by geographic area, and by service and physician specialty.

(c) CONSIDERATION.—In developing the fee schedules under subsection (a), the Secretary shall take into consideration variations in the cost of furnishing physician pathology services among geographic areas.

(d) REPORT.—The Secretary shall report, not later than April 1, 1989, to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the relative value scale, fee schedules, and the index developed under this section. Such report shall include recommendations on how to protect medicare beneficiaries against excessive charges for physician pathology services above the payment amounts established by the fee schedules.

SEC. 4051. ELIMINATION OF MARKUP FOR CERTAIN PURCHASED SERVICES.

42 USC 1395u.

(a) IN GENERAL.—Section 1842 of the Social Security Act (42 U.S.C. 1935u) is amended by adding at the end the following new subsection:

"(n)(1) If a physician's bill or a request for payment for services billed by a physician includes a charge to a patient for a diagnostic test described in section 1861(s)(3) (other than a clinical diagnostic laboratory test) for which payment does not indicate that the billing physician personally performed or supervised the performance of the test or that another physician with whom the physician who shares his practice personally performed or supervised the test, the amount payable with respect to the test shall be determined as follows:

"(A) If the bill or request for payment indicates that the test was performed by a supplier, identifies the supplier, and indicates the amount the supplier charged the billing physician, payment for the test (less the applicable deductible and coinsurance amounts) shall be the actual acquisition costs (net of any discounts) or, if lower, the [———] [———] [———] [———] [———][32a] enrolled under [———] [———] [———] [———] [———].[32a]

"(B) If the bill or request for payment (i) does not indicate who performed the test, or (ii) indicates that the test was performed by a supplier but does not identify the supplier or include the amount charged by the supplier, no payment shall be made under this part.

[32a] Copy not legible.

"(2) A physician may not bill an individual enrolled under this part—

"(A) any amount other than any applicable deductible and coinsurance for a diagnostic test for which payment is made pursuant to paragraph (1)(A), or

"(B) any amount for a diagnostic test for which payment may not be made pursuant to paragraph (1)(B).

"(3) If a physician knowingly and willfully in repeated cases bills one or more individuals in violation of paragraph (2), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

42 USC 1395u.

(b) ADJUSTMENT IN MEDICARE PREVAILING CHARGES.—

(1) REVIEW.—The Secretary of Health and Human Services shall review payment levels under part B of title XVIII of the Social Security Act for diagnostic tests (described in section 1861(s)(3) of such Act, but excluding clinical diagnostic laboratory tests) which are commonly performed by independent suppliers, sold as a service to physicians, and billed by such physicians, in order to determine the reasonableness of payment amounts for such tests (and for associated professional services component of such tests). The Secretary may require physicians and suppliers to provide such information on the purchase or sale price (net of any discounts) for such tests as is necessary to complete the review and make the adjustments under this subsection. The Secretary shall also review the reasonableness of payment levels for comparable in-office diagnostic tests.

(2) ESTABLISHMENT OF REVISED PAYMENT SCREENS.—If, as a result of such review, the Secretary determines, after notice and opportunity of at least 60 days for public comment, that the current prevailing charge levels (under the third and fourth sentences of section 1842(b) of the Social Security Act) for any such tests or associated professional services are excessive, the Secretary shall establish such charge levels at levels which, consistent with assuring that the test is widely and consistently available to medicare beneficiaries, reflect a reasonable price for the test without any markup. Alternatively, the Secretary, pursuant to guidelines published after notice and opportunity of at least 60 days for public comment, may delegate to carriers with contracts under section 1842 of the Social Security Act the establishment of new prevailing charge levels under this paragraph. When such charge levels are established, the provisions of section 1842(j)(1)(D) of such Act shall apply in the same manner as they apply to a reduction under section 1842(b)(8)(A) of such Act.

Contracts.

42 USC 1395u note.

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to diagnostic tests performed on or after April 1, 1988.

(2) The Secretary of Health and Human Services shall complete the review and make an appropriate adjustment of prevailing charge levels under subsection (b) for items and services furnished no later than January 1, 1989.

SEC. 4052. COLLECTION OF PAST-DUE AMOUNTS OWED BY PHYSICIANS WHO BREACHED CONTRACTS UNDER THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM.

(a) In General.—Title XVIII of the Social Security Act, as previously amended by this subtitle, is amended by adding at the end thereof the following new section:

"OFFSET OF PAYMENTS TO PHYSICIANS TO COLLECT PAST-DUE OBLIGATIONS ARISING FROM BREACH OF SCHOLARSHIP CONTRACT

42 USC 1395ccc.

"Sec. 1892. (a) In General.—

"(1)(A) Subject to subparagraph (B), the Secretary shall enter into an agreement under this section with any physician who, by reason of a breach of a contract entered into by such physician pursuant to the National Health Service Corps Scholarship Program, owes a past-due obligation to the United States (as defined in subsection (b)).

"(B) The Secretary shall not enter into an agreement with a physician under this section to the extent—

"(i)(I) the physician has entered into a contract with the Secretary pursuant to section 204(a)(1) of the Public Health Service Amendments of 1987, and

"(II) the physician has fulfilled or (as determined by the Secretary) is fulfilling the terms of such contract; or

"(ii) the liability of the physician under such section 204(a)(1) has otherwise been relieved under such section; or

"(iii) the physician is performing such physician's service obligation under a forbearance agreement entered into with the Secretary under subpart II of part D of title III of the Public Health Service Act.

"(2) The agreement under this section shall provide that—

"(A) deductions shall be made from the amounts otherwise payable to the physician under this title, in accordance with a formula and schedule agreed to by the Secretary and the physician, until such past-due obligation (and accrued interest) have been repaid;

"(B) payment under this title for services provided by such physician shall be made only on an assignment-related basis;

"(C) if the physician does not provide services, for which payment would otherwise be made under this title, of a sufficient quantity to maintain the offset collection according to the agreed upon formula and schedule—

"(i) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

"(ii) subject to paragraph (3), the Secretary shall immediately exclude the physician from the program under this title, until such time as the entire past-due obligation has been repaid.

"(3) If the physician refuses to enter into an agreement or breaches any provision of the agreement—

"(A) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

"(B) subject to paragraph (3), the Secretary shall immediately exclude the physician from the program under this title, until such time as the entire past-due obligation has been repaid.

"(4) The Secretary shall not bar a physician pursuant to paragraph (2)(C)(ii) or paragraph (3)(B) if such physician is a sole community physician or sole source of essential specialized services in a community.

"(b) PAST-DUE OBLIGATION.—For purposes of this section, a past-due obligation is any amount—

"(1) owed by a physician to the United States by reason of a breach of a scholarship contract under section 338E of the Public Health Service Act, and

"(2) which has not been paid by the deadline established by the Secretary pursuant to section 338E of the Public Health Service Act, and has not been canceled, waived, or suspended by the Secretary pursuant to such section.

"(c) COLLECTION UNDER THIS SECTION SHALL NOT BE EXCLUSIVE.—This section shall not preclude the United States from applying other provisions of law otherwise applicable to the collection of obligations owed to the United States, including (but not limited to) the use of tax refund offsets pursuant to section 3720A of title 31, United States Code, and the application of other procedures provided under chapter 37 of title 31, United States Code.

"(d) COLLECTION FROM PROVIDERS AND HEALTH MAINTENANCE ORGANIZATIONS.—

"(1) In the case of a physician who owes a past-due obligation, and who is an employee of, or affiliated by a medical services agreement with, a provider having an agreement under section 1866 or a health maintenance organization or competitive medical plan having a contract under section 1833 or section 1876, the Secretary shall deduct the amounts of such past-due obligation from amounts otherwise payable under this title to such provider, organization, or plan.

"(2) Deductions shall be in accordance with a formula and schedule agreed to by the Secretary, the physician and the provider, organization, or plan. The deductions shall be made from the amounts otherwise payable to the physician under this title as long as the physician continued to be employed or affiliated by a medical services agreement.

"(3) Such deduction shall not be made until 6 months after the Secretary notifies the provider, organization, or plan of the amount to be deducted and the particular physicians to whom the deductions are attributable.

"(4) A deduction made under this subsection shall relieve the physician of the obligation (to the extent of the amount collected) to the United States, but the provider, organization, or plan shall have a right of action to collect from such physician the amount deducted pursuant to this subsection (including accumulated interest).

"(5) No deduction shall be made under this subsection if, within the 6-month period after notice is given to the provider, organization, or plan, the physician pays the past-due obligation, or ceases to be employed by the provider, organization, or plan.

"(6) The Secretary shall also apply the provisions of this subsection in the case of a physician who is a member of a group practice, if such group practice submits bills under this program as a group, rather than by individual physicians.

"(e) TRANSFER FROM TRUST FUNDS.—Amounts equal to the amounts deducted pursuant to this section shall be transferred from the Trust Fund from which the payment to the physician, provider, or other entity would otherwise have been made, to the general fund in the Treasury, and shall be credited as payment of the past-due obligation of the physician from whom (or with respect to whom) the deduction was made.".

(b) CONFORMING REFERENCE.—Section 338E(b)(1) of the Public Health Service Act (42 U.S.C. 254o(b)(1)) is amended by adding at the end thereof the following new sentence: "Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1892 of the Social Security Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of the enactment of this Act. 42 USC 1395ccc note.

SEC. 4052. ELIMINATION OF 1975 FLOOR FOR PREVAILING PHYSICIAN CHARGES.

(a) IN GENERAL.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended by striking the next-to-last sentence (which begins "Notwithstanding the provisions of").

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payment for services furnished on or after January 1, 1988. 42 USC 1395u note.

SEC. 4053. APPLICATION OF MAXIMUM ALLOWABLE ACTUAL CHARGE (MAAC).

(a) APPLICATION ON INDIVIDUAL CHARGE BASIS.—Section 1842(j)(1) of the Social Security Act (42 U.S.C. 1395u(j)(1)) is amended—

(1) in the first sentence of subparagraph (B)(i), by striking "each such physician's actual charges" and inserting "the actual charges of each such physician";

(2) in the second sentence of subparagraph (B)(i), by striking "for such a service a physician's actual charge (as defined in subparagraph (C)(vi)" and inserting "on a repeated basis for such a service an actual charge"; and

(3) in subparagraph (C)(vi), by striking "and subparagraph (B)".

(b) ADJUSTMENT.—In the case of a physician who did not have actual charges under title XVIII of the Social Security Act for a procedure in the calendar quarter beginning on April 1, 1984, but who establishes to the satisfaction of a carrier that he or she had actual charges (whether under such title or otherwise) for the procedure performed prior to June 30, 1984, the carrier shall compute the maximum allowable actual charge under section 1842(j) of the Social Security Act for such procedure performed by such physician in 1988 based on such physician's actual charges for the procedure. 42 USC 1395u note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to charges imposed for services furnished on or after April 1, 1988. 42 USC 1395u note.

42 USC 1395*l* note.

SEC. 4054. APPLYING COPAYMENT AND DEDUCTIBLE TO CERTAIN OUTPATIENT PHYSICIANS' SERVICES.

Notwithstanding any other provision of law, payment under part B of title XVIII of the Social Security Act for physicians' services specified in section 1833(i)(1) of such Act and furnished on or after April 1, 1988, in an ambulatory surgical center or hospital outpatient department on an assignment-related basis shall be subject to the deductible under section 1833(b) of such Act and 20 percent coinsurance.

SEC. 4055. PHYSICIAN PAYMENT STUDIES.

42 USC 1395u note.

(a) DEFINITIONS OF MEDICAL AND SURGICAL PROCEDURES.—

(1) REPORT ON VARIATIONS IN CARRIER PAYMENT PRACTICE.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a study of variations in payment practices for physicians' services among the different carriers under section 1842 of the Social Security Act. Such study shall examine carrier variations in the services included in global fees and pre- and post-operative services included in payment for the operation. The Secretary shall report to Congress on such study by not later than May 1, 1988.

(2) UNIFORM DEFINITIONS OF PROCEDURES FOR PAYMENT PURPOSES.—The Secretary shall develop, in consultation with appropriate national medical specialty societies and by not later than July 1, 1989, uniform definitions of physicians' services (including appropriate classification scheme for procedures) which could serve as the basis for making payments for such services under part B of title XVIII of the Social Security Act. In developing such list, to the extent practicable—

(A) ancillary services commonly performed in conjunction with a major procedure would be included with the major procedure;

(B) pre- and post-procedure services would be included in the procedure; and

(C) similar procedures would be listed together if the procedures are similar in resource requirements.

42 USC 1395w-1 note.

(b) EXPANSION OF RELATIVE VALUE SCALE (RVS) STUDY.—

(1) ADDITIONAL SERVICES.—The Secretary shall expand the study being conducted, under section 1845(e) of the Social Security Act, to develop a relative value scale for physicians' services to include physicians' services in the fields of cardiology, dermatology, emergency medicine, gastroenterology, hematology, infectious disease, nephrology, neurology, neurosurgery, nuclear medicine, oncology, physical medicine and rehabilitation, plastic surgery, pulmonary medicine, and radiation therapy, and for physicians who specialize in osteopathic procedures.

(2) NO DELAY IN CURRENT STUDY.—The expansion under paragraph (1) shall not be conducted in a manner that delays the completion of the current study or the report to Congress required under section 1845(e)(3) of the Social Security Act. The Secretary shall report to Congress on the services described in paragraph (1) by not later than October 1, 1989.

Reports.

Reports.

(3) PROMPT SUBMITTAL OF STUDY RESULTS TO PHYSICIAN PAYMENT REVIEW COMMISSION.—The Secretary shall submit to the Physician Payment Review Commission a copy of any report submitted to the Secretary pursuant to a cooperative agreement in the fulfillment of the requirement of section 1845(e) of such

Act, with all relevant supporting data (including survey data, analytic data files, and file documentation), by no later than 30 days after the date the final report is received by the Secretary.

(c) OTHER PHYSICIAN PAYMENT STUDIES.— 42 USC 1395*l* note.

(1) FEE SCHEDULE IMPLEMENTATION.—The Secretary shall conduct a study of changes in the payment system for physicians' services, under part B of title XVIII of the Social Security Act, that would be required for the implementation of a national fee schedule for such services furnished on or after January 1, 1990. Such study shall identify any major technical problems related to such implementation and recommendations on ways in which to address such problems. The Secretary shall report to the Congress on such study by not later than July 1, 1989. Reports.

(2) VOLUME AND INTENSITY OF PHYSICIAN SERVICES.—The Secretary shall conduct a study of issues relating to the volume and intensity of physicians' services under part B of title XVIII of the Social Security Act, including—

(A) historical trends with regard to increases in the volume and intensity of physicians' services furnished on a per enrollee basis (with appropriate adjustments to account for changes in the demographic composition of the medicare population);

(B) geographic variations in volume and intensity in physicians' services;

(C) an analysis of the effectiveness of methods currently used under such part to ensure that payments under such part are made only for services which are medically necessary;

(D) the development and analysis of alternative methods to control the volume of services; and

(E) the impact of the implementation of the relative value scale developed under section 1845(e) of such Act on the volume and intensity of physicians' services.

The Secretary shall submit to Congress an interim report on such study not later than May 1, 1988, and a final report on such study not later than May 1, 1989. Reports.

(3) SURVEY OF OUT-OF-POCKET COSTS OF MEDICARE BENEFICIARIES FOR HEALTH CARE SERVICES.—The Secretary shall conduct a survey to determine the distribution of—

(A) the liabilities and expenditures for health care services of individuals entitled to benefits under title XVIII of the Social Security Act, including liabilities for charges (not paid on an assignment-related basis) in excess of the reasonable charge recognized, and

(B) the collection rates among different classes of physicians for such liabilities, including collection rates for required coinsurance and for charges (not paid on an assignment-related basis) in excess of the reasonable charge recognized.

The Secretary shall report to Congress on such study by not later than July 1, 1990. Reports.

(d) STUDY OF PAYMENT FOR CHEMOTHERAPY IN PHYSICIANS' OFFICES.— 42 USC 1395*l* note.

(1) IN GENERAL.—The Secretary shall study ways of modifying part B of title XVIII of the Social Security Act to permit adequate payment under such part for the costs associated with providing chemotherapy to cancer patients in physicians' of-

fices. The study shall be performed in consultation with physicians and other health care providers who are experts in cancer therapy and with representation of health insurers who have experience in these payment issues.

(2) REPORT.—The Secretary shall report to Congress on the results of the study by not later than April 1, 1989.

Subpart B—Provisions Relating to Payments for Other Services

2 USC 902 note.

SEC. 4061. EXTENSION OF REDUCTION FOR OTHER PART B ITEMS AND SERVICES PAYMENTS UNDER SEQUESTER ORDER.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through March 31, 1988, with respect to payments for all items and services (other than physicians' services) under part B of such title.

SEC. 4062. PAYMENTS FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.

42 USC 1395u note.

(a) 1-YEAR FREEZE ON CHARGE LIMITATIONS.—

(1) IN GENERAL.—In imposing limitations on allowable charges for items and services (other than physicians' services) furnished in 1988 under part B of title XVIII of such Act and for which payment is made on the basis of the reasonable charge for the item or service, the Secretary of Health and Human Services shall not impose any limitation at a level higher than the same level as was in effect in December 1987.

(2) TRANSITION.—The provisions of section 4041(a)(2) (other than subparagraph (D) thereof) of this subtitle shall apply to suppliers of items and services described in paragraph (1), and directories of participating suppliers of such items and services, in the same manner as such section applies to physicians furnishing physicians' services, and directories of participating physicians.

(b) AMOUNT AND FREQUENCY OF PAYMENT FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.—Part B of title XVIII of the Social Security Act is amended by inserting after section 1833 the following new section:

"SPECIAL PAYMENT RULES FOR PARTICULAR SERVICES

42 USC 1395m.

"SEC. 1834. (a) PAYMENT FOR DURABLE MEDICAL EQUIPMENT, PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.—

"(1) GENERAL RULE FOR PAYMENT.—

"(A) IN GENERAL.—With respect to a covered item (as defined in paragraph (13)) for which payment is determined under this subsection, payment shall be made in the frequency specified in paragraphs (2) through (7) and in an amount equal to 80 percent of the payment basis described in subparagraph (B).

"(B) PAYMENT BASIS.—The payment basis described in this subparagraph is the lesser of—

"(i) the actual charge for the item, or

"(ii) the payment amount recognized under paragraphs (2) through (7) of this subsection for the item;

except that clause (i) shall not apply if the covered item is furnished by a public home health agency (or by another home health agency which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low income) free of charge or at nominal charges to the public.

"(C) Exclusive payment rule.—This subsection shall constitute the exclusive provision of this title for payment for covered items under this part.

"(2) Payment for inexpensive and other routinely purchased durable medical equipment.—

"(A) In general.—Payment for an item of durable medical equipment (as defined in paragraph (13)(A))—

"(i) the purchase price of which does not exceed $150, or

"(ii) which the Secretary determines is acquired at least 75 percent of the time by purchase,

shall be made on a rental basis or in a lump-sum amount for the purchase of the item. The payment amount recognized for purchase or rental of such equipment is the amount specified in subparagraph (B) for purchase or rental, except that the total amount of rental payments with respect to an item may not exceed the payment amount specified in subparagraph (B) with respect to the purchase of the item.

"(B) Payment amount.—For purposes of subparagraph (A), the amount specified in this subparagraph, with respect to the purchase or rental of an item furnished in a carrier service area—

"(i) in 1989 is the average allowed charge in the area for the purchase or rental, respectively, of the item for the 12-month period ending on June 30, 1987, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987; or

"(ii) in a subsequent year, is the amount specified in this subparagraph for the preceding year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that preceding year.

"(3) Payment for items requiring frequent and substantial servicing.—

"(A) In general.—Payment for a covered item (such as ventilators , aspirators, IPPB machines, and nebulizers) for which there must be frequent and substantial servicing in order to avoid risk to the patient's health shall be made on a monthly basis for the rental of the item and the amount recognized is the amount specified in subparagraph (B).

"(B) Payment amount.—For purposes of subparagraph (A), the amount specified in this subparagraph, with respect to an item or device furnished in a carrier service area—

"(i) in 1989 is the average allowable charge in the area for the rental of the item or device for the 12-

month period ending with June 1987,[33] increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987; or

"(ii) in a subsequent year, is the amount specified in this subparagraph for the preceding year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of that preceding year.

"(4) PAYMENT FOR CERTAIN CUSTOMIZED ITEMS.—Payment with respect to a covered item that is uniquely constructed or substantially modified to meet the specific needs of an individual patient shall be made in a lump-sum[34] amount for the purchase of the item in a payment amount based upon the carrier's individual consideration for that item, and for the reasonable and necessary maintenance and service for parts and labor not covered by the supplier's or manufacturer's warranty, when necessary during the period of medical need, and the amount recognized for such maintenance and service shall be paid on a lump-sum, as needed basis based upon the carrier's individual consideration for that item.

"(5) PAYMENT FOR OXYGEN AND OXYGEN EQUIPMENT.—

"(A) IN GENERAL.—Payment for oxygen and oxygen equipment shall be made on a monthly basis in the monthly payment amount recognized under paragraph (9) for oxygen and oxygen equipment (other than portable oxygen equipment), subject to subparagraphs (B) and (C).

"(B) ADD-ON FOR PORTABLE OXYGEN EQUIPMENT.—When portable oxygen equipment is used, but subject to subparagraph (D), the payment amount recognized under subparagraph (A) shall be increased by the monthly payment amount recognized under paragraph (9) for portable oxygen equipment.

"(C) VOLUME ADJUSTMENT.—When the attending physician prescribes an oxygen flow rate—

"(i) exceeding 4 liters per minute, the payment amount recognized under subparagraph (A), subject to subparagraph (D), shall be increased by 50 percent, or

"(ii) of less than 1 liter per minute, the payment amount recognized under subparagraph (A) shall be decreased by 50 percent.

"(D) LIMIT ON ADJUSTMENT.—When portable oxygen equipment is used and the attending physician prescribes an oxygen flow rate exceeding 4 liters per minute, there shall only be an increase under either subparagraph (B) or (C), whichever increase is larger, and not under both such subparagraphs.

"(6) PAYMENT FOR OTHER COVERED ITEMS (OTHER THAN DURABLE MEDICAL EQUIPMENT).—Payment for other covered items (other than durable medical equipment and other covered items described in paragraph (3), (4), or (5)) shall be made in a lump-sum amount for the purchase of the item in the amount of the purchase price recognized under paragraph (8).

---

[33] Copy read "June, 1987,".

[34] Copy read "lump sum".

"(7) PAYMENT FOR OTHER ITEMS OF DURABLE MEDICAL EQUIPMENT.—

"(A) IN GENERAL.—In the case of an item of durable medical equipment not described in paragraphs (2) through (6)—

"(i) payment shall be made on a monthly basis for the rental of such item during the period of medical need (but payments under this subparagraph may not extend over a period of continuous use of longer than 15 months), and, subject to subparagraph (B), the amount recognized for each such month is 10 percent of the purchase price recognized under paragraph (8) with respect to the item;

"(ii) during the succeeding 6-month period of medical need, no payment shall be made for rental or servicing of the item; and

"(iii) during the first month of each succeeding 6-month period of medical need, a service and maintenance payment may be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment) and the amount recognized for each such 6-month period is the lower of (I) a reasonable and necessary maintenance and servicing fee established by the carrier, or (II) 10 percent of the total of the purchase price recognized under paragraph (8) with respect to the item.

The Secretary shall determine the meaning of the term 'continuous' in subparagraph (A).

"(B) RANGE FOR RENTAL AMOUNTS.—

"(i) FOR 1989.—For items furnished during 1989, the payment amount recognized under subparagraph (A)(i) shall not be more than 115 percent, and shall not be less than 85 percent, of the prevailing charge established for rental of the item January 1987, increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December [———].[34a]

"(ii) FOR 1990.—For items furnished during 1990, the payment amount recognized under subparagraph (A)(i) shall not be more than the maximum amount established under clause (i), and shall not be less than the minimum amount established under such clause, for 1989, each such amount increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month peri ending with June 1989.

"(8) PURCHASE PRICE RECOGNIZED FOR MISCELLANEOUS DEVICES AND ITEMS.—For purposes of paragraphs (6) and (7), the amount that is recognized under this paragraph as the purchase price for a covered item is the amount described in subparagraph (C) of this paragraph, determined as follows:

"(A) COMPUTATION OF LOCAL PURCHASE PRICE.—Each carrier under section 1842 shall compute a base local purchase price for the item as follows:

"(i) The carrier shall compute a base local purchase price, for each item described—

[34a] Copy not legible.

"(I) in paragraph (6) equal to the average allowable charge in the locality for the purchase of the item for the 12-month period ending with June 1987, or

"(II) in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.

"(ii) The carrier shall compute a local purchase price, with respect to the furnishing of each particular item—

"(I) in 1989, equal to the base local purchase price computed under clause (i) increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 6-month period ending with December 1987, or

"(II) in 1990, 1991, or 1992, equal to the local purchase price computed under this clause for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) COMPUTATION OF REGIONAL PURCHASE PRICE.—With respect to the furnishing of a particular item in each region (as defined in section 1886(d)(2)(D)), the Secretary shall compute a regional purchase price—

"(i) for 1991, and for 1992, equal to the average (weighted by relative volume of all claims among carriers) of the local purchase prices for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional purchase price computed under this subparagraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(C) PURCHASE PRICE RECOGNIZED.—For purposes of paragraphs (6) and (7) and subject to subparagraph (D), the amount that is recognized under this paragraph as the purchase price for each item furnished—

"(i) in 1989 or 1990, is 100 percent of the local purchase price computed under subparagraph (A)(ii)(I);

"(ii) in 1991, is the sum of (I) 75 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1991, and (II) 25 percent of the regional purchase price computed under subparagraph (B) for 1991;

"(iii) in 1992, is the sum of (I) 50 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1992, and (II) 50 percent of the regional purchase price computed under subparagraph (B) for 1992; and

"(iv) in 1993 or a subsequent year, is the regional purchase price computed under subparagraph (B) for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the purchase price for an item furnished—

"(i) in 1991, may not exceed 130 percent, and may not be lower than 80 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(9) MONTHLY PAYMENT AMOUNT RECOGNIZED WITH RESPECT TO OXYGEN AND OXYGEN EQUIPMENT.—For purposes of paragraph (5), the amount that is recognized under this paragraph for payment for oxygen and oxygen equipment is the monthly payment amount described in subparagraph (C) of this paragraph. Such amount shall be computed separately (i) for all items of oxygen and oxygen equipment (other than portable oxygen equipment) and (ii) for portable oxygen equipment (each such group referred to in this paragraph as an 'item').

"(A) COMPUTATION OF LOCAL MONTHLY PAYMENT RATE.—Each carrier under this section shall compute a base local payment rate for each item as follows:

"(i) The carrier shall compute a base local average monthly payment rate per beneficiary as an amount equal to (I) the total reasonable charges for the item during the 12-month period ending with December 1986, divided by (II) the total number of months for all beneficiaries receiving the item in the area during the 12-month period for which the carrier made payment for the item under this title.

"(ii) The carrier shall compute a local average monthly payment rate for the item applicable—

"(I) to 1989, equal to 95 percent of the base local average monthly payment rate computed under clause (i) for the item increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with December 1987, or

"(II) to 1990 and to 1991, equal to the local average monthly payment rate computed under this clause for the item for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(B) COMPUTATION OF REGIONAL MONTHLY PAYMENT RATE.—With respect to the furnishing of an item in each region (as defined in section 1886(d)(2)(D)), the Secretary shall compute a regional monthly payment rate—

"(i) for 1991, and 1992, equal to the average (weighted by relative volume of all claims among carriers) of the local monthly payment rates for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional monthly payment rates computed under this subparagraph for the previous year increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.

"(C) MONTHLY PAYMENT AMOUNT RECOGNIZED.—For purposes of paragraph (5), the amount that is recognized under this paragraph as the base monthly payment amount for each item furnished—

"(i) in 1989 and in 1990, is 100 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(I) for the item;

"(ii) in 1991, is the sum of (I) 75 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(II) for the item for 1991, and (II) 25 percent of the regional monthly payment rate computed under subparagraph (B)(i) for the item for 1991;

"(iii) in 1992, is the sum of (I) 50 percent of the local average monthly payment rate computed under subparagraph (A)(ii)(II) for the item for 1992, and (II) 50 percent of the regional monthly payment rate computed under subparagraph (B)(i) for the item for 1992; and

"(iv) in a subsequent year, is the regional monthly payment rate computed under subparagraph (B) for the item for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the base monthly payment amount for an item furnished—

"(i) in 1991, may not exceed 130 percent, and may not be lower than 80 percent, of the average of the base monthly payment amounts recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the base monthly payment amounts recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(10) EXCEPTIONS AND ADJUSTMENTS.—

"(A) AREAS OUTSIDE CONTINENTAL UNITED STATES.—Exceptions to the amounts recognized under the previous provisions of this subsection shall be made to take into account the unique circumstances of covered items furnished in Alaska, Hawaii, or Puerto Rico.

"(B) ADJUSTMENT FOR INHERENT REASONABLENESS.—For covered items furnished on or after January 1, 1991, the Secretary is authorized to apply the provisions of paragraphs (8) and (9) (other than subparagraph (D)) of section 1842(b) to covered items and suppliers of such items.

"(C) TRANSCUTANEOUS ELECTRICAL NERVE STIMULATOR (TENS).—In order to permit an attending physician time to determine whether the purchase of a transcutaneous electrical nerve stimulator is medically appropriate for a particular patient, the Secretary may determine an appropriate payment amount for the initial rental of such item for a period of not more than 2 months. If such item is subsequently purchased, the payment amount with respect to such purchase is the payment amount determined under paragraph (2).

"(11) IMPROPER BILLING AND REQUIREMENT OF PHYSICIAN ORDER.—

"(A) IMPROPER BILLING FOR CERTAIN RENTAL ITEMS.—Notwithstanding any other provision of this title, a supplier of a covered item for which payment is made under this subsection and which is furnished on a rental basis shall continue to supply the item without charge (other than a charge provided under this subsection for the servicing of the item) after rental payments may no longer be made under this subsection. If a supplier knowingly and willfully violates the previous sentence, the Secretary may apply sanctions against the supplier under subsection (j)(2) in the same manner such sanctions may apply with respect to a physician.

"(B) REQUIREMENT OF PHYSICIAN ORDER.—The Secretary is authorized to require, for specified covered items, that payment may be made under this subsection with respect to the item only if a physician has communicated to the supplier, before delivery of the item, a written order for the item.

"(12) REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for each region (as defined in section 1886(d)(2)(D)) to process all claims within the region for covered items under this section.

"(13) COVERED ITEM.—In this subsection, the term 'covered item' means—

"(A) durable medical equipment (as defined in section 1861(n)), including such equipment described in section 1861(m)(5);

"(B) prosthetic devices (described in section 1861(s)(8)), but not including parenteral and enteral nutrition nutrients, supplies, and equipment; and

"(C) orthotics and prosthetics (described in section 1861(s)(9));

but does not include intraocular lenses.

"(14) CARRIER.—In this subsection, any reference to the term 'carrier' includes a reference, with respect to durable medical equipment furnished by a home health agency as part of home health services, to a fiscal intermediary.".

42 USC 1395m note.

(c) STUDY AND EVALUATION.—(1) The Secretary of Health and Human Services shall monitor the impact of the amendments made by this section on the availability of covered items and shall evaluate the appropriateness of the volume adjustment for oxygen and oxygen equipment under section 1834(a)(5)(C) of the Social Security Act (as amended by subsection (b) of this section). The Secretary shall report to Congress, by not later than January 1, 1991, on such impact and on the evaluation and shall include in such report recommendations for changes in payment methodology for covered items under section 1834(a) of such Act.

Reports.

(2) Before January 1, 1991, the Secretary may not conduct any demonstration project respecting alternative methods of payment for covered items under title XVIII of the Social Security Act.

(3) In this subsection, the term "covered item" has the meaning given such term in section 1834(a)(13) of the Social Security Act (as amended by subsection (b) of this section).

(4) The Secretary shall, upon written request, provide the data and information used in determining the payment amounts for covered items under section 1834(a) of the Social Security Act.

Reports.

(5) The Comptroller General shall conduct a study on the appropriateness of the level of payments allowed for covered items under the medicare program, and shall report to Congress on the results of such study (including recommendations on the transition to regional or national rates) by not later than January 1, 1991. Entities furnishing such items which fail to provide the Comptroller General with reasonable access to necessary records to carry out the study under this paragraph are subject to exclusion from the medicare program under section 1128(a) of the Social Security Act.

(d) CONFORMING AMENDMENTS.—

(1) Section 1814 of such Act (42 U.S.C. 1395f) is amended—

(A) in subsection (j)(2)(B), by amending subparagraph (B) to read as follows:

"(B) Section 1834(a)(1)(B).", and

(B) in subsection (k), by striking all that follows "shall be" and insert "the amount described in section 1834(a)(1).".

(2) Section 1832(a) of such Act (42 U.S.C. 1395k(a)) is amended—

(A) in paragraph (2)(A), by inserting "(other than items described in subparagraph (G))" after "services";

(B) in paragraph (2)(B), by inserting "(other than items described in subparagraph (G))" after "medical and other health services"; and

(C) in paragraph (2)—

(i) by striking "and" at the end of subparagraph (E),

(ii) by striking the period at the end of subparagraph (F) and inserting "; and", and

(iii) by adding at the end the following new subparagraph:

"(G) covered items (described in section 1834(a)(13)) furnished by a provider of services or by others under arrangements with them made by a provider of services.".

42 USC 1395*l*.

(3) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (1)—

(i) by striking "; and" at the end of clause (G) and inserting a comma, and

(ii) by adding at the end the following: "and (I) with respect to covered items (described in section 1834(a)(13)), the amounts paid shall be the amounts described in section 1834(a)(1),";

(B) in paragraph (2)—

(i) by striking "and (F)" and inserting "(F), and (G)", and

(ii) in subparagraph (A), by striking "(other than durable medical equipment)";

[34b](C) by striking "and" at the end of paragraph (3);

[34c](D) by striking the period at the end of paragraph (4) and inserting "; and"; and

---

[34b] Copy read "(B)".

[34c] Copy read "(C)".

[34d](E) by adding at the end the following new paragraph:

"(5) in the case of covered items (described in section 1834(a)(13)) the amounts described in section 1834(a)(1).".

(4) Section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by adding at the end the following new sentence: "Notwithstanding the first sentence of this subparagraph, a home health agency may charge such an individual or person, with respect to covered items subject to payment under section 1834(a), the amount of any deduction imposed under section 1833(b) and 20 percent of the payment basis described in section 1834(a)(2).".

(5) Section 1889 of such Act (42 U.S.C. 1395zz) is repealed. 42 USC 1395zz.

(e) Effective Date.—The amendments made by this section shall apply to covered items furnished on or after January 1, 1989. 42 USC 1395f note.

SEC. 4063. PAYMENT FOR INTRAOCULAR LENSES.

(a) Provided in Physician's Office.—Section 1842 of the Social Security Act (42 U.S.C. 1395u), as previously amended is amended—

(1) in subsection (b)(11)(C), as inserted by section 4046(a)(1)(C) of this subtitle—

(A) by inserting "(i)" after "(C)" and by adding at the end the following new clause:

"(ii) The reasonable charge for an intraocular lens implanted during cataract surgery in a physician's office may not exceed the actual acquisition cost for the lens (taking into account any discount) plus a handling fee (not to exceed 5 percent of such actual acquisition cost).", and

(B)[35] in subparagraph (D), as so redesignated and as amended by section 4046(a)(1) of this subtitle, by inserting "or item" after "service" or "services" each place either appears; and

(2) in subsection (j)(1)(D), as added by section 4045(c)(1)(B) of this subtitle and as amended by 4046(a)(2) of this subtitle—

(A) in clause (ii), by striking "and" at the end of subclause (IV), by redesignating subclause (V) as subclause (VI) and by inserting before such subclause the following new subclause:

"(IV) a reasonable charge limit is established under subsection (b)(11)(C)(ii), and"; and

(B) in clause (iii)—

(i) by striking "or" at the end of subclause (I),

(ii) in subclause (II), by striking "(b)(11)(C)" and inserting "(b)(11)(C)(i)",

(iii) by striking the period at the end of subclause (II) and inserting "; or", and

(iv) by adding at the end the following new subclause:

"(III) under subsection (b)(11)(C)(ii), the payment allowance established under such subsection.".

(b) Provided in Ambulatory Surgical Centers.—Section 1833(i)(2)(A) of such Act (42 U.S.C. 1395l(i)(2)(A)) is amended— 42 USC 1395*l*.

(1) by striking "and" at the end of clause (i),

(2) by striking the period at the end of clause (ii) and inserting ", and", and

(3) by inserting after clause (ii) the following new clause:

[34d] Copy read "(D)".

[35] Copy read "(C)".

"(iii) in the case of implantation of an intraocular lens during cataract surgery includes payment which is reasonable and related to the cost of acquiring the class of lens involved.".

42 USC 1395*l* note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after July 1, 1988.

42 USC 1395u note.

(d) SPECIAL RULE.—With respect to the[35a] establishment of a reasonable charge limit under section 1842(b)(11)(C)(ii) of the Social Security Act, in applying section 1842(j)(1)(D)(i) of such Act, the matter beginning with "plus" shall be considered to have been deleted.

SEC. 4064. CLINICAL DIAGNOSTIC LABORATORY TESTS.

42 USC 1395*l* note.

(a) LIMITATION ON CHANGES IN FEE SCHEDULES.—

(1) 3-MONTH FREEZE IN FEE SCHEDULES.—Notwithstanding any other provision of law, any change in the fee schedules for clinical laboratory diagnostic laboratory tests under part B of title XVIII of such Act which would have become effective for tests furnished on or after January 1, 1988, shall not be effective for tests furnished during the 3-month period beginning on January 1, 1988.

(2) NO CPI INCREASE IN 1988.—N twithstanding any other provision of law, the Secretary of Health and Human Services shall not adjust the fee schedules established under section 1833(h) of the Social Security Act for 1988 to take into account any increase in the consumer price index.

(b) FEE SCHEDULES AND PAYMENT LIMITS.—

42 USC 1395*l*.

(1) REBASING OF FEE SCHEDULES FOR CERTAIN AUTOMATED AND SIMILAR TESTS.—Section 1833(h)(2) of the Social Security Act (42 U.S.C. 1395l(h)(2)) is amended by adding at the end the following: "In establishing fee schedules under the first sentence of this paragraph with respect to automated tests and tests (other than cytopathology tests) which before July 1, 1984, the Secretary made subject to a limit based on lowest charge levels under the sixth sentence of section 1842(b)(3) performed after March 31, 1988, the Secretary shall reduce by 8.3 percent the fee schedules otherwise established for 1988.".

(2) NATIONWIDE PAYMENT LIMITS.—Section 1833(h)(4)(B) of such Act is amended—

(A) in clause (i), by striking "January" and inserting "April", and

(B) by amending clause (ii) to read as follows:

"(ii) March 31, 1988, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

42 USC 1395*l* note.

(3) EFFECTIVE DATES.—The amendments made by paragraphs (1) and (2) shall apply with respect to services furnished on or after April 1, 1988.

42 USC 1395*l* note.

(4) GAO STUDY OF FEE SCHEDULES.—The Comptroller General shall conduct a study of the level of the fee schedules established for clinical diagnostic laboratory services under section 1833(h)(2) of the Social Security Act to determine, based on the costs of, and revenues received for, such tests the appropriateness of such schedules. The Comptroller General shall report to the Congress on the results of such study by not later than January 1, 1990. Suppliers of such tests which fail to provide the Comptroller General with reasonable access to necessary records to carry out the study under this paragraph are subject

Reports.

[35a] Copy read "the the".

to exclusion from the medicare program under section 1128(a) of the Social Security Act.

(c) Limitation on Application of 2 Percent Hospital Lab Differential.—Section 1833(h)(2) of such Act is amended by striking "hospital laboratory" and inserting "laboratory in a sole community hospital".

42 USC 1395*l*.

(d) Intermediate Sanctions.—

(1) Part B of title XVIII of such Act is amended by adding at the end thereof the following new section:

"INTERMEDIATE SANCTIONS FOR PROVIDERS OF CLINICAL DIAGNOSTIC LABORATORY TESTS[35b]

42 USC 1395w-2.

"Sec. 1846. (a) If the Secretary determines that any provider or clinical laboratory certified for participation under this title no longer substantially meets the conditions of participation specified under this title with respect to the provision of clinical diagnostic laboratory tests under this part, the Secretary may (for a period not to exceed one year) impose intermediate sanctions developed pursuant to subsection (b), in lieu of canceling immediately the certification of the provider or clinical laboratory.

"(b)(1) The Secretary shall develop and implement—

"(A) a range of intermediate sanctions to apply to providers or certified clinical laboratories under the conditions described in subsection (a), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) directed plans of correction,

"(ii) civil fines and penalties,

"(iii) payment for the costs of onsite monitoring by an agency responsible for conducting certification surveys, and

"(iv) suspension of all or part of the payments to which a provider or certified clinical laboratory would otherwise be entitled under this title with respect to clinical diagnostic laboratory tests provided on or after the date in which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (a).[36]

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law.

"(3) The Secretary shall develop and implement specific procedures with respect to when and how each of the intermediate sanctions developed under paragraph (1) is to be applied, the amounts of any fines, and the severity of each of these penalties. Such procedures shall be designed so as to minimize the time between identification of violations and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

Effective date.
42 USC 1395w-2 note.

(2) The amendment made by paragraph (1) shall become effective on January 1, 1990.

(e) State Certification of High-Volume Physician Office Labs.—

(1) Section 1861(s) of such Act (42 U.S.C. 1395x(s)) is amended, in the sentence following paragraph (11), by inserting "a labora-

---

[35b] Copy read "TESTS" ".

[36] Subparagraphs " '(i)", " '(ii)", " '(iii)", and " '(iv)" indented incorrectly.

tory not independent of a physician's office that has a volume of clinical diagnostic laboratory tests exceeding 5,000 per year" after "physician's office,".

42 USC 1395x note. (2) The amendment made by paragraph (1) shall apply to diagnostic tests performed on or after January 1, 1990.

SEC. 4065. RETURN ON EQUITY PAYMENTS TO OUTPATIENT DEPARTMENTS.

(a) IN GENERAL.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end thereof the following new subparagraph:

"(S) Such regulations shall not include provision for specific recognition of any return on equity capital with respect to hospital outpatient departments.".

(b) CONFORMING AMENDMENT.—Section 1881(b)(2)(C) of such Act (42 U.S.C. 1395rr(b)(2)(C)) is amended by striking "facilities" and inserting "facilities (other than hospital outpatient departments)".

42 USC 1395x note. (c) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1988.

SEC. 4066. PAYMENTS TO HOSPITAL OUTPATIENT DEPARTMENTS FOR RADIOLOGY.

(a) AMOUNTS PAYABLE.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" in subparagraph (C),

(B) by adding "and" at the end of subparagraph (D), and

(C) by adding at the end thereof the following new subparagraph:

"(E) with respect to—

"(i) outpatient hospital radiology services (including diagnostic and therapeutic radiology, nuclear medicine and CAT scan procedures, magnetic resonance imaging, and ultrasound and other imaging services), and

"(ii) effective for procedures performed on or after October 1, 1989, diagnostic procedures (as defined by the Secretary) described in section 1861(s)(3) (other than diagnostic x-ray tests and diagnostic laboratory tests),

the amount determined under subsection (n);"; and

(2) by adding at the end, as previously amended, the following new subsection:

"(n)(1)(A) The aggregate amount of the payments to be made for all or part of a cost reporting period beginning on or after October 1, 1988 under this part for services described in subsection (a)(2)(E) shall be equal to the lesser of—

"(i) the amount determined with respect to such services under subsection (a)(2)(B), or

"(ii) the blend amount for radiology services and diagnostic procedures determined in accordance with subparagraph (B).

"(B)(i) The blend amount for radiology services and diagnostic procedures for a cost reporting period is the sum of—

"(I) the cost proportion (as defined in clause (ii)) of the amount described in subparagraph (A)(i); and

"(II) the charge proportion (as defined in clause (ii)(II)) of 62 percent (for services described in subsection (a)(2)(E)(i)), or (for procedures described in subsection (a)(2)(E)(ii)), 42 percent or such other percent established by the Secretary (or carriers acting pursuant to guidelines issued by the Secretary) based on prevailing charges established with actual charge data, of 80 percent of the prevailing charge for participating physicians for the same services as if they were furnished in a physician's office in the same locality as determined under section 1842(b).

"(ii) In this subparagraph:

"(I) The term 'cost proportion' means 65 percent for all or any part of cost reporting periods which occur in fiscal year 1989 and 50 percent for other cost reporting periods.

"(II) The term 'charge proportion' means 35 percent for all or any parts of cost reporting periods which occur in fiscal year 1989 and 50 percent for other cost reporting periods.".

(b) CONFORMING AMENDMENT.—Section 1833(a)(2)(B) of such Act (42 U.S.C. 1395l(a)(2)(B)) is amended in the matter preceding clause (i) by striking "(C) or (D)" and inserting "(C), (D), or (E)".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to outpatient hospital radiology services furnished on or after October 1, 1988, and other diagnostic procedures performed on or after October 1, 1989.

42 USC 1395*l* note.

SEC. 4067. UPDATING MAXIMUM RATE OF PAYMENT PER VISIT FOR INDEPENDENT RURAL HEALTH CLINICS.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is further amended by inserting after subsection (e) the following new subsection:

"(f) In establishing limits under subsection (a) on payment for rural health clinic services provided by independent rural health clinics, the Secretary shall establish such limit, for services provided—

"(1) in 1988, after March 31, at $46, and

"(2) in a subsequent year, at the limit established under this subsection for the previous year increased by the percentage increase in the medicare economic index (referred to in the fourth sentence of section 1842(b)(3)) applicable to physicians' services furnished as of the first day of that year.".

(b) REPORT ON RATES.—The Secretary of Health and Human Services shall report to Congress, by not later than March 1, 1989, on the adequacy of the amounts paid under title XVIII of the Social Security Act for rural health clinic services provided by independent rural health clinics.

42 USC 1395*l* note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after April 1, 1988.

42 USC 1395*l* note.

SEC. 4068. PAYMENT FOR AMBULATORY SURGERY AT EYE, AND EYE AND EAR, SPECIALTY HOSPITALS.

(a) IN GENERAL.—Section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(1) by striking "In" and inserting "Subject to the last sentence of this clause, in"; and

(2) by adding at the end thereof the following:

"In the case of a hospital that makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary), receives more than 30 percent of its total revenues from outpatient services and was an eye specialty hospital or an eye and ear specialty hospital on October 1, 1987, the cost proportion and ASC proportion in effect under subclauses (I) and (II) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning in fiscal year 1989 or fiscal year 1990.".

(b) DEVELOPMENT OF PROSPECTIVE PAYMENT METHODOLOGY FOR OUTPATIENT HOSPITAL SERVICES.—Section 1135(d) of the Social Security Act (42 U.S.C. 1320b–5(d)) is amended—

(1) by adding at the end of paragraph (3) the following: "In establishing such rates, the Secretary shall consider whether a differential payment rate is appropriate for speciality hospitals."; and

(2) by adding at the end the following new paragraph:

"(7) The Secretary shall solicit the views of the Prospective Payment Assessment Commission in developing the systems under paragraphs (1) and (6), and shall include in the Secretary's reports under this subsection any views the Commission may submit with respect to such systems.".

42 USC 1395*l*. (c) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the amendment made by section 9343(a)(1)(B) of the Omnibus Budget Reconciliation Act of 1986.

Subpart C—Eligibility and Benefits Changes

SEC. 4070. COVERAGE OF MENTAL HEALTH SERVICES.

(a) OUTPATIENT SERVICES UNDER PART B.—Section 1833(c) of the Social Security Act (42 U.S.C. 1395l(c)) is amended— 42 USC 1395*l* note.

(1) by striking "$312.50" and inserting "$1375.00"; and

(2) by adding at the end thereof the following:

"For purposes of this subsection, the term 'treatment' does not include brief office visits (as defined by the Secretary) for the sole purpose of prescribing or monitoring prescription drugs used in the treatment of such disorders.".

(b) PARTIAL HOSPITALIZATION COVERAGE.—

(1) Section 1861(s)(2)(B) of such Act (42 U.S.C. 1395x(s)(2)(B)) is amended by inserting "and partial hospitalization services incident to such services" before the semicolon.

(2) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"(ff)(1) The term 'partial hospitalization services' means the items and services described in paragraph (2) prescribed by a physician and provided under a program described in paragraph (3) under the supervision of a physician pursuant to an individualized, written plan of treatment established and periodically reviewed by a physician (in consultation with appropriate staff participating in such program), which plan sets forth the physician's diagnosis, the type, amount, frequency, and duration of the items and services provided under the plan, and the goals for treatment under the plan.

"(2) The items and services described in this paragraph are—

"(A) individual and group therapy with physicians or psychologists (or other mental health professionals to the extent authorized under State law),

"(B) occupational therapy requiring the skills of a qualified occupational therapist,

"(C) services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients, "(D) drugs and biologicals furnished for therapeutic purposes (which cannot, as determined in accordance with regulations, be self-administered),

"(E) individualized activity therapies that are not primarily recreational or diversionary,

"(F) family counseling (the primary purpose of which is treatment of the individual's condition),

"(G) patient training and education (to the extent that training and educational activities are closely and clearly related to individual's care and treatment),

"(H) diagnostic services, and

"(I) such other items and services as the Secretary may provide (but in no event to include meals and transportation);

that are reasonable and necessary for the diagnosis or active treatment of the individual's condition, reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization, and furnished pursuant to such guidelines relating to frequency and duration of services as the Secretary shall by regulation establish (taking into account accepted norms of medical practice and the reasonable expectation of patient improvement).

"(3) A program described in this paragraph is a program which is hospital-based or hospital-affiliated (as defined by the Secretary) and which is a distinct and organized intensive ambulatory treatment service offering less than 24-hour-daily care.".

(3) Section 1835(a)(2) of such Act (42 U.S.C. 1395n(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of partial hospitalization services, (i) the individual would require inpatient psychiatric care in the absence of such services, (ii) an individualized, written plan for furnishing such services has been established by a physician and is reviewed periodically by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(4) Section 1833(c) of such Act, as amended by subsection (a), is further amended at the end thereof by inserting "or partial hospitalization services that are not directly provided by a physician" before the period.

(c) EFFECTIVE DATE; IMPLEMENTATION.—

(1) The amendment made by subsection (a)(1) shall apply with respect to calendar years beginning with 1988; except that with respect to 1988, any reference in section 1833(c) of the Social Security Act, as amended by subsection (a), to "$1375.00" is deemed a reference to "$562.50". The amendment made by subsection (a)(2) shall apply to services furnished on or after January 1, 1989.

42 USC 1395*l* note.

(2)(A) The amendments made by subsection (b) shall become effective on the date of enactment of this Act.

42 USC 1395x note.

(B) The Secretary of Health and Human Services shall implement the amendments made by subsection (b) so as to ensure that there is no additional cost to the medicare program by reason of such amendments.

SEC. 4071. COVERAGE OF INFLUENZA VACCINE AND ITS ADMINISTRATION.

(a) IN GENERAL.—Section 1861(s)(10)(A) of the Social Security Act (42 U.S.C. 1395x(a)(10)(A)) is amended by inserting before the semicolon the following: "and influenza vaccine and its administration".

42 USC 1395x note.

(b) CONTINGENT EFFECTIVE DATE; DEMONSTRATION PROJECT.—

(1) The provisions of subsection (e) of section 4072 of this subpart shall apply to this section in the same manner as it applies to section 4072.

(2) In conducting the demonstration project pursuant to paragraph (1), in order to determine the cost effectiveness of including influenza vaccine in the medicare program, the Secretary of Health and Human Services is required to conduct a demonstration of the provision of influenza vaccine as a service for medicare beneficiaries and to expend $25,000,000 each year of the demonstration project for this purpose. In conducting this demonstration, the Secretary is authorized to purchase in bulk influenza vaccine and to distribute it in a manner to make it widely available to medicare beneficiaries, to develop projects to provide vaccine in the same manner as other covered medicare services in large scale demonstration projects, including statewide projects, and to engage in other appropriate use of moneys to provide influenza vaccine to medicare beneficiaries and evaluate the cost effectiveness of its use. In determining cost effectiveness, the Secretary shall consider the direct cost of the vaccine, the utilization of vaccine which might otherwise not have occurred, the costs of illnesses and nursing home days avoided, and other relevant factors, except that extended life for beneficiaries shall not be considered to reduce the cost effectiveness of the vaccine.

SEC. 4072. PAYMENT FOR THERAPEUTIC SHOES FOR INDIVIDUALS WITH SEVERE DIABETIC FOOT DISEASE.

(a) COVERAGE UNDER PART B.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s)) is amended—

(1) by redesignating paragraphs (12) through (15) as paragraphs (13) through (16), respectively,

(2) by striking out "and" at the end of paragraph (10),

(3) by striking out the period at the end of paragraph (11) and inserting "; and", and

(4) by inserting after paragraph (11) the following new paragraph:

"(12) extra-depth shoes with inserts or custom molded shoes for an individual with diabetes, if—

"(A) the physician who is managing the individual's diabetic condition (i) documents that the individual has peripheral neuropathy with evidence of callus formation, a history of pre-ulcerative calluses, a history of previous ulceration, foot deformity, or previous amputation, or poor circulation, and (ii) certifies that the individual needs such shoes under a comprehensive plan of care related to the individual's diabetic condition;

"(B) the particular type of shoes are prescribed by a podiatrist or other qualified physician (as established by the Secretary); and

"(C) the shoes are fitted and furnished by a podiatrist or other qualified individual (such as a pedorthist or orthotist, as established by the Secretary) who is not the physician described in subparagraph (A) (unless the Secretary finds that the physician is the only such qualified individual in the area).".

(b) LIMITATION ON BENEFIT.—Section 1833 of such Act (42 U.S.C. 1395) is amended by inserting after subsection (e) the following new subsection: 42 USC 1395*l*.

"(f)(1) In the case of shoes described in section 1861(s)(12)—

"(A) no payment may be made under this part for the furnishing of more than one pair of shoes for any individual for any calendar year, and

"(B) with respect to expenses incurred in any calendar year, no more than the limit established under paragraph (2) shall be considered as incurred expenses for purposes of subsections (a) and (b).

Payment for shoes under this part shall be considered to include payment for any expenses for the fitting of such shoes.

"(2)(A) Except as provided by the Secretary under subparagraphs (B) and (C), the limit established under this paragraph—

"(i) for the furnishing of one pair of custom molded shoes is $300;

"(ii) for the furnishing of extra-depth shoes and inserts is—

"(I) $100 for the pair of shoes itself, and

"(II) $50 for inserts for a pair of shoes.

"(B) The Secretary or a carrier may establish limits for shoes that are lower than the limits established under subparagraph (A) if the Secretary finds that shoes and inserts of an appropriate quality are readily available at or below such lower limits.

"(C) For each year after 1988, each dollar amount under subparagraph (A) or (B) (as previously adjusted under this subparagraph) shall be increased by the same percentage increase as the Secretary provides with respect to durable medical equipment for that year, except that if such increase is not a multiple of $1, it shall be rounded to the nearest multiple of $1.

"(3) In this title, the term 'shoes' includes, except for purposes of subparagraphs (A)(ii) and (B) of paragraph (2), inserts for extra-depth shoes.".

(c) MODIFICATION OF EXCLUSION.—Section 1862(a)(8) of such Act (42 U.S.C. 1395y(a)(8)) is amended by inserting ", other than shoes furnished pursuant to section 1861(s)(12)" before the semicolon.

(d) CONFORMING AMENDMENTS.—Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking out "paragraphs (12) and (13)" and inserting "paragraphs (13) and (14)".

(e) CONTINGENT EFFECTIVE DATE; DEMONSTRATION PROJECT.— 42 USC 1395x note.

(1) The amendments made by this section shall become effective (if at all) in accordance with paragraph (2).

(2)(A) The Secretary of Health and Human Services (in this paragraph referred to as the "Secretary"), shall establish a demonstration project to begin on October 1, 1988, to test the cost-effectiveness of furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section to a sample group of medicare beneficiaries.

(B)(i) The demonstration project under subparagraph (A) shall be conducted for an initial period of 24 months. Not later than October 1, 1990, the Secretary shall report to the Congress on Reports.

Effective date.

the results of such project. If the Secretary finds, on the basis of existing data, that furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is cost-effective, the Secretary shall include such finding in such report, such project shall be discontinued, and the amendments made by this section shall become effective on November 1, 1990.

Reports.

Effective date.

(ii) If the Secretary determines that such finding cannot be made on the basis of existing data, such project shall continue for an additional 24 months. Not later than April 1, 1993, the Secretary shall submit a final report to the Congress on the results of such project. The amendments made by this section shall become effective on the first day of the first month to begin after such report is submitted to the Congress unless the report contains a finding by the Secretary that furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is not cost-effective (in which case the amendments made by this section shall not become effective).

SEC. 4073. COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES.

(a) Coverage of Services.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by adding "and" at the end of subparagraph (K); and

(3) by adding at the end thereof the following new subparagraph:

"(L) certified nurse-midwife services;".

(b) Payment of Benefits.—

(1) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon at the end of clause (iii) and inserting a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) certified nurse-midwife services; and".

42 USC 1395*l*.

(2) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended—

(A) by striking "and" at the end of clause (F);

(B) by striking "services; and" in clause (G) and inserting "services,"; and

(C) [37] by adding at the end thereof the following: "and (I) with respect to certified nurse-midwife services under section 1861(s)(2)(L), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph (but in no event more than 65 percent of the prevailing charge that would be allowed for the same service performed by a physician);".

(3) Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(m) In the case of certified nurse-midwife services for which payment may be made under this part only pursuant to section 1861(s)(2)(L), payment may only be made under this part for such services on an assignment-related basis.".

---

[37] Copy read "(D)".

(c) DEFINITION.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Certified Nurse-Midwife Services

"(ff)(1) The term 'certified nurse-midwife services' means such services furnished by a certified nurse-midwife (as defined in paragraph (2)) and such services and supplies furnished as an incident to his service which the certified nurse-midwife is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's service.

"(2) The term 'certified nurse-midwife' means a registered nurse who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary,, or has been certified by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies throughout the maternity cycle.".

(d) [38] CONFORMING CHANGES.—

(1) Section 1905(a)(17) of such Act (42 U.S.C. 1396d(a)(17)) is amended by striking "as defined in subsection (m)" and inserting "as defined in section 1861(ff)".

(2) Section 1905 of such Act (42 U.S.C. 1396d) is amended by striking subsection (m).

(e) [39] EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to services performed on or after July 1, 1988.

42 USC 1395k note.

SEC. 4074. COVERAGE OF SOCIAL WORKER SERVICES FURNISHED BY A HEALTH MAINTENANCE ORGANIZATION TO ITS MEMBERS.

(a) IN GENERAL.—Section 1861(s)(2)(H)(ii) of the Social Security Act (42 U.S.C. 1395x(s)(2)(H)(ii)) is amended—

(1) by inserting "or by a clinical social worker (as defined in subsection (ff))" after "clinical psychologist (as defined by the Secretary)"; and

(2) by striking "incident to his services" and inserting "incident to such clinical psychologist's services or clinical social worker's services".

(b) CLINICAL SOCIAL WORKER DEFINED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Clinical Social Worker

"(ff) The term 'clinical social worker' means an individual who—

"(1) possesses a master's or doctor's degree in social work;

"(2) after obtaining such degree has performed at least 2 years of supervised clinical social work; and

"(3)(A) is licensed or certified as a clinical social worker by the State in which the services are performed, or

"(B) in the case of an individual in a State which does not provide for licensure or certification—

"(i) has completed at least 2 years or 3,000 hours of post-master's degree supervised clinical social work practice under the supervision of a master's level social worker in an appropriate setting (as determined by the Secretary), and

---

[38] Copy read "(c)".

[39] Copy read "(d)".

"(ii) meets such other criteria as the Secretary establishes.".

42 USC 1395x note.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to services performed on or after January 1, 1988.

SEC. 4075. CLARIFICATION OF COVERAGE OF DRUGS USED IN IMMUNOSUPPRESSIVE THERAPY.

(a) IN GENERAL.—Section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)) is amended by striking "immunosuppressive drugs" and inserting "prescription drugs used in immunosuppressive therapy".

42 USC 1395x note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs dispensed on or after the date of the enactment of this Act.

SEC. 4076. SERVICES OF A PHYSICIAN ASSISTANT.

(a) SERVICES COVERED.—Section 1861(s)(2)(K) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)) is amended by inserting ", in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area," after "1905(c))".

42 USC 1395x note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 1989.

SEC. 4077. PSYCHOLOGIST SERVICES IN CLINICS.

(a) COVERAGE OF PSYCHOLOGISTS' SERVICES FURNISHED AT RURAL HEALTH CLINICS.—

(1) Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking "physician assistant or by a nurse practitioner" and inserting "physician assistant or a nurse practitioner (as defined in paragraph (3)), or by a clinical psychologist (as defined by the Secretary),".

42 USC 1395x note.

(2) The amendment made by paragraph (1) shall be effective with respect to services furnished on or after the date of enactment of this Act.

(b) DIRECT PAYMENT FOR PSYCHOLOGISTS' SERVICES FURNISHED AT A COMMUNITY MENTAL HEALTH CENTER.—

(1) Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended, is amended—

(A) by striking "and" at the end of subparagraph (K);

(B) by adding "and" at the end of subparagraph (L); and

(C) by adding at the end thereof the following new subparagraph:

"(M) qualified psychologist services;".

(2) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon in clause (iii) and inserting a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) qualified psychologist services; and".

42 USC 1395*l*.

(3) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (G);

(B) by striking "services; and" in subparagraph (H) and inserting "services,";

(C) by adding "and" at the end of subparagraph (I); and

(D) by adding at the end thereof the following new subparagraph: "(J) with respect to qualified psychologist services under section 1861(s)(2)(M), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph;".

(4) The subsection added by section 4073(b)(3) of this subpart is amended by inserting "and in the case of qualified psychologists services for which payment may be made under this part only pursuant to section 1861(s)(2)(M)" after "1861(s)(2)(L)".

42 USC 1395*l*.

(5) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Qualified Psychologist Services

"(gg) The term 'qualified psychologist services' means such services and such services and supplies furnished as an incident to his service furnished by a clinical psychologist (as defined by the Secretary) at a community mental health center (as such term is used in the Public Health Service Act) which the psychologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's service.".[40]

(6)[41] The amendments made by this subsection shall be effective with respect to services performed on or after July 1, 1988.

Effective date.
42 USC 1395k note.

SEC. 4078. PROVISION OF OFFSITE COMPREHENSIVE OUTPATIENT REHABILITATION SERVICES.

Section 1861(cc)(1) of the Social Security Act (42 U.S.C. 1395x(cc)(1)) is amended by adding at the end thereof the following: "In the case of physical therapy, occupational therapy, and speech pathology services, there shall be no requirement that the item or service be furnished at any single fixed location if the item or service is furnished pursuant to such plan and payments are not otherwise made for the item or service under this title.".

SEC. 4079. DEMONSTRATION PROJECTS TO PROVIDE PAYMENT ON A PREPAID, CAPITATED BASIS FOR COMMUNITY NURSING AND AMBULATORY CARE FURNISHED TO MEDICARE BENEFICIARIES.

42 USC 1395mm note.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with not less than four eligible organizations submitting applications under this section to conduct demonstration projects to provide payment on a prepaid, capitated basis for community nursing and ambulatory care furnished to any individual entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act (other than an individual medically determined to have end-stage renal disease) who resides in the geographic area served by the organization and enrolls with such organization (in accordance with subsection (c)(2)).

---

[40] Copy read "service.".

[41] Copy read "(5)".

(b) DEFINITIONS OF COMMUNITY NURSING AND AMBULATORY CARE AND ELIGIBLE ORGANIZATION.—As used in this section:

(1) The term "community nursing and ambulatory care" means the following services:

(A) Part-time or intermittent nursing care furnished by or under the supervision of registered professional nurses.

(B) Physical, occupational, or speech therapy.

(C) Social and related services supportive of a plan of ambulatory care.

(D) Part-time or intermittent services of a home health aide.

(E) Medical supplies (other than drugs and biologicals) and durable medical equipment while under a plan of care.

(F) Medical and other health services described in paragraphs (2)(H)(ii) and (5) through (9) of section 1861(s) of the Social Security Act.

(G) Rural health clinic services described in section 1861(aa)(1)(C) of such Act.

(H) Certain other related services listed in section 1915(c)(4)(B) of such Act to the extent the Secretary finds such services are appropriate to prevent the need for institutionalization of a patient.

(2) The term "eligible organization" means a public or private entity, organized under the laws of any State, which meets the following requirements:

(A) The entity (or a division or part of such entity) is primarily engaged in the direct provision of community nursing and ambulatory care.

(B) The entity provides directly, or through arrangements with other qualified personnel, the services described in paragraph (1).

(C) The entity provides that all nursing care (including services of home health aids) is furnished by or under the supervision of a registered nurse.

(D) The entity provides that all services are furnished by qualified staff and are coordinated by a registered professional nurse.

(E) The entity has policies governing the furnishing of community nursing and ambulatory care that are developed by registered professional nurses in cooperation with (as appropriate) other professionals.

(F) The entity maintains clinical records on all patients.

(G) The entity has protocols and procedures to assure, when appropriate, timely referral to or consultation with other health care providers or professionals.

(H) The entity complies with applicable State and local laws governing the provision of community nursing and ambulatory care to patients.

(I) The requirements of subparagraphs (B), (D), and (E) of section 1876(b)(2) of the Social Security Act.

(c) AGREEMENTS WITH ELIGIBLE ORGANIZATIONS TO[42] CONDUCT DEMONSTRATION PROJECTS.—

---

[42] Copy read "WITH ELIGIBLE ORGANIZATIONS TO".

(1) The Secretary may not enter into an agreement with an eligible organization to conduct a demonstration project under this section unless the organization meets the requirements of this subsection and subsection (d) with respect to members enrolled with the organization under this section.

(2) The organization shall have an open enrollment period for the enrollment of individuals under this section. The duration of such period of enrollment and any other requirement pertaining to enrollment or termination of enrollment shall be specified in the agreement with the organization.

(3) The organization must provide to members enrolled with the organization under this section, through providers and other persons that meet the applicable requirements of titles XVIII and XIX of the Social Security Act, community nursing and ambulatory care (as defined in subsection (b)(1)) which is generally available to individuals residing in the geographic area served by the organization, except that the organization may provide such members with such additional health care services as the members may elect, at their option, to have covered.

(4) The organization must make community nursing and ambulatory care (and such other health care services as such individuals have contracted for) available and accessible to each individual enrolled with the organization under this section, within the area served by the organization, with reasonable promptness and in a manner which assures continuity.

(5) Section 1876(c)(5) of the Social Security Act shall apply to organizations under this section in the same manner as it applies to organizations under section 1876 of such Act.

(6) The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals under the demonstration project conducted under this section, which program (A) stresses health outcomes and (B) provides review by health care professionals of the process followed in the provision of such health care services.

(7) Under a demonstration project under this section—

(A) the Secretary could require the organization to provide financial or other assurances (including financial risk-sharing) that minimize the inappropriate substitution of other services under title XVIII of such Act for community nursing services; and

(B) if the Secretary determines that the organization has failed to perform in accordance with the requirements of the project (including meeting financial responsibility requirements under the project, any pattern of disproportionate or inappropriate institutionalization) the Secretary shall, after notice, terminate the project.

(d) **Determination of Per Capita Payment Rates.**—

(1) The Secretary shall determine for each 12-month period in which a demonstration project is conducted under this section, and shall announce (in a manner intended to provide notice to interested parties) not later than three months before the beginning of such period, with respect to each eligible organization conducting a demonstration project under this section, a per capita rate of payment for each class of individuals who are enrolled with such organization who are entitled to benefits

under part A and enrolled under part B of title XVIII of the Social Security Act.

(2)(A) Except as provided in paragraph (3), the per capita rate of payment under paragraph (1) shall be determined in accordance with this paragraph.

(B) The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

(C) The per capita rate of payment under paragraph (1) for each such class shall be equal to 95 percent of the adjusted average per capita cost (as defined in subparagraph (D)) for that class.

(D) For purposes of subparagraph (C), the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by an eligible organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for those services covered under parts A and B of title XVIII of the Social Security Act and types of expenses otherwise reimbursable under such parts A and B which are described in subparagraphs (A) through (G) of subsection (b)(1) (including administrative costs incurred by organizations described in sections 1816 and 1842 of such Act), if the services were to be furnished by other than an eligible organization.

(3) The Secretary shall, in consultation with providers, health policy experts, and consumer groups develop capitation-based reimbursement rates for such classes of individuals entitled to benefits under part A and enrolled under part B of the Social Security Act as the Secretary shall determine. Such rates shall be applied in determining per capita rates of payment under paragraph (1) with respect to at least one eligible organization conducting a demonstration project under this section.

(4)(A) In the case of an eligible organization conducting a demonstration project under this section, the Secretary shall make monthly payments in advance and in accordance with the rate determined under paragraph (2) or (3), except as provided in subsection (e)(3)(B), to the organization for each individual enrolled with the organization.

(B) The amount of payment under paragraph (2) or (3) may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

(5) The payment to an eligible organization under this section for individuals enrolled under this section with the organization and entitled to benefits under part A and enrolled under part B of the Social Security Act shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under such Act in such proportions from each such trust fund as the Secretary

deems to be fair and equitable taking into consideration benefits attributable to such parts A and B, respectively.

(6) During any period in which an individual is enrolled with an eligible organization conducting a demonstration project under this section, only the eligible organization (and no other individual or person) shall be entitled to receive payments from the Secretary under this title for community nursing and ambulatory care (as defined in subsection (b)(1)) furnished to the individual.

(e) Restriction on Premiums, Deductibles, Copayments, and Coinsurance.—

(1) In no case may the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to community nursing and ambulatory care) to individuals who are enrolled under this section with the organization, exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B of the Social Security Act, if they were not members of an eligible organization.

(2) If the eligible organization provides to its members enrolled under this section services in addition to community nursing and ambulatory care, election of coverage for such additional services shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

(A) the portion of such organization's premium rate charged, with respect to such additional services, to members enrolled under this section, and

(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members

exceed the adjusted community rate for such services (as defined in section 1876(e)(3) of the Social Security Act).

(3)(A) Subject to subparagraphs (B) and (C), each agreement to conduct a demonstration project under this section shall provide that if—

(i) the adjusted community rate, referred to in paragraph (2), for community nursing and ambulatory care covered under parts A and B of title XVIII of the Social Security Act (as reduced for the actuarial value of the coinsurance and deductibles under those parts) for members enrolled under this section with the organization,

is less than

(ii) the average of the per capita rates of payment to be made under subsection (d)(1) at the beginning of the 12-month period (as determined on such basis as the Secretary determines appropriate) described in such subsection for members enrolled under this section with the organization, the eligible organization shall provide to such members the additional benefits described in section 1876(g)(3) of the Social Security Act which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced).

(B) Subparagraph (A) shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced).

(C) An organization conducting a demonstration project under this section may provide (with the approval of the Secretary) that a part of the value of such additional benefits under subparagraph (A) be withheld and reserved by the Secretary as provided in section 1876(g)(5) of the Social Security Act.

Contracts.

(4) The provisions of paragraphs (3), (5), and (6) of section 1876(g) of the Social Security Act shall apply in the same manner to agreements under this section as they apply to risk-sharing contracts under section 1876 of such Act, and, for this purpose, any reference in such paragraphs to paragraph (2) is deemed a reference to paragraph (3) of this subsection.

(5) Section 1876(e)(4) of the Social Security Act shall apply to eligible organizations under this section in the same manner as it applies to eligible organizations under section 1876 of such Act.

(f) COMMENCEMENT AND DURATION OF PROJECTS.—Each demonstration project under this section shall begin not later than July 1, 1989, and shall be conducted for a period of three years.

(g) REPORT.—Not later than January 1, 1992, the Secretary shall submit to the Congress a report on the results of the demonstration projects conducted under this section.

SEC. 4080. PART B PREMIUM.

Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (e), by striking "1989" each place it appears and inserting in lieu thereof "1990";

(2) in subsection (f)(1), by striking "or 1987" and inserting in lieu thereof "1987, or 1988"; and

(3) in subsection (f)(2), by striking "or 1988" and inserting in lieu thereof "1988, or 1989".

Subpart D—Other Provisions

SEC. 4081. SUBMISSION OF CLAIMS TO SUPPLEMENTAL INSURANCE CARRIERS.

(a) IN GENERAL.—Section 1842(h)(3) of the Social Security Act (42 U.S.C. 1395u(h)(3)) is amended by inserting "(A)" after "(3)" and by adding at the end the following new subparagraph:

"(B) The Secretary shall establish a procedure whereby an individual enrolled under this part may assign, in an appropriate manner on the form claiming a benefit under this part for an item or service furnished by a participating physician or supplier, the individual's rights of payment under a medicare supplemental policy (described in section 1882(g)(1)) in which the individual is enrolled. In the case such an assignment is properly executed and a claims determination is made by a carrier with a contract under this section, the carrier shall transmit to the private entity issuing the medicare supplemental policy notice of such fact and including such information as the Secretary determines is generally provided to enable the entity to decide whether (and the amount of) any payment is due under the policy. The Secretary may enter into arrangements for the transmittal of such information to entities electronically. The Secretary shall impose user fees for the transmittal of information under this subparagraph, whether electronically or otherwise.".

(b) MEDIGAP POLICY STANDARDS.—Section 1882 of such Act (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)—

(A) by amending subparagraph (B) to read as follows:

"(B) includes requirements equal to or more stringent than the requirements described in paragraphs (2) and (3) of subsection (c);",

[43] (B) by adding "and" at the end of subparagraph (C), and

[43] (C) by inserting after subparagraph (C) the following new subparagraph:

"(D) provides the Secretary periodically (but at least annually) with a list containing the name and address of the issuer of each such policy and the name and number of each such policy (including an indication of policies that have been previously approved, newly approved, or withdrawn from approval since the previous list was provided),";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

(C) by inserting after paragraph (2) the following new paragraph:

"(3)(A) accepts a notice under section 1842(h)(3)(B) as a claims form for benefits under such policy in lieu of any claims form otherwise required and agrees to make a payment determination on the basis of the information contained in such claims form;

"(B) where such a notice is received—

"(i) provides notice to such physician or supplier and the beneficiary of the payment determination, and

"(ii) provides any appropriate payment directly to the participating physician or supplier involved;

"(C) provides each enrollee at the time of enrollment a card listing the policy name and number and a single mailing address to which notices under section 1842(h)(3)(B) respecting the policy are to be sent;

"(D) agrees to pay any user fees established under section 1842(h)(3)(B) with respect to information transmitted to the issuer of the policy; and

"(E) provides to the Secretary at least annually, for transmittal to carriers, a single mailing address to which notices under section 1842(h)(3)(B) respecting the policy are to be sent.".

Contracts.
42 USC 1395u note.

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to contracts with carriers for claims for items and services furnished by participating physicians and suppliers on or after January 1, 1989.

---

[43] Paragraphs (B) and (C) were indented wrong.

42 USC 1395ss note.

(2)(A) The amendments made by subsection (b) shall apply to medicare supplemental policies as of January 1, 1989 (or, if applicable, the date established under subparagraph (B)).

(B) In the case of a State which the Secretary of Health and Human Services identifies as—

(i) requiring State legislation (other than legislation appropriating funds) in order for medical supplemental policies to be changed to meet the requirements of section 1882(c)(3) of the Social Security Act, and

(ii) having a legislature which is not scheduled to meet in 1988 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1989, and in which legislation described in clause (i) may be considered.

SEC. 4082. REVISION OF PART B HEARINGS.

(a) CLARIFICATION OF OBRA AMENDMENT.—Section 1869(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ff(b)(3)(B)) is amended[43a] by striking "chapter 5" and inserting "section 553".

(b) EXPEDITED ADMINISTRATIVE HEARING WHERE ONLY ISSUES OF LAW.—Section 1869(b) of such Act (42 U.S.C. 1395ff(b)) is amended by adding at the end the following new paragraph:

"(5) In an administrative hearing pursuant to paragraph (1), where the moving party alleges that there are no material issues of fact in dispute, the administrative law judge shall make an expedited determination as to whether any such facts are in dispute and, if not, shall determine the case expeditiously.".

(c) TIMELY CARRIER HEARINGS ON PART B APPEALS.—Section 1842(b)(5) of such Act (42 U.S.C. 1395u(b)(5)) is amended—

(1) by inserting "(A)" after "(5)", and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall establish standards for evaluating carriers' performance of reviews of initial carrier determinations and of fair hearings under paragraph (3)(C), under which a carrier is expected—

"(i) to complete such reviews, within 45 days after the date of a request by an individual enrolled under this part for such a review, in 95 percent of such requests, and

"(ii) to make a final determination, within 120 days after the date of receipt of a request by an individual enrolled under this part for a fair hearing under paragraph (3)(C), in 90 percent of such cases.".

42 USC 1395u note.

Reports.

(d) GAO STUDY.—The Comptroller General shall conduct a study concerning the cost effectiveness of requiring hearings with a carrier under part B of title XVIII of the Social Security Act before having a hearing before an administrative law judge respecting carrier determinations under that part. The Comptroller General shall report to the Congress on the results of such study by not later than June 30, 1989.

42 USC 1395ff note.

(e) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

[43a] Copy read "is amended is amended".

(2) The amendment made by subsection (b) shall apply to requests for hearings filed after the end of the 60-day period beginning on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply to evaluation of performance of carriers under contracts entered into or renewed on or after October 1, 1988.

42 USC 1395u note.

SEC. 4083. PROVISIONS RELATING TO PHYSICIAN PAYMENT REVIEW COMMISSION.

(a) REVISION OF APPOINTMENT PROCESS FOR THE PHYSICIAN PAYMENT REVIEW COMMISSION.—

(1) IN GENERAL.—Section 1845(a) of the Social[43b] Security Act (42 U.S.C. 1395w-1(a)(3)) is amended—

(A) in paragraph (1), by striking "with expertise in the provision and financing of physicians' services" and inserting "with national recognition for their expertise in health economics, physician reimbursement, medical practice, and other related fields"; and

(B) in paragraph (3), by striking the last sentence.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to appointments made after the date of the enactment of this Act.

42 USC 1395w-1 note.

(b) TREATMENT OF EMPLOYEES FOR CERTAIN PURPOSES.—

(1) IN[44] GENERAL.—Section 1886(e)(6)(D) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(D)) is amended by adding at the end the following: "For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

42 USC 1395ww note.

(c) CHANGE IN DATE FOR ANNUAL REPORT OF PHYSICIAN PAYMENT REVIEW COMMISSION.—

(1) Section 1845(b)(1) of such Act (42 U.S.C. 1395w-1(b)(1)) is amended by striking "March 1" and inserting "March 31".

(2) The amendment made by paragraph (1) shall apply with respect to reports for years after 1987.

42 USC 1395w-1 note.

SEC. 4084. TECHNICAL AMENDMENTS RELATED TO CERTIFIED REGISTERED NURSE ANESTHETISTS.

(a) IN GENERAL.—Section 1833(l) of the Social Security Act (42 U.S.C. 1395l(l)), as added by section 9320(e) of the Omnibus Budget Reconciliation Act of 1986, is amended—

(1) in paragraph (2), by striking "1985" and inserting "1985 and such other data as the Secretary determines necessary"; and

(2) in paragraph (5)(A), by striking "or group practice" each place it appears and inserting "group practice, or ambulatory surgical center".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as if included in the amendment made by section 9320(e)(2) of the Omnibus Budget Reconciliation Act of 1986.

42 USC 1395*l* note.

[43b] Copy read "of Social".

[44] Copy read "General.".

SEC. 4085. MISCELLANEOUS AND TECHNICAL PROVISIONS.

(a) PROMPT SUBMITTAL OF DATA BY SECRETARY.—Section 1845 of the Social Security Act (42 U.S.C. 1395w-1) is amended by adding at the end the following new subsection:

"(f)(1) Not later than October 1st of each year (beginning with 1988), the Secretary shall transmit to the Physician Payment Review Commission, to the Congressional Budget Office, and to the Congressional Research Service of the Library of Congress national data (known as the Part B Medicare Annual Data System) for the previous year respecting part B of this title.

"(2) In order to ensure that the data are available for transmittal under paragraph (1) on a timely basis, the Secretary shall require, in the standards and criteria established under section 1842(b)(2), that carriers submit data for a year under the system referred to in paragraph (1) not later than July 1st of the following year.

"(3) The Secretary, in consultation with the Physician Payment Review Commission, the Congressional Budget Office, and the Congressional Research Service of the Library of Congress, shall establish and annually revise standards for the data reporting system described in paragraph (1).

"(4) The Secretary shall also provide to the entities described in paragraph (1) additional data respecting the program under this part as may be reasonably requested by them on an agreed-upon schedule.

"(5) The Secretary shall develop, in consultation with the Physician Payment Review Commission, the Congressional Budget Office, and the Congressional Research Service of the Library of Congress, a system for providing to each of such entities on a quarterly basis summary data on aggregate expenditures under this part by type of service and by type of provider. Such data shall be provided not later than 90 days after the end of each quarter (for quarters beginning with the calendar quarter ending on March 31, 1989).".

(b) CLARIFICATION OF PENALTIES FOR UNASSIGNED LABORATORY SERVICES.—

(1) IN GENERAL.—Section 1833(h)(5) of the Social Security Act (42 U.S.C. 1395l(h)(5)) is amended by adding at the end the following new subparagraph:

"(D) If a person knowingly and willfully and on a repeated basis bills an individual enrolled under this part for charges for a clinical diagnostic laboratory test for which payment may only be made on an assignment-related basis under subparagraph (C), the Secretary may apply sanctions against the person in the same manner as the Secretary may apply sanctions against a physician in accordance with section 1842(j)(2).".

42 USC 1395l note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to procedures performed on or after January 1, 1988.

(c) EXTENSION OF MORATORIUM ON LABORATORY PAYMENT DEMONSTRATION.—Section 9204(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 9339(e) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "January 1, 1988" and inserting "January 1, 1989". 42 USC 1395ww note.

(d) PROMPT PAYMENT FOR COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES.—

(1) Section 1816(c)(2)(C) of the Social Security Act (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "or hospice program" and

inserting "hospice program, comprehensive outpatient rehabilitation facility, or rehabilitation agency".

(2)(A) The amendment made by paragraph (1) shall apply to claims received on or after the date of enactment of this Act.

42 USC 1395h note.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816, and regulations, to such extent as may be necessary to implement the amendment made by paragraph (1).

(e) CAPACITY TO[45] SET GEOGRAPHIC PAYMENT LIMITS.—The Secretary of Health and Human Services shall develop the capability to implement (for services furnished on or after January 1, 1989) geographic limits on charges and payments under part B of title XVIII of the Social Security Act for physicians' services based on statewide, regional, or national average (or percentile in a distribution) of prevailing charges or payment amounts (weighted by frequency of services). Any such limits shall take into account adjustments for geographic differences in cost of practice and cost of living.

42 USC 1395u note.

(f) DELAY IN EFFECTIVE DATE FOR ESTABLISHING PHYSICIAN IDENTIFIER SYSTEM.—Section 9202(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "July 1, 1987" and inserting "October 1, 1988".

42 USC 1395ww note.

(g) DATE FOR APPLYING CIVIL PENALITIES FOR IMPROPER USE OF ASSISTANTS IN PERFORMING CATARACT SURGERY.—

(1) Section 1842(k) of the Social Security Act (42 U.S.C. 1395u(k)) is amended in paragraphs (1) and (2) by striking "(j)(2)" each place it appears and inserting "(j)(2) in the case of surgery performed on or after March 1, 1987".

(2) The amendment made by paragraph (1) shall be effective as if included in section 9307(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

42 USC 1395u note.

(h) UTILIZATION SCREENS FOR PHYSICIAN SERVICES PROVIDED TO PATIENTS IN REHABILITATION HOSPITALS.—

42 USC 1395u note.

(1) The Secretary of Health and Human Services shall establish (in consultation with appropriate physician groups, including those representing rehabilitative medicine) a separate utilization screen for physician visits to patients in rehabilitation hospitals and rehabilitative units (and patients in long-term care hospitals receiving rehabilitation services) to be used by carriers under section 1842 of the Social Security Act in performing functions under subsection (a) of such section related to the utilization practices of physicians in such hospitals and units.

(2) Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall take appropriate steps to implement the utilization screen established under paragraph (1).

(i) TECHNICAL AMENDMENTS.—

(1) Section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) is amended—

(A) in paragraphs (1)(D)(i) and (2)(D)(i), by striking, "on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1)," and inserting "on an assignment-related basis";

---

[45] Copy read "TO".

(B) in paragraph (1), by striking "and" before "(G)"; and

(C) in subsection (b)(3)(A), by striking "on the basis of an assignment described in section 1842(b)(3)(B)(ii), under the procedure described in section 1870(f)(1)" and inserting "on an assignment-related basis".

(2) Section 1833(h)(1)(C) of such Act (42 U.S.C. 1395l(h)(1)(C)) is amended by inserting before the period the following: ", and ending on December 31, 1989. For such tests furnished on or after January 1, 1990, the fee schedule shall be established on a nationwide basis".

(3) Section 1833(h)(5)(A) of such Act (42 U.S.C. 1395l(h)(5)(A)) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) in the case of a clinical diagnostic laboratory test provided under an arrangement (as defined in section 1861(w)(1)) made by a hospital, payment shall be made to the hospital.".

(4) Section 1835(a)(2)(C) of such Act (42 U.S.C. 1395n(a)(2)(C)) is amended by striking the second comma at the end of clause (i).

(5) Section 1842(b)(3)(C) of such Act (42 U.S.C. 1395u(b)(3)(C)) is amended by striking "not more than" and inserting "less than".

(6) Section 1842(h)(5) of such Act (42 U.S.C. 1395u(h)(5)) is amended by striking "the" before "participation".

(7) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, section 1842(j)(1) of the Social Security Act (42 U.S.C. 1395u(j)(1)) is amended—

(A) in subparagraph (C)(i), by inserting "maximum allowable" after "If the physician's",

(B) in subparagraph (C)(v), by striking "1987" and inserting [46] "1986", and

(C) by adding at the end of subparagraph (C) the following new clause:

"(vii) In the case of a nonparticipating physician who was a participating physician during a previous period, for the purpose of computing the physician's maximum allowable actual charge during the physician's period of nonparticipation, the physician shall be deemed to have had a maximum allowable actual charge during the period of participation, and such deemed maximum allowable actual charge shall be determined accordingly to clauses (i) through (vi).".

(8) Paragraph (4) of section 1845(e) of the Social Security Act (42 U.S.C. 1395w-1(e)) is amended by moving the alignment of each of its provisions (including any clauses therein) 2 ems to the left.

(9) Section 1861(b)(4) of such Act (42 U.S.C. 1395x(b)(4)) is amended by striking the comma before "anesthesia" and inserting "and" and by striking "certified" the second place it appears.

(10) The heading of subsection (g) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Outpatient Occupational Therapy Services".

(11) Section 1861(s) of such Act (42 U.S.C. 1395x(s)), as amended by section 9367(a) of this Act, is amended by striking "which—" before paragraph (15) and all that follows through

---

[46] Copy read "insert".

the end of paragraph (16) and inserting the following: "which would not be included under subsection (b) if it were furnished to an inpatient of a hospital.".

(12) Section 1861(v)(5)(A) of such Act (42 U.S.C. 1395x(v)(5)(A)) is amended by striking "section 1861(p)" and "section 1861(g)" and inserting "subsection (p)" and "subsection (g)", respectively.

(13) The heading of subsection (bb) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Services of a Certified Registered Nurse Anesthetist".

(14) The heading of subsection (ee) of section 1861 of such Act (42 U.S.C. 1395x) is amended to read as follows:

"Discharge Planning Process".

(15) Section 1862(a)(1)(A) of such Act (42 U.S.C. 1395y(a)(1)(A)) is amended by striking "or (D)" and inserting "(D), or (E)".

(16) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "an patient" and inserting "a patient".

(17) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, section 1866(g) of the Social Security Act (42 U.S.C. 1395cc(g)) is amended by striking "for a hospital outpatient service" and all that follows through "subsection (a)(1)(H)" and inserting "inconsistent with an arrangement under subsection (a)(1)(H) or in violation of the requirement for such an arrangement".

(18) Section 1869(a) of the Social Security Act (42 U.S.C. 1395ff(a)) is amended by inserting "or a claim for benefits with respect to home health services under part B" before "shall".

(19) Section 1869(b)(2) of such Act (42 U.S.C. 1395ff(b)(2)) is amended by inserting "and (1)(D)" after "paragraph (1)(C)" each place it appears.

(20) Section 1875(c)(3)(B) of such Act (42 U.S.C. 1395ll(c)(3)(B)) is amended by striking "years 1987" and inserting "year 1987".

(21) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986—

(A) section 9313(d)(3) of such Act is amended by striking "2 years after the date of the enactment of this Act" and inserting "January 1, 1990"; 42 USC 1395*ll* note.

(B) section 9332(a)(3) of such Act is amended by inserting before the period at the end the following: "or in increasing the proportion of total payments for physicians' services which are payments for such services rendered by participating physicians"; 42 USC 1395u note.

(C) section 9335(j)(2) of such Act is amended by inserting before the period at the end the following: "except that, until network administrative organizations are established under section 1881(c)(1)(A) of the Social Security Act (as amended by subsection (d)(1) of this section), the distribution of payments described in the last sentence of section 1881(b)(7) of such Act shall be made based on the distribution of payments under section 1881 of such Act to network administrative organizations for fiscal year 1986"; and 42 USC 1395rr note.

(D) section 9343 of such Act is amended— 42 USC 1395*l*.

(i) amending subparagraph (A) of subsection (e)(2) to read as follows:

"(2)(A) Section 1833 (42 U.S.C. 1395l) is amended—

"(i) in subsection (a)(1)(F), by striking '(i)(3)' and inserting '(i)(4)', and

"(ii) in subsection (b)(3), by striking 'or under subsection (i)(2) or (i)(4)'.";

42 USC 1395*l* note.

(ii) in subsection (h)(2), by striking "(d)" and inserting "(c)" and by adding at the end the following: "The amendments made by subsection (c) shall apply to services furnished after June 30, 1987."; and

42 USC 1395*l* note.

(iii) in subsection (h)(4), by striking "(c)" and inserting "(d)".

PART 4—PEER REVIEW ORGANIZATIONS

SEC. 4091. CONTRACT PROVISIONS.

(a) EXTENSIONS OF PEER REVIEW CONTRACT PERIOD.—

42 USC 1320c-2 note.

(1) ONE-TIME EXTENSIONS TO PERMIT STAGGERING OF EXPIRATION DATES.—

(A) IN GENERAL.—In order to permit the Secretary of Health and Human Services an adequate time to complete contract renewal negotiations with utilization and quality control peer review organizations under part B of title XI of the Social Security Act and to provide for a staggered period of contract expiration dates, notwithstanding section 1153(c) of such Act, the Secretary may provide for extensions of existing contracts, but the total of such extensions may not exceed 24 months for any contract.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to renewals occurring on or after the date of the enactment of this Act.

(2) 3-YEAR CONTRACT PERIOD.—

(A) Section 1153(c)(3) of such Act (42 U.S.C. 1320c-2(c)(3)) is amended by striking "two" and "biennial" and inserting "three" and "triennial", respectively.

42 USC 1320c-2 note.

(B) The amendment made by subparagraph (A) shall apply with respect to contracts entered into or renewed on or after the date of the enactment of this Act.

(b) CONTRACT REQUIREMENTS.—

(1) Section 1153 of the Social Security Act (42 U.S.C. 1320c-2) is amended by adding at the end the following new subsection:

Federal Register, publication.

"(h)(1) The Secretary shall publish in the Federal Register any new policy or procedure adopted by the Secretary that affects substantially the performance of contract obligations under this section not less than 30 days before the date on which such policy or procedure is to take effect. This paragraph shall not apply to the extent it is inconsistent with a statutory deadline.

Federal Register, publication.

"(2) The Secretary shall publish in the Federal Register the general criteria and standards used for evaluating the efficient and effective performance of contract obligations under this section and shall provide opportunity for public comment with respect to such criteria and standards.

"(3) The Secretary shall regularly furnish each peer review organization with a contract under this section with a report that documents the performance of the organization in relation to the performance of other such organizations.".

(2) Section 1153(e) of such Act (42 U.S.C. 1320c-2(e)) is amended—

(A) by inserting "(1)" after "(e)";

(B) by striking "Contracting" and inserting "Except as provided in paragraph (2), contracting"; and

(C) by adding at the end the following new paragraph:

"(2) If a peer review organization with a contract under this section is required to carry out a review function in addition to any function required to be carried out at the time the Secretary entered into or renewed the contract with the organization, the Secretary shall, before requiring such organization to carry out such additional function, negotiate the necessary contractual modifications, including modifications that provide for an appropriate adjustment (in light of the cost of such additional function) to the amount of reimbursement made to the organization.".

(3) The amendments made by paragraphs (1) and (2) shall become effective on the date of enactment of this Act.

42 USC 1320c-2 note.

SEC. 4092. PREFERENCE IN CONTRACTING WITH IN-STATE ORGANIZATIONS.

(a) IN GENERAL.—Section 1153 of the Social Security Act (42 U.S.C. 1320c-2), as amended by section 4091(b)(1) of this part, is further amended by adding at the end the following new subsection:

"(i)(1) Notwithstanding any other provision of this section, the Secretary shall not renew a contract with any organization that is not an in-State organization (as defined in paragraph (3)) unless the Secretary has first complied with the requirements of paragraph (2).

Federal Register, publication.

"(2)(A) Not later than six months before the date on which a contract period ends with respect to an organization that is not an in-State organization, the Secretary shall publish in the Federal Register—

"(i) the date on which such period ends; and

"(ii) the period of time in which an in-State organization may submit a proposal for the contract ending on such date.

"(B) If one or more qualified in-State organizations submits a proposal within the period of time specified under subparagraph (A)(ii), the Secretary shall not automatically renew the current contract on a noncompetitive basis, but shall provide for competition for the contract in the same manner as a new contract under subsection (b).

"(3) For purposes of this subsection, an in-State organization is an organization that has its primary place of business in the State in which review will be conducted (or, which is owned by a parent corporation the headquarters of which is located in such State).".

42 USC 1320c-2 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts scheduled to be renewed on or after the first day of the eighth month to begin after the date of enactment of this Act.

SEC. 4093. REQUIRING REASONABLE NOTICE AND OPPORTUNITY FOR DISCUSSION PRIOR TO DENIAL OF CLAIM.

(a) IN GENERAL.—Section 1154(a)(3) of the Social Security Act (42 U.S.C. 1320c-3(a)(3)) is amended to read as follows:

"(3)(A) Subject to subparagraph (B), whenever the organization makes a determination that any health care services or items furnished or to be furnished to a patient by any practitioner or provider are disapproved, the organization shall promptly notify such patient and the agency or organization responsible for the payment of claims under title XVIII of this Act of such determination.

"(B) The notification under subparagraph (A) shall not occur until 20 days after the date that the organization has—

"(i) made a preliminary notification to such practitioner or provider of such proposed determination, and

"(ii) provided such practitioner or provider an opportunity for discussion and review of the proposed determination.

The discussion and review conducted under subparagraph (B)(ii) shall not affect the rights of a practitioner or provider to a formal reconsideration of a determination under this part (as provided under section 1155).".

42 USC 1320c-3 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations made on or after April 1, 1988.

SEC. 4094. PEER REVIEW NORMS AND EDUCATION.

(a) STANDARDS APPLIED BY PROs.—Section 1154(a)(6) of the Social Security Act (42 U.S.C. 1320c-3(a)(6)) is amended by adding after and below subparagraph (B) thereof the following:

"As a component of the norms described in clause (i) or (ii), the organization shall take into account the special problems associated with delivering care in remote rural areas, the availability of service alternatives to inpatient hospitalization, and other appropriate factors (such as the distance from a patient's residence to the site of care, family support, availability of proximate alternative sites of care, and the patient's ability to carry out necessary or prescribed self-care regimens) that could adversely affect the safety or effectiveness of treatment provided on an outpatient basis.".

(b) ON-SITE REVIEW.—Section 1154(a) of such Act (42 U.S.C. 1320c-3(a)) is amended by adding at the end the following new paragraph:

Contracts.

"(15) During each year of the contract entered into under section 1153(b), the organization shall perform significant on-site review activities, including on-site review at at least 20 percent of the rural hospitals in the organization's area.".

(c) REPORTS TO PROVIDERS AND EDUCATIONAL ACTIVITIES.—

(1)(A) Section 1154(a)(6) of such Act[47] (42 U.S.C. 1320c-3(a)(6)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(ii) by inserting "(A)" after "(6)", and

(iii) by adding at the end the following:

"(B) The organization shall—

"(i) offer to provide, several times each year, for a physician representing the organization to meet (at a hospital or at a regional meeting) with medical and administrative staff of each hospital (the services of which are reviewed by the organization) respecting the organization's review of the hospital's services for which payment may be made under title XVIII, and

---

[47] Copy read "1154(a)(6) such Act".

"(ii) publish (not less often than annually) and distribute to providers and practitioners whose services are subject to review a report that describes the organization's findings with respect to the types of cases in which the organization has frequently determined that (I) inappropriate or unnecessary care has been provided, (II) services were rendered in an inappropriate setting, or (III) services did not meet professionally recognized standards of health care.".

(B) The amendments made by subparagraph (A) shall apply to contracts under part B of title XI of the Social Security Act entered into or renewed more than 6 months after the date of the enactment of this Act.

Contracts.
42 USC 1320c-3 note.

(2)(A) Section 1154(a)(4)(B) of the Social Security Act (42 U.S.C. 1320c-3(a)(4)(B)) is amended—

(i) by inserting before the period at the end of the first sentence the following: "and whether individuals enrolled with an eligible organization have adequate access to health care services provided by or through such organization (as determined, in part, by a survey of individuals enrolled with the organization who have not yet used the organization to receive such services). The contract of each organization shall also provide that with respect to health care provided by a health maintenance organization or competitive medical plan under section 1876, the organization shall maintain a beneficiary outreach program designed to apprise individuals receiving care under such section of the role of the peer review system, of the rights of the individual under such system, and of the method and purposes for contacting the organization"; and

(ii) by striking "previous sentence" and inserting "previous two sentences".

(B) Section 1154(a)(7)(A) of such Act (42 U.S.C. 1320c-3(a)(7)(A)) is amended—

(i) by inserting "(i)" after "(A)",

(ii) by striking the semicolon and inserting "; and", and

(iii) by adding at the end thereof the following new clause:

"(ii) in the case of psychiatric and physical rehabilitation services, make arrangements to ensure that (to the extent possible) initial review of such services be made by a physician who is trained in psychiatry or physical rehabilitation (as appropriate).".

(C) The amendments made by this paragraph shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

Contracts.
42 USC 1320c-3 note.

d) PEER REVIEW EMPHASIS ON EDUCATIONAL ACTIVITIES.—

(1) Section 1153(c) of such Act (42 U.S.C. 1320c-2(c)) is amended by adding after and below paragraph (8) the following: "In evaluating the performance of utilization and quality control peer review organizations under contracts under this part, the Secretary shall place emphasis on the performance of such organizations in educating providers and practitioners (particularly those in rural areas) concerning the review process and criteria being applied by the organization.".

(2) The amendment made by paragraph (1) shall apply to contracts under part B of title XI of the Social Security Act as of January 1, 1988.

Contracts.
42 USC 1320c-2 note.

Contracts.
42 USC 1320c-5 note.

(e) TELECOMMUNICATIONS DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services shall enter into agreements with entities submitting applications under this subsection (in such form as the Secretary may provide) to establish demonstration projects to examine the feasability of requiring instruction and oversight of rural physicians, in lieu of imposing sanctions, through use of video communication between rural hospitals and teaching hospitals under this title. Under such demonstration projects, the Secretary may provide for payments to physicians consulted via video communication systems. No funds may be expended under the demonstration projects for the acquisition of capital items including computer hardware.

SEC. 4095. PREEXCLUSION HEARINGS.

(a) IN GENERAL.—Section 1156(b) of the Social Security Act (42 U.S.C. 1320c-5(b)) is amended by adding at the end the following new paragraph:

"(5) Before the Secretary may effect an exclusion under paragraph (2) in the case of a provider or practitioner located in a rural health manpower shortage area (HMSA) or in a county with a population of less than 70,000, the provider or practitioner adversely affected by the determination is entitled to a hearing before an administrative law judge (described in section 205(b)) respecting whether the provider or practitioner should be able to continue furnishing services to individuals entitled to benefits under this Act, pending completion of the administrative review procedure under paragraph (4). If the judge does not determine, by a preponderance of the evidence, that the provider or practitioner will pose a serious risk to such individuals if permitted to continue furnishing such services, the Secretary shall not effect the exclusion under paragraph (2) until the provider or practitioner has been provided reasonable notice and opportunity for an administrative hearing thereon under paragraph (4).".

42 USC 1320c-5 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made by the Secretary of Health and Human Services under section 1156(b) of the Social Security Act on or after the date of the enactment of this Act.

42 USC 1320c-5 note.

(c) TRANSITION FOR CURRENT CASES.—In the case of a practitioner or person—

(1) for whom a notice of determination under section 1156(b) of the Social Security Act has been provided within 365 days before the date of the enactment of this Act,

(2) who has not exhausted the administrative remedies available under section 1156(b)(4) of such Act for review of the determination, and

(3) who requests, within 90 days after the date of the enactment of this Act, a hearing established under this subsection,

the Secretary of Health and Human Services shall provide for a hearing described in section 1156(b)(5) of the Social Security Act (as amended by subsection (a) of this section).

42 USC 1320c-5 note.

(d) REDETERMINATIONS IN CERTAIN CASES.—If, in hearing under subsection (c), the judge does not determine, by a preponderance of the evidence, that the provider or practitioner will pose a serious risk to individuals entitled to benefits under title XVIII of the Social Security Act if permitted to continue or resume furnishing such services, the Secretary shall not effect the exclusion (or shall suspend the exclusion, if previously effected) under paragraph (2) of section 1156(b) of such Act until the provider or practitioner has been provided an administrative hearing thereon under paragraph (4) of such section, notwithstanding any failure by the provider or practitioner to request the hearing on a timely basis.

(e) REPORT ON IMPROVEMENTS IN PROCEDURES FOR IMPOSING SANCTIONS.—Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Congress on the improved procedures for imposing sanctions against a practitioner or person under section 1156 of the Social Security Act established through agreement by the Health Care Financing Administration, the American Association of Retired Persons, the American Medical Association, and the Office of the Inspector General in the Department of Health and Human Services. The report shall set forth such improved procedures, describe the response of physicians and providers to the procedures, assess whether the procedures effect an appropriate balance between procedural fairness and the need for ensuring quality medical care, comment on the alternative provider-patient notification procedure contained in the agreement, and recommend whether such procedures should apply to institutional providers of health care services.

SEC. 4096. LIMITATION OF BENEFICIARY LIABILITY FOR SERVICES DISALLOWED BY PEER REVIEW ORGANIZATIONS.

(a) PART B SERVICES.—

(1) Section 1842 of the Social Security Act (42 U.S.C 1395u) is amended—

(A) in subsection (b)(3)(ii), by inserting "(and to refund amounts already collected)" after "agrees not to charge", and by striking "and (II)" and inserting ", (II) the physician or other person furnishing such service agrees not to charge (and to refund amounts already collected) for services for which payment under this title is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B), and (III)";

(B) in subsection (l)(1)(A)(iii), by inserting "(I)" after "(iii)" and by inserting before the comma the following: "or (II) payment under this title for such services is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B)"; and

(C) in subsection (l)(1)(C), by inserting "in the case described in subparagraph (A)(iii)(I)" after "to an individual".

(2) Section 1870(f) of such Act (42 U.S.C. 1395gg(f)) is amended by striking "that the reasonable charge is the full charge for the services" each place it appears and inserting "to the terms specified in subclauses (I) and (II) of section 1842(b)(3)(B)(ii) with respect to the services".

(b) INDEMNIFICATION.—Section 1879(b) of such Act (42 U.S.C. 1395pp(b)) is amended—

(1) in the first sentence, by striking ", subject to the deductible and coinsurance provisions of this title,", and

(2) by adding at the end the following: "No item or service for which an individual is indemnified under this subsection shall be taken into account in applying any limitation on the amount of items and services for which payment may be made to or on behalf of the individual under this title.".

(c) PATIENT LIABILITY FOR HOSPITAL CHARGES DURING APPEAL OF DISCHARGE NOTICE.—

(1) Section 1154(e)(2) of such Act (42 U.S.C. 1320c-3(e)(2)) is amended by adding at the end thereof the following: "If the hospital requests such a review, it shall also notify the patient that the review has been requested.".

(2) Sections 1154(e)(3)(A)(i) (42 U.S.C. 1320c-3(e)(3)(A)(i)) and 1154(e)(3)(B) (42 U.S.C. 1320c-3(e)(3)(B)) of such Act are each amended by inserting "or (2)" after "paragraph (1)".

42 USC 1320c-3 note.

(d) Effective Date.—The amendments made by this section shall apply to services furnished on or after January 1, 1988.

SEC. 4097. SEPARATE FUNDING LEVELS.

(a) Aggregate Funding.—Section 1866(a)(1)(F)(i)(III) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(F)(i)(III)) is amended—

(1) by striking "1986" and inserting "1988"; and

(2) inserting "and for any direct or administrative costs incurred as a result of review functions added with respect to a subsequent fiscal year" after "inflation".

(b) Payment.—Section 1866(a)(4)(C)(ii) of such Act (42 U.S.C. 1395cc(a)(4)(C)(ii)) is amended to read as follows:

"(ii) shall not be less in the aggregate for a fiscal year—

"(I) in the case of hospitals, than the amount specified in paragraph (1)(F)(i)(III), and

"(II) in the case of facilities and agencies, than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting the activities described in subparagraph (A) with respect to such facilities or agencies under part B of title XI.".

42 USC 1395cc note.

(c) Effective Date.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 1988.

Subtitle B—Medicaid

PART 1—ELIGIBILITY AND BENEFITS

SEC. 4101. MEDICAID BENEFITS FOR POOR CHILDREN AND PREGNANT WOMEN.

(a) Medicaid Optional Coverage for Additional Low-Income Pregnant Women and Children.—

(1) Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (2)—

(i) by striking "(2) For purposes of paragraph (1)" and inserting "(2)(A) For purposes of paragraph (1) with respect to individuals described in subparagraph (A) or (B) of that paragraph",

(ii) by striking "100 percent" and inserting "185 percent", and

(iii) by adding at the end the following new subparagraph:

"(B) If a State elects, under subsection (a)(10)(A)(ii)(IX), to cover individuals not described in subparagraph (A) or (B) of paragraph (1), for purposes of that paragraph and with respect to individuals not described in such subparagraphs the State shall establish an income level which is a percentage (not more than 100 percent, or, if less, the percentage established under subparagraph (A)) of the income official poverty line described in subparagraph (A)."; and

(B) in paragraph (3)(D), by inserting "appropriate" after "applied is the".

(2) Section 1902(e)(4) of such Act (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: "During the period in which a child is deemed under the preceding sentence to be eligible for medical assistance, the medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).".

Effective date. 42 USC 1396a note.

(3) The amendments made by this subsection shall apply to medical assistance furnished on or after July 1, 1988.

(b) ALLOWING ACCELERATED COVERAGE OF CHILDREN UP[48] TO AGE 5.—

(1) Section 1902(l)(1) of such Act (42 U.S.C. 1396a(l)(1)) is amended—

(A) by inserting "and" at the end of subparagraph (B), and

(B) by striking subparagraphs (C) through (F) and inserting the following:

"(C) children born after September 30, 1983, and who have attained one year of age but have not attained 2, 3, 4, or 5 years of age (as selected by the State),".

(2)(A) Section 1902(l) of such Act is further amended—

(i) in paragraph (3)(C), by striking ", (C), (D), (E), or (F)" and inserting "or (C)", and

(ii) in paragraph (4)(B)(ii), by striking ", (D), (E), or (F)".

(B) Section 1902(e)(7) of such Act (42 U.S.C. 1396a(e)(7)) is amended by striking ", (C), (D), (E), or (F)" and inserting "or (C)".

42 USC 1396a note.

(C) Section 9401(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "(A)" after "(2)" and by striking subparagraphs (B) through (D).

Effective date. 42 USC 1396a note.

(3) The amendments made by this subsection shall apply with respect to medical assistance furnished on or after July 1, 1988.

(c) COVERAGE OF CHILDREN UP[49] TO AGE 8.—

(1) Section 1905(n)(2) of such Act (42 U.S.C. 1396d(n)(2)) is amended by striking "is under 5 years of age" and inserting "has not attained the age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)".

(2) Section 1902(l)(1)(C) of such Act, as amended by subsection (b)(1)(B), is further amended by striking "or 5 years" and inserting "5, 6, 7, or 8 years".

Effective date. 42 USC 1396d note.

(3)(A) The amendments made by this subsection shall apply to medical assistance furnished on or after October 1, 1988.

(B) For purposes of section 1905(n)(2) of the Social Security Act (as amended by subsection (a)) for medical assistance furnished during fiscal year 1989, any reference to "age of 7" is deemed to be a reference to "age of 6".

(d) PREMIUM.—

---

[48] Copy read "UP".
[49] Copy read "UP".

(1) Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a)(1), by inserting "(except for a premium imposed under subsection (c))" before the semicolon;

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following new subsection:

"(c)(1) The State plan of a State may at the option of the State provide for imposing a monthly premium (in an amount that does not exceed the limit established under paragraph (2)) with respect to an individual described in subparagraph (A) or (B) of section 1902(l)(1) who is receiving medical assistance on the basis of section 1902(a)(10)(A)(ii)(IX) and whose family income (as determined in accordance with the methodology specified in section 1902(l)(3)) equals or exceeds 150 percent of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) In no case may the amount of any premium imposed under paragraph (1) exceed 10 percent of the amount by which the family income (less expenses for the care of a dependent child) of an individual exceeds 150 percent of the line described in paragraph (1).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

"(4) A State may permit State or local funds available under other programs to be used for payment of a premium imposed under paragraph (1). Payment of a premium with such funds shall not be counted as income to the individual with respect to whom such payment is made.".

Effective date. 42 USC 1396*o* note.

(2) The amendments made by paragraph (1) shall become effective on July 1, 1988.

(e) MISCELLANEOUS PROVISIONS RELATING TO SERVICES FOR PREGNANT WOMEN AND CHILDREN.—

(1) Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in subdivision (VII) of the matter following subparagraph (E), by striking "and postpartum" and inserting "postpartum, and family planning".

(2) Section 1902(e)(5) of such Act (42 U.S.C. 1396a(e)(5)) is amended by striking "until the end of the 60-day period beginning on the last day of her pregnancy" and inserting "through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends".

(3) Section 1902(l)(3)(E) of such Act (42 U.S.C. 1396a(l)(3)(E)) is amended by inserting after "title IV" the following: "(except to the extent such methodology is inconsistent with clause (D) of subsection (a)(17))".

(4) Section 1902(l)(4)(A) of such Act (42 U.S.C. 1396a(l)(4)(A)) is amended by striking "April 17, 1986" and inserting "July 1, 1987".

(5) Section 1902(l)(4) of such Act (42 U.S.C. 1396a(l)(4)) is amended by adding at the end the following new subparagraph:

"(C) A State plan may not provide, in its election of the option of furnishing medical assistance to individuals described in paragraph (1), that such individuals must apply for benefits under part A of title IV as a condition of applying for, or receiving, medical assistance under this title.".

Effective dates.
42 USC 1396a note.

(6)(A) The amendment made by paragraph[50] (1) shall become effective on the date of enactment of this Act.

(B) The amendments made by paragraphs (2) and (3) shall be effective as if they had been included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(C) The amendment made by paragraph (4) shall apply to elections made on or after the enactment of this Act.

(D) The amendment made by paragraph (5) shall apply as if included in the enactment of section 9401 of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4102. HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY.

(a) IN GENERAL.—

(1) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended—

(A) by transferring subsection (d) to the end of such section and redesignating it as subsection (h), and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as 'medical assistance' under such plan payment for part or all of the cost of home or community-based services (other than room and board) which are provided pursuant to a written plan of care to individuals 65 years of age or older with respect to whom there has been a determination that but for the provision of such services the individuals would be likely to require the level of care provided in a skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan.

"(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

"(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

"(B) with respect to individuals 65 years of age or older who—

"(i) are entitled to medical assistance for skilled nursing or intermediate care facility services under the State plan,

"(ii) may require such services, and

"(iii) may be eligible for such home or community-based services under such waiver,

the State will provide for an evaluation of the need for such skilled nursing facility or intermediate care facility services; and

"(C) such individuals who are determined to be likely to require the level of care provided in a skilled nursing facility or intermediate care facility are informed of the feasible alternatives to the provision of skilled nursing facility or intermediate care facility services, which such individuals may choose if available under the waiver.

---

[50] Copy read "paragraphs".

Each State with a waiver under this subsection shall provide to the Secretary annually, consistent with a reasonable data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

"(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community). Subject to a termination by the State (with notice to the Secretary) at any time, a waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional 5-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met. A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under the waiver, that the maximum amount of the individual's income which may be disregarded for any month is equal to the amount that may be allowed for that purpose under a waiver under subsection (c).

"(4) A waiver under this subsection may, consistent with paragraph (2), provide medical assistance to individuals for case management services, homemaker/home health aide services and personal care services, adult day health services, respite care, and other medical and social services that can contribute to the health and well-being of individuals and their ability to reside in a community-based care setting.

"(5)(A) In the case of a State having a waiver approved under this subsection, notwithstanding any other provision of section 1903 to the contrary, the total amount expended by the State for medical assistance with respect to skilled nursing facility services, intermediate care facility services, and home and community-based services under the State plan for individuals 65 years of age or older during a waiver year under this subsection may not exceed the projected amount determined under subparagraph (B).

"(B) For purposes of subparagraph (A), the projected amount under this subparagraph is the sum of the following:

"(i) The aggregate amount of the State's medical assistance under this title for skilled nursing facility services and intermediate care facility services furnished to individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years beginning after the base year and ending before the waiver year involved or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

"(ii) The aggregate amount of the State's medical assistance under this title for home and community-based services for individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years beginning after the base year and ending before the waiver year involved or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

"(iii) The Secretary shall develop and promulgate by regulation (by not later than October 1, 1989)—

Regulations.

"(I) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise both skilled nursing facility services and intermediate care facility services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (i)(I);

"(II) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise home and community-based services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (ii)(I); and

"(III) a method for projecting, on a State specific basis, the percentage increase in the number of residents in each State who are over 75 years of age for any period.

Effective on and after the date the Secretary promulgates the regulation under clause (iii), any reference in this subparagraph to the 'lesser of 7 percent' shall be deemed to be a reference to the 'greater of 7 percent'.

"(C) In this paragraph:

"(i) The term 'home and community-based services' includes services described in sections 1905(a)(7) and 1905(a)(8), services described in subsection (c)(4)(B), services described in paragraph (4)(B), personal care services, and services furnished pursuant to a waiver under subsection (c).

"(ii)(I) Subject to subclause (II), the term 'base year' means the most recent year (ending before the date of the enactment of this subsection) for which actual final expenditures under this title have been reported to, and accepted by, the Secretary.

"(II) For purposes of subparagraph (C), in the case of a State that does not report expenditures on the basis of the age categories described in such subparagraph for a year ending before the date of the enactment of this subsection, the term 'base year' means fiscal year 1989.

"(iii) The term 'intermediate care facility services' does not include services furnished in an institution certified in accordance with section 1905(d).

"(6)(A) A determination by the Secretary to deny a request for a waiver (or extension of waiver) under this subsection shall be subject to review to the extent provided under section 1116(b).

"(B) Notwithstanding any other provision of this Act, if the Secretary denies a request of the State for an extension of a waiver under this subsection, any waiver under this subsection in effect on the date such request is made shall remain in effect for a period of not less than 90 days after the date on which the Secretary denies such request (or, if the State seeks review of such determination in accordance with subparagraph (A), the date on which a final determination is made with respect to such review).".

Effective date. 42 USC 1396n note.

(2) The amendments made by paragraph (1) shall become effective on January 1, 1988.

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(10)(A)(ii)(VI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) is amended by striking "section 1915(c)" each place it appears and inserting "subsection (c) or (d) of section 1915".

(2) Section 1915(h) of such Act, as redesignated by subsection (a), is amended by striking "(c)" and inserting in lieu thereof "(c) or (d)".

42 USC 1396n note.

(c) EXTENSION OF WAIVER.—In the case of a State which, as of December 1, 1987, has a waiver approved with respect to elderly individuals under section 1915(c) of the Social Security Act, which waiver is scheduled to expire before July 1, 1988, if the State notifies the Secretary of Health and Human Services of the State's intention to file an application for a waiver under section 1915(d) of such Act (as amended by subsection (a) of this section), the Secretary shall extend approval of the State's waiver, under section 1915(c) of such Act, on the same terms and conditions through September 30, 1988.

SEC. 4103. PHYSICIANS' SERVICES FURNISHED BY DENTISTS.

(a) CLARIFYING COVERAGE.—Section 1905(a)(5) of the Social Security Act (42 U.S.C. 1396d(a)(5)) is amended by inserting "(A)" after "(5)" and by inserting before the semicolon at the end the following: ", and (B) medical and surgical services furnished by a dentist (described in section 1861(r)(2)) to the extent such services may be performed under State law either by a doctor of medicine or by a doctor of dental surgery or dental medicine and would be described in subparagraph (A) if furnished by a physician (as defined in section 1861(r)(1))".

42 USC 1396d note.

(b) EFFECTIVE DATE.—

(1) The amendment made by subsection (a) applies (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1988, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

SEC. 4104. OPTIONAL MEDICAID COVERAGE OF INDIVIDUALS IN CERTAIN STATES RECEIVING ONLY OPTIONAL STATE SUPPLEMENTARY PAYMENTS.

Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking "or" at the end of subclause (IX) and inserting "or" at the end of subclause (X); and

(2) by adding at the end the following new subclause:

"(XI) who receive only an optional State supplementary payment based on need and paid on a regular basis, equal to the difference between the individual's countable income and the income standard used to determine eligibility for such supplementary payment (with countable income being the income remaining after deductions as established by the State pursuant to standards that are more restrictive than the standards for supplementary security income benefits under title XVI), which are available to all individuals in the State (but which may be based on different income standards by political subdivision according to cost of living differences), and which are paid by a State that does not have an agreement with the Secretary under section 1616 or 1634.".

SEC. 4105. CLARIFICATION OF COVERAGE OF CLINIC SERVICES FURNISHED TO HOMELESS OUTSIDE FACILITY.

(a) In General.—Section 1905(a)(9) of the Social Security Act (42 U.S.C. 1396d(a)(9)) is amended by inserting before the semicolon at the end the following: ", including such services furnished outside the clinic by clinic personnel to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address".

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1988, without regard to whether regulations to implement such amendment are promulgated by such date. 42 USC 1396d note.

SEC. 4106. MEDICALLY NEEDY INCOME LEVELS FOR CERTAIN 2-MEMBER COUPLES IN CALIFORNIA.

For purposes of section 1903(f)(1)(B) of the Social Security Act, for payments made to California on or after July 1, 1983, in the case of a family consisting only of two individuals both of whom are adults and at least one of whom is aged, blind, or disabled, the "highest amount which would ordinarily be paid to a family of the same size" under the State's plan approved under part A of title IV of such Act shall, at California's option, be the amount determined by the State agency to be the amount of the aid which would ordinarily be payable under such plan to a family which consists of one adult and two children and which is without any income or resources. Section 1902(a)(10)(C)(i)(III) of the Social Security Act shall not prevent California from establishing (under the previous sentence) an applicable income limitation for families described in that sentence which is greater than the income limitation applicable to other families, if California has an applicable income limitation under section 1903(f) of such Act which is equal to the maximum applicable income limitation permitted consistent with paragraph

(1)(B) of such section for families other than those described in the previous sentence.

PART 2—OTHER PROVISIONS

SEC. 4111. INCREASING THE MAXIMUM ANNUAL MEDICAID PAYMENTS THAT MAY BE MADE TO THE COMMONWEALTHS AND TERRITORIES.

(a) In General.—Subsection (c) of section 1108 of the Social Security Act (42 U.S.C. 1308) is amended to read as follows:

"(c) The total amount certified by the Secretary under title XIX with respect to a fiscal year for payment to—

"(1) Puerto Rico shall not exceed (A) $73,400,000 for fiscal year 1988, (B) $76,200,000 for fiscal year 1989, and (C) $79,000,000 for fiscal year 1990 (and each succeeding fiscal year);

"(2) the Virgin Islands shall not exceed (A) $2,430,000 for fiscal year 1988, (B) $2,515,000 for fiscal year 1989, and (C) $2,600,000 for fiscal year 1990 (and each succeeding fiscal year);

"(3) Guam shall not exceed (A) $2,320,000 for fiscal year 1988, (B) $2,410,000 for fiscal year 1989, and (C) $2,500,000 for fiscal year 1990 (and each succeeding fiscal year);

"(4) the Northern Mariana Islands shall not exceed (A) $636,700 for fiscal year 1988, (B) $693,350 for fiscal year 1989, and (C) $750,000 for fiscal year 1990 (and each succeeding fiscal year); and

"(5) American Samoa shall not exceed (A) $1,330,000 for fiscal year 1988, (B) $1,390,000 for fiscal year 1989, and (C) $1,450,000 for fiscal year 1990 (and each succeeding fiscal year).".

42 USC 1308 note.

(b) Effective Date.—The amendment made by subsection (a) shall apply to payments for fiscal years beginning with fiscal year 1988.

42 USC 1396a note.

SEC. 4112. ADJUSTMENT IN MEDICAID PAYMENT FOR INPATIENT HOSPITAL SERVICES FURNISHED BY DISPROPORTIONATE SHARE HOSPITALS.

(a) Implementation of Requirement.—

(1) A State's plan under title XIX of the Social Security Act shall not be considered to meet the requirement of section 1902(a)(13)(A) of such Act (insofar as it requires payments to hospitals to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs), as of July 1, 1988, unless the State has submitted to the Secretary of Health and Human Services, by not later than such date, an amendment to such plan that—

(A) specifically defines the hospitals so described (and includes in such definition any disproportionate share hospital described in subsection (b)(1) which meets the requirement of subsection (d)), and

(B) provides, effective for inpatient hospital services provided not later than July 1, 1988, for an appropriate increase in the rate or amount of payment for such services provided by such hospitals, consistent with subsection (c).

(2)(A) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1989, the State must submit to the Secretary of Health and Human Services by not later than such date, the State plan amendment described in paragraph (1), consistent with subsection (c).

(B) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1990, the State must submit to the Secretary of Health and Human Services by not later than such date, the State plan amendment described in paragraph (1), consistent with subsection (c).

The Secretary shall, not later than June 30 of each year in which the State is required to submit an amendment under this subsection, review each such amendment for compliance with such requirement and by such date shall approve or disapprove each such amendment. If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement. The requirement of this subsection may not be waived under section 1915(b)(4) of the Social Security Act.

(b) Hospitals Deemed Disproportionate Share.—

(1) For purposes of subsection (a)(1), a hospital which meets the requirement of subsection (d) is deemed to be a disproportionate share hospital if—

(A) the hospital's medicaid inpatient utilization rate (as defined in paragraph (2)) is at least one standard deviation above the mean medicaid inpatient utilization rate for hospitals receiving medicaid payments in the State; or

(B) the hospital's low-income utilization rate (as defined in paragraph (3)) exceeds 25 percent.

(2) For purposes of paragraph (1)(A), the term "medicaid inpatient utilization rate" means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of inpatient days attributable to patients who (for such days) were eligible for medical assistance under the State plan approved under title XIX of the Social Security Act in a period, and the denominator of which is the total number of the hospital's inpatient days in that period.

(3) For purposes of paragraph (1)(B), the term "low-income utilization rate" means, for a hospital, the sum of—

(A) the fraction (expressed as a percentage)—

(i) the numerator of which is the sum (for a period) of (I) the total revenues paid the hospital for patient services under a State plan under title XIX of the Social Security Act and (II) the amount of the cash subsidies for patient services received directly from State and local governments, and

(ii) the denominator of which is the total amount of revenues of the hospital for patient services (including the amount of such cash subsidies) in the period; and

(B) a fraction (expressed as a percentage)—

(i) the numerator of which is the total amount of the hospital's charges for inpatient hospital services which are attributable to charity care in a period, and

(ii) the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the hospital in the period.

The numerator under subparagraph (B)(i) shall not include contractual allowances and discounts (other than for indigent patients not eligible for medical assistance under a State plan approved under title XIX of the Social Security Act).

(c) Payment adjustment.—In order to be consistent with this subsection, a payment adjustment for a disproportionate share hospital must either—

(1) be in an amount equal to the product of (A) the amount paid under the State plan to the hospital for operating costs for inpatient hospital services (of the kind described in section 1886(a)(4)), and (B) the hospital's disproportionate share adjustment percentage (established under section 1886(d)(5)(F)(iv)); or

(2) provide for a minimum specified additional payment amount (or increased percentage payment) and for an increase in such a payment amount (or percentage payment) in proportion to the percentage by which the hospital's medicaid utilization rate (as defined in subsection (b)(2)) exceeds one standard deviation above the mean medicaid inpatient utilization rate for hospitals receiving medicaid payments in the State;

except that, for purposes of paragraphs (2)(A) and (2)(B), the payment adjustment for a disproportionate share hospital is consistent with this subsection if the appropriate increase in the rate or amount of payment is equal to one-third of the increase otherwise applicable under subsection (c) (in the case of paragraph (2)(A)) and two-thirds of such increase (in the case of paragraph (2)(B)).

(d) REQUIREMENT TO [51] QUALIFY AS DISPROPORTIONATE SHARE HOSPITAL.—

(1) Except as provided in paragraph (2), no hospital may be defined or deemed as a disproportionate share hospital under a State plan under title XIX of the Social Security Act or under subsection (b) of this section unless the hospital has at least 2 obstetricians who have staff privileges at the hospital and who have agreed to provide obstetric services to individuals who are entitled to medical assistance for such services under such State plan.

(2)(A) Paragraph (1) shall not apply to a hospital—

(i) the inpatients of which are predominantly individuals under 18 years of age; or

(ii) which does not offer nonemergency obstetric services to the general population as of the date of the enactment of this Act.

(B) In the case of a hospital located in a rural area (as defined for purposes of section 1886 of the Social Security Act), in paragraph (1) the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

(e) SPECIAL RULE.—A State plan shall be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs) without regard to the requirement of subsection (a) if the plan provided for payment adjustments for disproportionate share hospitals as of January 1, 1984, and if the aggregate amount of the payment adjustments under the plan for such hospitals is not less than the aggregate amount of such adjustments otherwise required to be made under such subsection.

SEC. 4113. HMO-RELATED PROVISIONS.

(a) TREATMENT OF GARDEN STATE HEALTH PLAN.—

42 USC 1396b. (1) Section 1903(m) of the Social Security Act (42 U.S.C. 1396(m)) is amended—

(A) by adding at the end the following new paragraph:

---

[51] Copy read "TO".

"(6)(A) For purposes of this subsection and section 1902(e)(2)(A), in the case of the State of New Jersey, the term 'contract' shall be deemed to include an undertaking by the State agency, in the State plan under this title, to operate a program meeting all requirements of this subsection.

Contracts.

"(B) The undertaking described in subparagraph (A) must provide—

"(i) for the establishment of a separate entity responsible for the operation of a program meeting the requirements of this subsection, which entity may be a subdivision of the State agency administering the State plan under this title;

"(ii) for separate accounting for the funds used to operate such program;

"(iii) for setting the capitation rates and any other payment rates for services provided in accordance with this subsection using a methodology satisfactory to the Secretary designed to ensure that total Federal matching payments under this title for such services will be lower than the matching payments that would be made for the same services, if provided under the State plan on a fee for service basis to an actuarially equivalent population; and

"(iv) that the State agency will contract, for purposes of meeting the requirement under section 1902(a)(30)(C), with an organization or entity that under section 1154 reviews services provided by an eligible organization pursuant to a contract under section 1876 for the purpose of determining whether the quality of services meets professionally recognized standards of health care.

Contracts.

"(C) The undertaking described in subparagraph (A) shall be subject to approval (and annual re-approval) by the Secretary in the same manner as a contract under this subsection.

Contracts.

"(D) The undertaking described in subparagraph (A) shall not be eligible for a waiver under section 1915(b)."; and

(B) in paragraph (2)(F), by striking all that precedes "a State plan may restrict" and inserting the following:

[52] "(E) In the case of—

[53] "(i) a contract with an entity described in subparagraph (G) or with a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) which meets the requirement of subparagraph (A)(ii), or

Contracts.

"(ii) a program pursuant to an undertaking described in paragraph (6) in which at least 25 percent of the membership enrolled on a prepaid basis are individuals who (I) are not insured for benefits under part B of title XVIII or eligible for benefits under this title, and (II) (in the case of such individuals whose prepayments are made in whole or in part by any government entity) had the opportunity at the time of enrollment in the program to elect other coverage of health care costs that would have been paid in whole or in part by any governmental entity,".

(2) Section 1902(e)(2)(A) of such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by striking "section 1903(m)(2)(G)" and inserting "paragraph (2)(G) or (6) of section 1903(m)".

---

[52] Copy read " '(F)".

[53] Copy read "(i)".

(b) MEDICAID MATCHING RATE FOR QUALITY REVIEW OF HMO SERVICES.—

(1) Section 1902(a)(30)(C) of such Act (42 U.S.C. 1396a(a)(30)(C)) is amended by inserting ", an entity which meets the requirements of section 1152, as determined by the Secretary," after "title XI)".

(2) Section 1902(d) of such Act (42 U.S.C. 1396a(d)) is amended—

Contracts.

(i) by inserting after "contracts with" the following: "an entity which meets the requirements of section 1152, as determined by the Secretary, for the performance of the quality review functions described in subsection (a)(30)(C), or", and

(ii) by striking "organization (or organizations)" each place it appears and inserting "such an entity or organization".

(3) Section 1903(a)(3)(C) of such Act (42 U.S.C. 1396b(a)(3)(C)) is amended by inserting "or by an entity which meets the requirements of section 1152, as determined by the Secretary," after "utilization and quality control peer review organization".

(c) FREEDOM OF CHOICE.—

(1) Section 1902(a)(23) of such Act (42 U.S.C. 1396a(a)(23)) is amended—

(A) by inserting "(A)" after "Guam, provide that", and

(B) by inserting before the semicolon at the end the following: ", and (B) an enrollment of an individual eligible for medical assistance in a primary care case-management system (described in section 1915(b)(1)), a health maintenance organization, or a similar entity shall not restrict the choice of the qualified person from whom the individual may receive services under section 1905(a)(4)(C)".

(2) Section 1902(e)(2)(A) of such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by striking "but only" and inserting "but, except for benefits furnished under section 1905(a)(4)(C), only".

Effective date.
42 USC 1396a note.

(3) The amendments made by this subsection shall apply to services furnished on and after July 1, 1988.

(d) TECHNICAL AMENDMENTS.—

(1) Section 1903(m)(2)(F) of such Act (42 U.S.C. 1396b(m)(2)(F)) is amended by striking "subparagraph (G)" and inserting "subparagraphs (E) or (G)".

(2) Section 1902(e)(2)(A) of such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by striking "section 1903(m)(2)(G)" and inserting "subparagraph (B)(iii), (E), or (G) of section 1903(m)(2)".

(e) CONTINUED ELIGIBILITY AND RESTRICTION ON DISENROLLMENT WITHOUT CAUSE FOR METROPOLITAN HEALTH PLAN HMO.—For purposes of sections 1902(e)(2)(A) and 1903(m)(2)(F) of the Social Security Act, the Metropolitan Health Plan HMO operated by the New York City public hospitals shall be treated in the same manner as a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act).

SEC. 4114. MEDICAID WAIVER FOR HOSPICE CARE FOR AIDS PATIENTS.

Section 1905(o)(1) of the Social Security Act (42 U.S.C. 1396d(o)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by striking "The" and inserting "Subject to subparagraph (B), the"; and

(3) by adding at the end the following new subparagraph:

"(B) For purposes of this title only, with respect to the definition of hospice program under section 1861(dd)(2), the Secretary may allow an agency or organization to make the assurance under subparagraph (A)(iii) of such section without taking into account any individual who is afflicted with acquired immunodeficiency syndrome.".

SEC. 4115. STATE DEMONSTRATION PROJECTS.

(a) EXTENSION OF ARIZONA HEALTH CARE DEMONSTRATION PROJECT.—

(1) Notwithstanding any limitations contained in section 1115 of the Social Security Act, but subject to paragraphs (2) and (3) of this subsection, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") upon application shall renew until September 30, 1989, approval of demonstration project number 11-P-98239/9-05 ("Arizona Health Care Cost Containment System—AHCCCS—A statewide approach to cost effective health care financing"), including all waivers granted by the Secretary under such section 1115 as of September 30, 1987.

(2) The Secretary's renewed approval of the project under paragraph (1) shall—

(A) subject to paragraph (3) be on the same terms and conditions that existed between the applicant and the Secretary as of September 30, 1987; and

(B) remain in effect through September 30, 1989, unless the Secretary finds that the applicant no longer complies with such terms and conditions.

(3) Nothing in this subsection shall be construed to prohibit or require the Secretary from granting additional waivers to the applicant—

(A) for coverage of additional optional groups, and

(B) for coverage of long-term care and other services which were not covered as of September 30, 1987.

(b) NEW YORK STATE PILOT PROGRAM FOR PRENATAL, MATERNITY, AND NEWBORN CARE.—

(1) Upon application by the State of New York and approval by the Secretary of Health and Human Services (in this subsection referred to as the "Secretary"), the State of New York (in this subsection referred to as the "State") may conduct a demonstration project in accordance with this subsection for the purpose of testing its Prenatal/Maternity/Newborn Care Pilot Program (in this subsection referred to as the "Program"), as the Program is set forth in the Prenatal Care Act of 1987 (enacted by the State in February 1987), as an alternative to existing Federal programs.

(2) Under the demonstration project conducted under this subsection—

(A) any individual who receives benefits under the Program shall not receive any of such benefits under the plan of the State under title XIX of the Social Security Act; and

(B) the Secretary shall make payments to the State with respect to individuals receiving benefits under the Program in the same amounts as would be payable for such benefits under title XIX of the Social Security Act if such individuals were receiving such benefits under such title (as determined by the Secretary).

(3) The Secretary may (with respect to the demonstration project under this subsection) waive compliance with any requirement contained in section 1902(a)(1), 1902(a)(10)(B), 1902(a)(17)(D), 1902(a)(23), 1902(a)(30), or 1903(f) of the Social Security Act which (if applied) would prevent the State from carrying out the project, effectively achieving its purpose, or receiving payments in accordance with paragraph (2)(B).

(4) As a condition of approval of the demonstration project under this subsection, the State shall provide assurances satisfactory to the Secretary that—

(A) the State will continue to make benefits available under title XIX of the Social Security Act to all pregnant women entitled to receive benefits under such title to the extent such benefits are not provided under the Program; and

(B) the State has in effect a quality assurance mechanism to ensure the quality and accessibility of the services furnished under the program.

(5)(A) The demonstration project under this subsection shall be conducted for a period not to exceed three years.

Reports.

(B) The Secretary shall conduct an evaluation of the demonstration project under this subsection and shall report the results of such evaluation to the Congress not later than one year after completion of the project.

(c) WAIVERS FOR FAMILY INDEPENDENCE PROGRAM.—Upon approval of the demonstration project relating to the Family Independence Program in the State of Washington and with respect to such project, the Secretary of Health and Human Services shall waive compliance with any requirements of sections 1902(a)(1), 1916, and 1924 of the Social Security Act, but only to the extent necessary to enable the State to carry out the project as enacted by the State of Washington in May 1987.

SEC. 4116. WAIVER AUTHORITY UNDER THE MEDICAID PROGRAM FOR THE NORTHERN MARIANA ISLANDS.

Section 1902(j) of the Social Security Act (42 U.S.C. 1396a(j)) is amended—

(1) by inserting "and the Northern Mariana Islands" after "American Samoa" the first place it appears; and

(2) by inserting "or the Northern Mariana Islands" after "American Samoa" the second place it appears.

42 USC 1396b note.

SEC. 4117. DELAY QUALITY CONTROL SANCTIONS FOR MEDICAID.

The Secretary of Health and Human Services shall not, prior to July 1, 1988, implement any reductions in payments to States pursuant to section 1903(u) of the Social Security Act (or any provision of law described in subsection (c) of section 133 of the Tax Equity and Fiscal Responsibility Act of 1982).

SEC. 4118. TECHNICAL AND MISCELLANEOUS AMENDMENTS.

(a) SECTION 2176 WAIVER TECHNICALS.—

(1) Section 1915(c)(3) of the Social Security Act (42 U.S.C. 1396n(c)(3)) is amended by striking "and section 1902(a)(10)(B) (relating to comparability)" and inserting ", section 1902(a)(10)(B) (relating to comparability), and section

1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community)".

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

42 USC 1396n note.

(b) INCREASE IN NUMBER OF INDIVIDUALS WHO MAY[54] BE SERVED UNDER MODEL HOME AND COMMUNITY-BASED SERVICES WAIVERS.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) is amended by adding at the end the following new paragraph:

"(10) No waiver under this subsection shall limit by an amount less than 200 the number of individuals in the State who may receive home and community-based services under such waiver.".

(c) KATIE BECKETT TECHNICAL.—

(1) Section 1902(e)(3)(C) of such Act (42 U.S.C. 1396a(e)(3)(C)) is amended by striking "to have a supplemental security income (or State supplemental) payment made with respect to him under title XVI" and inserting "for medical assistance under the State plan under this title".

(2) The amendment made by paragraph (1) shall be effective as if it were included in section 134 of the Tax Equity and Fiscal Responsibility Act of 1982.

42 USC 1396a note.

(d) ORGAN TRANSPLANT TECHNICAL.—

(1) Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (1), by striking the period at the end and inserting "; or", and

(B) by adding at the end the following new sentence: "Nothing in paragraph (1) shall be construed as permitting a State to provide services under its plan under this title that are not reasonable in amount, duration, and scope to achieve their purpose.".

(2) The amendments made by paragraph (1) shall be effective as if included in the enactment of section 9507 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

Effective date. 42 USC 1396b note.

(e) CIVIL MONEY PENALTY AND EXCLUSION CLARIFICATIONS.—

(1) Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a-7(a)(1)), as amended by section 3(a)(1) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), is amended by striking "or has reason to know" each place it appears and inserting "or should know".

42 USC 1320a-7a.

(2) Section 1128(d)(3)(B) of the such Act (42 U.S.C. 1320a-6(d)(3)(B)), as amended by section 2 of the Medicare and Medicaid Patient and Program Protection Act of 1987 (Public Law 100-93), is amended—

42 USC 1320a-7.

(A) by inserting "(i)" after "(B)", and

(B) by adding at the end the following new clause:

"(ii) A State health care program may provide for a period of exclusion which is longer than the period of exclusion under a program under title XVIII.".

(3) The amendment made by paragraph (1) shall apply to activities occurring before, on, or after the date of the enactment of this Act.

Effective date. 42 USC 1320a-7a note.

(f) INCORPORATION OF CERTAIN PROVISIONS RELATING TO INDIAN HEALTH SERVICE FACILITIES.—

---

[54] Copy read "WHO MAY".

(1) Section 1911 of the Social Security Act (42 U.S.C. 1396j), as amended by section 4111(g)(8) of this title, is amended—

(A) by striking "or nursing facility" each place it appears and inserting ", nursing facility, or any other type of facility which provides services of a type otherwise covered under the State plan"; and

(B) by adding at the end the following new subsection:

"(c) The Secretary is authorized to enter into agreements with the State agency for the purpose of reimbursing such agency for health care and services provided in Indian Health Service facilities to Indians who are eligible for medical assistance under the State plan.".[55]

Effective date. 42 USC 1396j note.

(2) The amendments made by paragraph (1) shall apply to health care services performed on or after the date of the enactment of this Act.

(g) FRAIL ELDERLY DEMONSTRATION PROJECT WAIVERS.—

100 Stat. 2063.

(1) Section 9412(b)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(A) in subparagraph (A), by inserting before the period at the end the following: ", including permitting the organization to assume progressively (over the initial 3-year period of the waiver) the full financial risk", and

(B) in subparagraph (B), by striking "be awarded a grant from the Robert Wood Johnson Foundation" and insert "participate in an organized initiative to replicate the findings of the On Lok long-term care demonstration project (described in section 603(c)(1) of the Social Security Amendments of 1983)".

Effective date.

(2) The amendments made by paragraph (1) shall take effect as though it were included in the Omnibus Budget Reconciliation Act of 1986.

(h) MEDICALLY NEEDY INCURRED EXPENSES.

(1) Section 1902(a)(17) of the Social Security Act (42 U.S.C. 1396a(a)(17)) is amended by striking "(whether in the form of insurance premiums or otherwise)" and inserting "(whether in the form of insurance premiums or otherwise and regardless of whether such costs are reimbursed under another public program of the State or political subdivision thereof)".

Effective date. 42 USC 1396a note.

(2) The amendment made by paragraph (1) shall apply to costs incurred after the date of the enactment of this Act.

(i) QUALIFICATIONS FOR CASE MANAGERS FOR INDIVIDUALS WITH DEVELOPMENT DISABILITIES AND CHRONIC MENTAL ILLNESS.—

(1) Section 1915(g)(1) of such Act (42 U.S.C. 1396n(g)(1)) is amended by adding at the end the following new sentence: "The State may limit the case managers available with respect to case management services for eligible individuals with developmental disabilities or with chronic mental illness in order to ensure that the case managers for such individuals are capable of ensuring that such individuals receive needed services.".

Effective date. 42 USC 1396n note.

(2) The amendment made by paragraph (1) shall take effect as though it were included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

42 USC 1396n note.

(j) HABILITATION SERVICES EFFECTIVE DATE.—Effective as if included in the enactment of section 9502 of the Consolidated Omnibus Budget Reconciliation Act of 1985, subsection (j)(1) of such section is amended by inserting before the period at the end the following: "to individuals eligible for services under a waiver granted under section 1915(c) of the Social Security Act, without regard to whether such individuals were receiving institutional services before their participation in the waiver".

---

[55] Subparagraph " "(c)" indented incorrectly.

(k) SECTION 2176 WAIVER FOR INSTITUTIONALIZED DEVELOPMENTALLY DISABLED.—Section 1915(c)(7) of the Social Security Act (42 U.S.C. 1396n(c)(7)) is amended by inserting "(A)" after "(7)" and adding at the end the following new subparagraph:

"(B) In making estimates under paragraph (2)(D) in the case of a waiver that applies only to individuals with developmental disabilities who are inpatients in a skilled nursing facility or intermediate care facility and whom the State has determined, on the basis of an evaluation under paragraph (2)(B), to need the level of services provided by an intermediate care facility for the mentally retarded, the State may determine the average per capita expenditures that would have been made in a fiscal year for those individuals under the State plan on the basis of the average per capita expenditures under the State plan for services to individuals who are inpatients in an intermediate care facility for the mentally retarded.".

(l) RENEWAL OF FREEDOM-OF-CHOICE WAIVERS.—

(1) Section 1915(h) of such Act (42 U.S.C. 1396n(h)) is amended by striking "denies such request in writing within 90 days after the date of its submission to the Secretary." and inserting ", within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the State agency in writing with respect to any additional information which is needed in order to make a final determination with respect to the request. After the date the Secretary receives such additional information, the request shall be deemed granted unless the Secretary, within 90 day of such date, denies such request.".

(2) The amendment made by paragraph (1) shall apply to requests for continuation of waivers received after the date of the enactment of this Act.

Effective date.
42 USC 1396n note.

(m) REPEAL OF COORDINATED AUDIT REQUIREMENT.—

(1)(A) Section 1129 of such Act (42 U.S.C. 1320a-8) is repealed.

(B) Section 1902(a)(42) of such Act (42 U.S.C. 1396a(a)(42)) is amended—

(i) by striking "(A)", and

(ii) by striking ", (B)" and all that follows up to the semicolon at the end.

(2) The amendments made by paragraph (1) shall apply to audits conducted after the date of the enactment of this Act.

Effective date.
42 USC 1396a note.
42 USC 1396b note.

(n) TEMPORARY TECHNICAL ERROR DEFINITION.—For purposes of section 1903(u)(1)(E)(ii) of the Social Security Act, effective for the period beginning on the date of enactment of this Act and ending December 31, 1988, a "technical error"[56] is an error in eligibility condition (such as assignment of social security numbers and assignment of rights to third-party benefits as a condition of eligibility) that, if corrected, would not result in a difference in the amount of medical assistance paid.

---

[56] Copy read " 'technical error' ".

(o) **Technical Amendments Relating to New Jersey Respite Care Pilot Project.**—

(1) Section 9414(b) of the Omnibus Budget Reconciliation Act of 1986 is amended— 100 Stat. 2064.

(A) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively,

(B) by inserting after paragraph (1) the following new paragraph:

"(2) provide that the State may submit a detailed proposal describing the project (in lieu of a formal request for the waiver of applicable provisions of title XIX of the Social Security Act) and that submission of such a description by the State will be treated as such a request for purposes of subsection (g),", and

(C) in paragraph (3), as redesignated by [56a] paragraph (1) of this subsection, by striking "if the project" and all that follows through "Act" the second place it appears and inserting "the State shall utilize a post-eligibility cost-sharing formula based on the available income of participants with income in excess of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981)".

(2)(A) Section 9414(a) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "elderly and disabled individuals" and inserting "eligible individuals".

(B) Section 9414(c) of the Omnibus Budget Reconciliation Act of 1986 is amended to read as follows:

"(c) Definitions.—For purposes of this section—

"(1) the term 'eligible individual' means an individual—

"(A) who is elderly or disabled,

"(B)(i) whose income (not including the income of the spouse or family of the individual) does not exceed 300 percent of the amount in effect under section 1611(a)(1)(A) of the Social Security Act (as increased pursuant to section 1617 of such Act), or

"(ii) in the case of an individual and spouse who are both dependent on a caregiver, whose combined incomes do not exceed such amount,

"(C) whose liquid resources (as declared by the individual) do not exceed $40,000,

"(D) who is at risk of institutionalization unless the individual's caregiver is provided with respite care, and

"(E) who has been determined to meet the requirements of subparagraphs (A) through (D) in accordance with an application process designed by the State; and

"(2) the term 'respite care services' shall include—

"(A) short-term and intermittent—

"(i) companion or sitter services (paid as well as volunteer),

"(ii) homemaker and personal care-services,

"(iii) adult day care, and

"(iv) inpatient care in a hospital, a skilled nursing facility, or an intermediate care facility (not to exceed a total of 14 days for any individual), and

"(B) peer support and training for family caregivers (using informal support groups and organized counseling).".

[56a] Copy read "by by".

(3) Section 9414(g) of the Omnibus Budget Reconciliation Act of 1986 is amended by inserting "section 1902(a)(10)(C)(i)(III)," after "section 1902(a)(10)(B),". 100 Stat. 2064.

(4) The amendments made by this subsection shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986. Effective date.

(p) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) Subclause (IX) of section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended by moving it 4 ems to the right so as to align its left margin with that of subclause (VIII) of that section.

(2) Subclause (X) of section 1902(a)(10)(A)(ii) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended by moving it 2 ems to the right so as to align its left margin with that of subclause (VIII) of that section.

(3) Section 1902(a)(17) of such Act (42 U.S.C. 1396a(a)(17)) is amended by striking "subsection (l)(3)" and inserting "subsections (l)(3), (m)(4), and (m)(5)".

(4) Section 1902(a)(30)(C) of such Act (42 U.S.C. 1396(a)(30)(C)) is amended by striking "provide" and inserting "use". 42 USC 1396a.

(5) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting ", 1902(a)(10)(A)(ii)(X), or 1905(p)(1)" after "1902(a)(10)(A)(ii)(IX)".

(6) Paragraph (9) of section 1902(e) of such Act (42 U.S.C. 1396a(e)) is amended by moving the paragraph 2 ems to the left so as to align the left margin of subparagraph (A) (before clause (i)) and subparagraphs (B) and (C) with the left margin of paragraph (8).

(7) Section 1902(l)(1) of such Act (42 U.S.C. 1396a(l)(1)) is amended—

(A) by striking "(1)(l) Individuals" and inserting "(l)(1) Individuals",

(B) by moving the matter before subparagraph (A) 2 ems to the left so it is indented only once, and

(C) by striking ", whose" and inserting "and whose".

(8) Sections 1902(l)(2), 1902(m)(2)(A), 1905(p)(2)(A), and 501(b)(2) of such Act (42 U.S.C. 1396a(l)(2), 1396a(m)(2)(A), 1396d(p)(2)(A), 701(b)(2)) are each amended by striking "nonfarm".

(9) Paragraphs (1) and (2) of section 1925(a), as redesignated by section (4111(a)) of this title, are amended to read as follows: 42 USC 1396s.

"(1) AFDC.—(A) Section 402(a)(32) of this Act (relating to individuals who are deemed recipients of aid but for whom a payment is not made).

"(B) Section 402(a)(37) of this Act (relating to individuals who lose AFDC eligibility due to increased earnings).

"(C) Section 406(h) of this Act (relating to individuals who lose AFDC eligibility due to increased collection of child or spousal support).

"(D) Section 414(g) of this Act (relating to certain individuals participating in work supplementation programs).

"(2) SSI.—(A) Section 1611(e) of this Act (relating to treatment of couples sharing an accommodation in a facility).

"(B) Section 1619 of this Act (relating to benefits for individuals who perform substantial gainful activity despite severe medical impairment).

"(C) Section 1634(b) of this Act (relating to preservation of benefit status for disabled widows and widowers who lost SSI benefits because of 1983 changes in actuarial reduction formula).

"(D) Section 1634(c) of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to child's insurance benefits under section 202(d) of this Act).".

Effective date.
42 USC 1396n.

(10) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, section 9411(a)(2)(B) of such Act is amended by inserting "such" after "need for".

Subtitle C—Nursing Home Reform

PART 1—MEDICARE PROGRAM

SEC. 4201. REQUIREMENTS FOR SKILLED NURSING FACILITIES.

(a) Specification of Facility Requirements.—Title XVIII of the Social Security Act is amended—

(1) by amending subsection (j) of section 1861 (42 U.S.C. 1395x) to read as follows:

"Skilled Nursing Facility

"(j) The term 'skilled nursing facility' has the meaning given such term in section 1819(a).";

(2) by adding at the end of section 1864 (42 U.S.C. 1395aa) the following new subsection:

Contracts.

"(d) The Secretary may not enter an agreement under this section with a State with respect to determining whether an institution therein is a skilled nursing facility unless the State meets the requirements specified in section 1819(e)."; and

(3) by adding at the end of part A the following new section:

"REQUIREMENTS FOR, AND ASSURING QUALITY OF CARE IN, SKILLED NURSING FACILITIES

42 USC 1395i-3.

"Sec. 1819. (a) Skilled Nursing Facility Defined.—In this title, the term 'skilled nursing facility' means an institution (or a distinct part of an institution) which—

"(1) is primarily engaged in providing to residents—

"(A) skilled nursing care and related services for residents who require medical or nursing care, or

"(B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons,

and is not primarily for the care and treatment of mental diseases;

"(2) has in effect a transfer agreement (meeting the requirements of section 1861(l)) with one or more hospitals having agreements in effect under section 1866; and

"(3) meets the requirements for a skilled nursing facility described in subsections (b), (c), and (d) of this section.

"(b) Requirements Relating to Provision of Services.—

"(1) Quality of life.—

"(A) In general.—A skilled nursing facility must care for its residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident.

"(B) QUALITY ASSESSMENT AND ASSURANCE.—A skilled nursing facility must maintain a quality assessment and assurance committee, consisting of the director of nursing services, a physician designated by the facility, and at least 3 other members of the facility's staff, which (i) meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary and (ii) develops and implements appropriate plans of action to correct identified quality deficiencies.

"(2) SCOPE OF SERVICES AND ACTIVITIES UNDER PLAN OF CARE.—A skilled nursing facility must provide services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, in accordance with a written plan of care which—

"(A) describes the medical, nursing, and psychosocial needs of the resident and how such needs will be met;

"(B) is initially prepared, with the participation to the extent practicable of the resident or the resident's family or legal representative, by a team which includes the resident's attending physician and a registered professional nurse with responsibility for the resident; and

"(C) is periodically reviewed and revised by such team after each assessment under paragraph (3).

"(3) RESIDENTS' ASSESSMENT.—

"(A) REQUIREMENT.—A skilled nursing facility must conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity, which assessment—

"(i) describes the resident's capability to perform daily life functions and significant impairments in functional capacity;

"(ii) is based on a uniform minimum data set specified by the Secretary under subsection (f)(6)(A);

"(iii) in the case of a resident eligible for benefits under title XIX, uses an instrument which is specified by the State under subsection (e)(5); and

"(iv) in the case of a resident eligible for benefits under part A of this title, includes the identification of medical problems.

"(B) CERTIFICATION.—

"(i) IN GENERAL.—Each such assessment must be conducted or coordinated (with the appropriate participation of health professionals) by a registered professional nurse who signs and certifies the completion of the assessment. Each individual who completes a portion of such an assessment shall sign and certify as to the accuracy of that portion of the assessment.

"(ii) PENALTY FOR FALSIFICATION.—

"(I) An individual who willfully and knowingly certifies under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $1,000 with respect to each assessment.

"(II) An individual who willfully and knowingly causes another individual to certify under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $5,000 with respect to each assessment.

"(III) The Secretary shall provide for imposition of civil money penalties under this clause in a manner similar to that for the imposition of civil money penalties under section 1128A.

"(iii) USE OF INDEPENDENT ASSESSORS.—If a State determines, under a survey under subsection (g) or otherwise, that there has been a knowing and willful certification of false assessments under this paragraph, the State may require (for a period specified by the State) that resident assessments under this paragraph be conducted and certified by individuals who are independent of the facility and who are approved by the State.

"(C) FREQUENCY.—

"(i) IN GENERAL.—Such an assessment must be conducted—

"(I) promptly upon (but no later than 4 days after the date of) admission for each individual admitted on or after October 1, 1990, and by not later than October 1, 1990, for each resident of the facility on that date;

"(II) promptly after a significant change in the resident's physical or mental condition; and

"(III) in no case less often than once every 12 months.

"(ii) RESIDENT REVIEW.—The skilled nursing facility must examine each resident no less frequently than once every 3 months and, as appropriate, revise the resident's assessment to assure the continuing accuracy of the assessment.

"(D) USE.—The results of such an assessment shall be used in developing, reviewing, and revising the resident's plan of care under paragraph (2).

"(E) COORDINATION.—Such assessments shall be coordinated with any State-required preadmission screening program to the maximum extent practicable in order to avoid duplicative testing and effort.

"(4) PROVISION OF SERVICES AND ACTIVITIES.—

"(A) IN GENERAL.—To the extent needed to fulfill all plans of care described in paragraph (2), a skilled nursing facility must provide, directly or under arrangements (or, with respect to dental services, under agreements) with others for the provision of—

"(i) nursing services and specialized rehabilitative services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident;

"(ii) medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident;

"(iii) pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals) to meet the needs of each resident;

"(iv) dietary services that assure that the meals meet the daily nutritional and special dietary needs of each resident;

"(v) an on-going program, directed by a qualified professional, of activities designed to meet the interests and the physical, mental, and psychosocial well-being of each resident; and

"(vi) routine and emergency dental services to meet the needs of each resident.

The services provided or arranged by the facility must meet professional standards of quality. Nothing in clause (vi) shall be construed as requiring a facility to provide or arrange for dental services described in that clause without additional charge.

"(B) QUALIFIED PERSONS PROVIDING SERVICES.—Services described in clauses (i), (ii), (iii), (iv), and (vi) of subparagraph (A) must be provided by qualified persons in accordance with each resident's written plan of care.

"(C) REQUIRED NURSING CARE.—

"(i) IN GENERAL.—Except as provided in clause (ii), a skilled nursing facility must provide 24-hour nursing service which is sufficient to meet nursing needs of its residents and must employ the services of a registered professional nurse at least during the day tour of duty (of at least 8 hours a day) 7 days a week.

"(ii) EXCEPTION.—To the extent that clause (i) may be deemed to require that a skilled nursing facility engage the services of a registered professional nurse for more than 40 hours a week, the Secretary is authorized to waive such requirement if the Secretary finds that—

"(I) the facility is located in a rural area and the supply of skilled nursing facility services in such area is not sufficient to meet the needs of individuals residing therein,

"(II) the facility has one full-time registered professional nurse who is regularly on duty at such facility 40 hours a week, and

"(III) the facility either has only patients whose physicians have indicated (through physicians' orders or admission notes) that each such patient does not require the services of a registered nurse or a physician for a 48-hour period, or has made arrangements for a registered professional nurse or a physician to spend such time at such facility as may be indicated as necessary by the physician to provide necessary skilled nursing services on days when the regular full-time registered professional nurse is not on duty.

A waiver under this subparagraph shall be subject to annual renewal.

"(5) REQUIRED TRAINING OF NURSE AIDES.—

"(A) IN GENERAL.—A skilled nursing facility must not use (on a full-time, temporary, per diem, or other basis) any individual, who is not a licensed health professional (as defined in subparagraph (E)), as a nurse aide in the facility on or after October 1, 1989, (or January 1, 1990, in the case of an individual used by the facility as a nurse aide before

July 1, 1989) for more than 4 months unless the individual—

"(i) has completed a training and competency evaluation program, or a competency evaluation program, approved by the State under subsection (e)(1)(A), and

"(ii) is competent to provide such services.

"(B) OFFERING COMPETENCY EVALUATION PROGRAMS FOR CURRENT EMPLOYEES.—A skilled nursing facility must provide, for individuals used as a nurse aide by the facility as of July 1, 1989, for a competency evaluation program approved by the State under subsection (e)(1) and such preparation as may be necessary for the individual to complete such a program by January 1, 1990.

"(C) COMPETENCY.—The skilled nursing facility must not permit an individual, other than in a training and competency evaluation program approved by the State, to serve as a nurse aide or provide services of a type for which the individual has not demonstrated competency and must not use such an individual as a nurse aide unless the facility has inquired of the State registry established under subsection (e)(2)(A) as to information in the registry concerning the individual.

"(D) RE-TRAINING REQUIRED.—For purposes of subparagraph (A), if, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual performed nursing or nursing-related services for monetary compensation, such individual shall complete a new training and competency evaluation program.

"(E) REGULAR IN-SERVICE EDUCATION.—The skilled nursing facility must provide such regular performance review and regular in-service education as assures that individuals used as nurse aides are competent to perform services as nurse aides, including training for individuals providing nursing and nursing-related services to residents with cognitive impairments.

"(F) NURSE AIDE DEFINED.—In this paragraph, the term 'nurse aide' means any individual providing nursing or nursing-related services to residents in a skilled nursing facility, but does not include an individual—

"(i) who is a licensed health professional (as defined in subparagraph (G)), or

"(ii) who volunteers to provide such services without monetary compensation.

"(G) LICENSED HEALTH PROFESSIONAL DEFINED.—In this paragraph, the term 'licensed health professional' means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, registered professional nurse, licensed practical nurse, or licensed or certified social worker.

"(6) PHYSICIAN SUPERVISION AND CLINICAL RECORDS.—A skilled nursing facility must—

"(A) require that the medical care of every resident be provided under the supervision of a physician;

"(B) provide for having a physician available to furnish necessary medical care in case of emergency; and

"(C) maintain clinical records on all residents, which records include the plans of care (described in paragraph (2)) and the residents' assessments (described in paragraph (3)).

"(7) REQUIRED SOCIAL SERVICES.—In the case of a skilled nursing facility with more than 120 beds, the facility must have at least one social worker (with at least a bachelor's degree in social work or similar professional qualifications) employed full-time to provide or assure the provision of social services.

"(c) REQUIREMENTS RELATING TO RESIDENTS' RIGHTS.—

"(1) GENERAL RIGHTS.—

"(A) SPECIFIED RIGHTS.—A skilled nursing facility must protect and promote the rights of each resident, including each of the following rights:

"(i) FREE CHOICE.—The right to choose a personal attending physician, to be fully informed in advance about care and treatment, to be fully informed in advance of any changes in care or treatment that may affect the resident's well-being, and (except with respect to a resident adjudged incompetent) to participate in planning care and treatment or changes in care and treatment.

"(ii) FREE FROM RESTRAINTS.—The right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms. Restraints may only be imposed—

"(I) to ensure the physical safety of the resident or other residents, and

"(II) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary) until such an order could reasonably be obtained.

"(iii) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of resident groups.

"(iv) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records.

"(v) ACCOMMODATION OF NEEDS.—The right—

"(I) to reside and receive services with reasonable accommodations of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered, and

"(II) to receive notice before the room or roommate of the resident in the facility is changed.

"(vi) GRIEVANCES.—The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

"(vii) Participation in resident and family groups.—The right of the resident to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.

[57] "(viii) Participation in other activities.—The right of the resident to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

[58] "(ix) Examination of survey results.—The right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Secretary or a State with respect to the facility and any plan of correction in effect with respect to the facility.

[59] "(x) Other rights.—Any other right established by the Secretary.

Clause (iii) shall not be construed as requiring the provision of a private room.

"(B) Notice of rights and services.—A skilled nursing facility must—

"(i) inform each resident, orally and in writing at the time of admission to the facility, of the resident's legal rights during the stay at the facility;

"(ii) make available to each resident, upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights); and

"(iii) inform each other resident, in writing before or at the time of admission and periodically during the resident's stay, of services available in the facility and of related charges for such services, including any charges for services not covered under this title or by the facility's basic per diem charge.

The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (6) and a statement that a resident may file a complaint with a State survey and certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.

"(C) Rights of incompetent residents.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

"(2) Transfer and discharge rights.—

"(A) In general.—A skilled nursing facility must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility unless—

"(i) the transfer or discharge is necessary to meet the resident's welfare and the resident's welfare cannot be met in the facility;

"(ii) the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;

---

[57] Copy read " "(ix)".

[58] Copy read " "(x)".

[59] Copy read " "(xi)".

"(iii) the safety of individuals in the facility is endangered;

"(iv) the health of individuals in the facility would otherwise be endangered;

"(v) the resident has failed, after reasonable and appropriate notice, to pay (or to have paid under this title or title XIX on the resident's behalf) an allowable charge imposed by the facility for an item or service requested by the resident and for which a charge may be imposed consistent with this title and title XIX; or

"(vi) the facility ceases to operate.

In each of the cases described in clauses (i) through (v), the basis for the transfer or discharge must be documented in the resident's clinical record. In the cases described in clauses (i) and (ii), the documentation must be made by the resident's physician, and in the cases described in clauses (iii) and (iv) the documentation must be made by a physician.

"(B) PRE-TRANSFER AND PRE-DISCHARGE NOTICE.—

"(i) IN GENERAL.—Before effecting a transfer or discharge of a resident, a skilled nursing facility must—

"(I) notify the resident (and, if known, a family member of the resident or legal representative) of the transfer or discharge and the reasons therefor,

"(II) record the reasons in the resident's clinical record (including any documentation required under subparagraph (A)), and

"(III) include in the notice the items described in clause (iii).

"(ii) TIMING OF NOTICE.—The notice under clause (i)(I) must be made at least 30 days in advance of the resident's transfer or discharge except—

"(I) in a case described in clause (iii) or (iv) of subparagraph (A);

"(II) in a case described in clause (ii) of subparagraph (A), where the resident's health improves sufficiently to allow a more immediate transfer or discharge;

"(III) in a case described in clause (i) of subparagraph (A), where a more immediate transfer or discharge is necessitated by the resident's urgent medical needs; or

"(IV) in a case where a resident has not resided in the facility for 30 days.

In the case of such exceptions, notice must be given as many days before the date of the transfer or discharge as is practicable.

"(iii) ITEMS INCLUDED IN NOTICE.—Each notice under clause (i) must include—

"(I) for transfers or discharges effected on or after October 1, 1990, notice of the resident's right to appeal the transfer or discharge under the State process established under subsection (e)(3); and

"(II) the name, mailing address, and telephone number of the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965).

"(C) ORIENTATION.—A skilled nursing facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

"(3) ACCESS AND VISITATION RIGHTS.—A skilled nursing facility must—

"(A) permit immediate access to any resident by any representative of the Secretary, by any representative of the State, by an ombudsman described in paragraph (2)(B)(iii)(II), or by the resident's individual physician;

"(B) permit immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives of the resident;

"(C) permit immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident;

"(D) permit reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time; and

"(E) permit representatives of the State ombudsman (described in paragraph (2)(B)(iii)(II)), with the permission of the resident (or the resident's legal representative) and consistent with State law, to examine a resident's clinical records.

"(4) EQUAL ACCESS TO QUALITY CARE.—A skilled nursing facility must establish and maintain identical policies and practices regarding transfer, discharge, and covered services under this title for all individuals regardless of source of payment.

"(5) ADMISSIONS POLICY.—

"(A) ADMISSIONS.—With respect to admissions practices, a skilled nursing facility must—

"(i)(I) not require individuals applying to reside or residing in the facility to waive their rights to benefits under this title or under a State plan under title XIX, (II) not require oral or written assurance that such individuals are not eligible for, or will not apply for, benefits under this title or such a State plan, and (III) prominently display in the facility and provide to such individuals written information about how to apply for and use such benefits and how to receive refunds for previous payments covered by such benefits; and

"(ii) not require a third party guarantee of payment to the facility as a condition of admission (or expedited admission) to, or continued stay in, the facility.

"(B) CONSTRUCTION.—

"(i) NO PREEMPTION OF STRICTER STANDARDS.—Subparagraph (A) shall not be construed as preventing States or political subdivisions therein from prohibiting, under State or local law, the discrimination against individuals who are entitled to medical assistance under this title with respect to admissions practices of skilled nursing facilities.

"(ii) CONTRACTS WITH LEGAL REPRESENTATIVES.—Subparagraph (A)(ii) shall not be construed as preventing a facility from requiring an individual, who has legal access to a resident's income or resources available to pay for care in the facility, to sign a contract (without incurring personal financial liability) to provide payment from the resident's income or resources for such care.

"(6) PROTECTION OF RESIDENT FUNDS.—

"(A) IN GENERAL.—The skilled nursing facility—

"(i) may not require residents to deposit their personal funds with the facility, and

"(ii) once the facility accepts the written authorization of the resident, must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph.

"(B) MANAGEMENT OF PERSONAL FUNDS.—Upon a facility's acceptance of written authorization of a resident under subparagraph (A)(ii), the facility must manage and account for the personal funds of the resident deposited with the facility as follows:

"(i) DEPOSIT.—The facility must deposit any amount of personal funds in excess of $50 with respect to a resident in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credits all interest earned on such separate account to such account. With respect to any other personal funds, the facility must maintain such funds in a non-interest bearing account or petty cash fund.

"(ii) ACCOUNTING AND RECORDS.—The facility must assure a full and complete separate accounting of each such resident's personal funds, maintain a written record of all financial transactions involving the personal funds of a resident deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record.

"(iii) CONVEYANCE UPON DEATH.—Upon the death of a resident with such an account, the facility must convey promptly the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate.

"(C) ASSURANCE OF FINANCIAL SECURITY.—The facility must purchase a surety bond, or otherwise provide assurance satisfactory to the Secretary, to assure the security of all personal funds of residents deposited with the facility.

"(D) LIMITATION ON CHARGES TO PERSONAL FUNDS.—The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under this title or title XIX.

"(d) REQUIREMENTS RELATING TO ADMINISTRATION AND OTHER MATTERS.—

"(1) ADMINISTRATION.—

"(A) IN GENERAL.—A skilled nursing facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical mental, and psychosocial well-being of each resident (consistent with requirements established under subsection (f)(5)).

"(B) REQUIRED NOTICES.—If a change occurs in—

"(i) the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the facility,

"(ii) the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of the facility,

"(iii) the corporation, association, or other company responsible for the management of the facility, or

"(iv) the individual who is the administrator or director of nursing of the facility,

the skilled nursing facility must provide notice to the State agency responsible for the licensing of the facility, at the time of the change, of the change and of the identity of each new person, company, or individual described in the respective clause.

"(C) SKILLED NURSING FACILITY ADMINISTRATOR.—The administrator of a skilled nursing facility must meet standards established by the Secretary under subsection (f)(4).

"(2) LICENSING AND LIFE SAFETY CODE.—

"(A) LICENSING.—A skilled nursing facility must be licensed under applicable State and local law.

"(B) LIFE SAFETY CODE.—A skilled nursing facility must meet such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable to nursing homes; except that—

"(i) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a facility, but only if such waiver would not adversely affect the health and safety of residents or personnel, and

"(ii) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects residents of and personnel in skilled nursing facilities.

"(3) SANITARY AND INFECTION CONTROL AND PHYSICAL ENVIRONMENT.—A skilled nursing facility must—

"(A) establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment in which residents reside and to help prevent the development and transmission of disease and infection, and

"(B) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents, personnel, and the general public.

"(4) MISCELLANEOUS.—

"(A) COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND PROFESSIONAL STANDARDS.—A skilled nursing facility must operate and provide services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section[59a] 1124) and with accepted professional standards and principles which apply to professionals providing services in such a facility.

[59a] Copy read "sections".

"(B) OTHER.—A skilled nursing facility must meet such other requirements relating to the health, safety, and well-being of residents or relating to the physical facilities thereof as the Secretary may find necessary.

"(e) STATE REQUIREMENTS RELATING TO SKILLED NURSING FACILITY REQUIREMENTS.—The requirements, referred to in section 1864(d), with respect to a State are as follows:

"(1) SPECIFICATION AND REVIEW OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND OF NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—The State must—

"(A) by not later than March 1, 1989, specify those training and competency evaluation programs, and those competency evaluation programs, that the State approves for purposes of subsection (b)(5) and that meet the requirements established under clause (i) or (ii) of subsection (f)(2)(A), and

"(B) by not later than March 1, 1990, provide for the review and reapproval of such programs, at a frequency and using a methodology consistent with the requirements established under subsection (f)(2)(A)(iii).

The failure of the Secretary to establish requirements under subsection (f)(2) shall not relieve any State of its responsibility under this paragraph.

"(2) NURSE AIDE REGISTRY.—

"(A) IN GENERAL.—By not later than March 1, 1989, the State shall establish and maintain a registry of all individuals who have satisfactorily completed a nurse aide training and competency evaluation program, or a nurse aide competency evaluation program, approved under paragraph (1) in the State.

"(B) INFORMATION IN REGISTRY.—The registry under subparagraph (A) shall provide (in accordance with regulations of the Secretary) for the inclusion of specific documented findings by a State under subsection (g)(1)(C) of resident neglect or abuse or misappropriation of resident property involving an individual listed in the registry, as well as any brief statement of the individual disputing the findings. In the case of inquiries to the registry concerning an individual listed in the registry, any information disclosed concerning such a finding shall also include disclosure of any such statement in the registry relating to the finding or a clear and accurate summary of such a statement.

"(3) STATE APPEALS PROCESS FOR TRANSFERS.—The State, for transfers from skilled nursing facilities effected on or after October 1, 1990, must provide for a fair mechanism for hearing appeals on transfers of residents of such facilities. Such mechanism must meet the guidelines established by the Secretary under subsection (f)(3); but the failure of the Secretary to establish such guidelines shall not relieve any State of its responsibility to provide for such a fair mechanism.

"(4) SKILLED NURSING FACILITY ADMINISTRATOR STANDARDS.—By not later than January 1, 1990, the State must have implemented and enforced the skilled nursing facility administrator standards developed under subsection (f)(4) respecting the qualification of administrators of skilled nursing facilities.

"(5) SPECIFICATION OF RESIDENT ASSESSMENT INSTRUMENT.—Effective July 1, 1989, the State shall specify the instrument to be used by nursing facilities in the State in complying with the requirement of subsection (b)(3)(A)(iii). Such instrument shall be—

"(A) one of the instruments designated under subsection (f)(6)(B), or

"(B) an instrument which the Secretary has approved as being consistent with the minimum data set of core elements, common definitions, and utilization guidelines specified by the Secretary under subsection (f)(6)(A).

"(f) RESPONSIBILITIES OF SECRETARY RELATING TO SKILLED NURSING FACILITY REQUIREMENTS.—

"(1) GENERAL RESPONSIBILITY.—It is the duty and responsibility of the Secretary to assure that requirements which govern the provision of care in skilled nursing facilities under this title, and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of residents and to promote the effective and efficient use of public moneys.

"(2) REQUIREMENTS FOR NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND FOR NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—

"(A) IN GENERAL.—For purposes of subsections (b)(5) and (e)(1)(A), the Secretary shall establish, by not later than September 1, 1988—

"(i) requirements for the approval of nurse aide training and competency evaluation programs, including requirements relating to (I) the areas to be covered in such a program (including at least basic nursing skills, personal care skills, cognitive, behavioral and social care, basic restorative services, and residents' rights), content of the curriculum, (II) minimum hours of initial and ongoing training and retraining (including not less than 75 hours in the case of initial training), (III) qualifications of instructors, and (IV) procedures for determination of competency;

"(ii) requirements for the approval of nurse aide competency evaluation programs, including requirement relating to the areas to be covered in such a program, including at least basic nursing skills, personal care skills, cognitive, behavioral and social care, basic restorative services, residents' rights, and procedures for determination of competency; and

"(iii) requirements respecting the minimum frequency and methodology to be used by a State in reviewing such programs' compliance with the requirements for such programs.

"(B) APPROVAL OF CERTAIN PROGRAMS.—Such requirements—

"(i) may permit approval of programs offered by or in facilities, as well as outside facilities (including employee organizations), and of programs in effect on the date of the enactment of this section;

"(ii) shall permit a State to find that an individual who has completed (before July 1, 1989) a nurse aide training and competency evaluation program shall be deemed to have completed such a program approved under subsection (b)(5) if the State determines that, at the time the program was offered, the program met the requirements for approval under such paragraph; and

"(iii) shall prohibit approval of such a program—

"(I) offered by or in a skilled nursing facility which has been determined to be out of compliance with the requirements of subsection (b), (c), or (d), within the previous 2 years, or

"(II) offered by or in a skilled nursing facility unless the State makes the determination, upon an individual's completion of the program, that the individual is competent to provide nursing and nursing-related services in skilled nursing facilities.

A State may not delegate its responsibility under clause (iii)(II) to the skilled nursing facility.

"(3) FEDERAL GUIDELINES FOR STATE APPEALS PROCESS FOR TRANSFERS.—For purposes of subsections (c)(2)(B)(iii)(I) and (e)(3), by not later than October 1, 1989, the Secretary shall establish guidelines for minimum standards which State appeals processes under subsection (e)(3) must meet to provide a fair mechanism for hearing appeals on transfers of residents from skilled nursing facilities.

"(4) SECRETARIAL STANDARDS FOR QUALIFICATION OF ADMINISTRATORS.—For purposes of subsections (d)(1)(C) and (e)(4), the Secretary shall develop, by not later than March 1, 1989, standards to be applied in assuring the qualifications of administrators of skilled nursing facilities.

"(5) CRITERIA FOR ADMINISTRATION.—The Secretary shall establish criteria for assessing a skilled nursing facility's compliance with the requirement of subsection (d)(1) with respect to—

"(A) its governing body and management,

"(B) agreements with hospitals regarding transfers of residents to and from the hospitals and to and from other skilled nursing facilities,

"(C) disaster preparedness,

"(D) direction of medical care by a physician,

"(E) laboratory and radiological services,

"(F) clinical records, and

"(G) resident and advocate participation.

"(6) SPECIFICATION OF RESIDENT ASSESSMENT DATA SET AND INSTRUMENTS.—The Secretary shall—

"(A) not later than July 1, 1989, specify a minimum data set of core elements and common definitions for use by nursing facilities in conducting the assessments required under subsection (b)(3), and establish guidelines for utilization of the data set; and

"(B) by not later than October 1, 1990, designate one or more instruments which are consistent with the specification made under subparagraph (A) and which a State may specify under subsection (e)(5)(A) for use by nursing facilities in complying with the requirements of subsection (b)(3)(A)(iii).

"(7) LIST OF ITEMS AND SERVICES FURNISHED IN SKILLED NURSING FACILITIES NOT CHARGEABLE TO THE PERSONAL FUNDS OF A RESIDENT.—

"(A) REGULATIONS REQUIRED.—Pursuant to the requirement of section 21(b) of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, the Secretary shall issue regulations, on or before the first day of the seventh month to begin after the date of enactment of this section, that define those costs which may be charged to the personal funds of patients in skilled nursing facilities who are individuals receiving benefits under this part and those costs which are to be included in the reasonable cost (or other payment amount) under this title for extended care services.

"(B) RULE IF FAILURE TO PUBLISH REGULATIONS.—If the Secretary does not issue the regulations under subparagraph (A) on or before the date required in such subparagraph, in the case of a resident of a skilled nursing facility who is eligible to receive benefits under this part, the costs which may not be charged to the personal funds of such resident (and for which payment is considered to be made under this title) shall not include, at a minimum, the costs for routine personal hygiene items and services furnished by the facility.".

(b) COSTS OF MEETING REQUIREMENTS.—

42 USC 1395x.

(1) UNDER REASONABLE COST.—Section 1861(v)(1)(E) of such Act (42 U.S.C. 1395s(v)(1)(E)) is amended by adding at the end the following new sentence: "Notwithstanding the previous sentence, such regulations with respect to skilled nursing facilities shall take into account (in a manner consistent with subparagraph (A) and based on patient-days of services furnished) the costs of such facilities complying with the requirements of subsections (b), (c), and (d) of section 1819 (including the costs of conducting nurse aide training and competency evaluation programs and competency evaluation programs).".

(2) ADJUSTMENT IN PROSPECTIVE PAYMENTS.—Section 1888(d) of such Act (42 U.S.C. 1395yy(d)) is amended by adding at the end the following new paragraph:

"(7) In computing the rates of payment to be made under this subsection, there shall be taken into account the costs described in the last sentence of section 1861(v)(1)(E) (relating to compliance with nursing facility requirements and of conducting nurse aide training and competency evaluation programs and competency evaluation programs).".

Reports.
42 USC 1395i-3 note.

(c) EVALUATION.—The Secretary of Health and Human Services shall evaluate, and report to Congress by not later than January 1, 1992, on the implementation of the resident assessment process for residents of skilled nursing facilities under the amendments made by this section.

(d) CONFORMING AMENDMENT.—Section 1861(a)(2) of the Social Security Act (42 U.S.C. 1395x(a)(2)) is amended by striking "skilled nursing facility" and inserting "facility described in section 1919(a)(2) or subsection (y)(1)".

SEC. 4202. SURVEY AND CERTIFICATION PROCESS.

(a) STATE REQUIREMENT FOR PROCESS.—Title XVIII of the Social Security Act is amended—

(1) in section 1864(d) (42 U.S.C. 1395aa(d)), as added by section 4201(a)(2) of this Act, by inserting before the period "and section 1819(g)", and

(2) in section 1819, as added by section 4201(a)(3) of this Act, by adding at the end the following new subsection:

"(g) SURVEY AND CERTIFICATION PROCESS.—

"(1) STATE AND FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Pursuant to an agreement under section 1864, each State shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of skilled nursing facilities (other than facilities of the State) with the requirements of subsections (b), (c), and (d). The Secretary shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of State skilled nursing facilities with the requirements of such subsections.

"(B) EDUCATIONAL PROGRAM.—Each State shall conduct periodic educational programs for the staff and residents (and their representatives) of skilled nursing facilities in order to present current regulations, procedures, and policies under this section.

"(C) INVESTIGATION OF ALLEGATIONS OF RESIDENT NEGLECT AND ABUSE AND MISAPPROPRIATION OF RESIDENT PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of nursing facilities under this subsection, for a process for the receipt, review, and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide of a resident in a nursing facility. If the State finds, after notice to the nurse aide involved and a reasonable opportunity for a hearing for the nurse aide to rebut allegations, that a nurse aide whose name is contained in a nurse aide registry has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the nurse aide and the registry of such finding.

"(D) CONSTRUCTION.—The failure of the Secretary to establish standards under subsection (f) shall not relieve a State of its responsibility under this subsection.

"(2) SURVEYS.—

"(A) STANDARD SURVEY.—

"(i) IN GENERAL.—Each skilled nursing facility shall be subject to a standard survey, to be conducted without any prior notice to the facility. Any individual who notifies (or causes to be notified) a skilled nursing facility of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The Secretary shall provide for imposition of civil money penalties under this clause in a manner similar to that for the imposition of civil money penalties under section 1128A. The Secretary shall review each State's procedures for the scheduling and conduct of standard surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(ii) CONTENTS.—Each standard survey shall include, for a case-mix stratified sample of residents—

"(I) a survey of the quality of care furnished, as measured by indicators of medical, nursing, and rehabilitative care, dietary and nutrition services, activities and social participation, and sanitation, infection control, and the physical environment,

"(II) written plans of care provided under subsection (b)(2) and an audit of the residents' assessments under subsection (b)(3) to determine the accuracy of such assessments and the adequacy of such plans of care, and

"(III) a review of compliance with residents' rights under subsection (c).

"(iii) FREQUENCY.—

"(I) IN GENERAL.—Each skilled nursing facility shall be subject to a standard survey not later than 15 months after the date of the previous standard survey conducted under this subparagraph. The Statewide average interval between standard surveys of skilled nursing facilities under this subsection shall not exceed 12 months.

"(II) SPECIAL SURVEYS.—If not otherwise conducted under subclause (I), a standard survey (or an abbreviated standard survey) may be conducted within 2 months of any change of ownership, administration, management of a skilled nursing facility, or the director of nursing in order to determine whether the change has resulted in any decline in the quality of care furnished in the facility.

"(B) EXTENDED SURVEYS.—

"(i) IN GENERAL.—Each skilled nursing facility which is found, under a standard survey, to have provided substandard quality of care shall be subject to an extended survey. Any other facility may, at the Secretary's or State's discretion, be subject to such an extended survey (or a partial extended survey).

"(ii) TIMING.—The extended survey shall be conducted immediately after the standard survey (or, if not practical, not later than 2 weeks after the date of completion of the standard survey).

Contracts.

"(iii) CONTENTS.—In such an extended survey, the survey team shall review and identify the policies and procedures which produced such substandard quality of care and shall determine whether the facility has complied with all the requirements described in subsections (b), (c), and (d). Such review shall include an expansion of the size of the sample of residents' assessments reviewed and a review of the staffing, of in-service training, and, if appropriate, of contracts with consultants.

"(iv) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an extended or partial extended survey as a prerequisite to imposing a sanction against a facility under subsection (h) on the basis of findings in a standard survey.

"(C) SURVEY PROTOCOL.—Standard and extended surveys shall be conducted—

"(i) based upon a protocol which the Secretary has developed, tested, and validated by not later than October 1, 1990, and "(ii) by individuals, of a survey team, who meet such minimum qualifications as the Secretary establishes by not later than such date.

The failure of the Secretary to develop, test, or validate such protocols or to establish such minimum qualifications shall not relieve any State of its responsibility (or the Secretary of the Secretary's responsibility) to conduct surveys under this subsection.

"(D) CONSISTENCY OF SURVEYS.—Each State and the Secretary shall implement programs to measure and reduce inconsistency in the application of survey results among surveyors.

"(E) SURVEY TEAMS.—

"(i) IN GENERAL.—Surveys under this subsection shall be conducted by a multidisciplinary team of professionals (including a registered professional nurse).

"(ii) PROHIBITION OF CONFLICTS OF INTEREST.—A State may not use as a member of a survey team under this subsection an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the facility surveyed respecting compliance with the requirements of subsections (b), (c), and (d), or who has a personal or familial financial interest in the facility being surveyed.

"(iii) TRAINING.—The Secretary shall provide for the comprehensive training of State and Federal surveyors in the conduct of standard and extended surveys under this subsection, including the auditing of resident assessments and plans of care. No individual shall serve as a member of a survey team unless the individual has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary.

"(3) VALIDATION SURVEYS.—

"(A) IN GENERAL.—The Secretary shall conduct onsite surveys of a representative sample of skilled nursing facilities in each State, within 2 months of the date of surveys conducted under paragraph (2) by the State, in a sufficient number to allow inferences about the adequacies of each State's surveys conducted under paragraph (2). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under paragraph (2). If the State has determined that an individual skilled nursing facility meets the requirements of subsections (b), (c), and (d), but the Secretary determines that the facility does not meet such requirements, the Secretary's determination as to the facility's noncompliance with such requirements is binding and supersedes that of the State survey.

"(B) SCOPE.—With respect to each State, the Secretary shall conduct surveys under subparagraph (A) each year with respect to at least 5 percent of the number of skilled nursing facilities surveyed by the State in the year, but in no case less than 5 skilled nursing facilities in the State.

"(C) REMEDIES FOR SUBSTANDARD PERFORMANCE.—If the Secretary finds, on the basis of such surveys, that a State has failed to perform surveys as required under paragraph

(2) or that a State's survey and certification performance otherwise is not adequate, the Secretary shall provide for an appropriate remedy, which may include the training of survey teams in the State.

[60] "(D) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a skilled nursing facility with any of the requirements of subsections (b), (c), and (d), the Secretary may conduct a survey of the facility and, on that basis, make independent and binding determinations concerning the extent to which the skilled nursing facility meets such requirements.

"(4) INVESTIGATION OF COMPLAINTS AND MONITORING COMPLIANCE.—Each State shall maintain procedures and adequate staff to—

"(A) investigate complaints of violations of requirements by skilled nursing facilities, and

"(B) monitor, on-site, on a regular, as needed basis, a skilled nursing facility's compliance with the requirements of subsections (b), (c), and (d), if—

"(i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;

"(ii) the facility was previously found not to be in compliance with such requirements, has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or

"(iii) the State has reason to question the compliance of the facility with such requirements.

A State may maintain and utilize a specialized team (including an attorney, an auditor, and appropriate health care professionals) for the purpose of identifying, surveying, gathering and preserving evidence, and carrying out appropriate enforcement actions against chronically substandard skilled nursing facilities.

"(5) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys and certifications made respecting skilled nursing facilities, including statements of deficiencies and plans of correction,

Reports.

"(ii) copies of cost reports of such facilities filed under this title or title XIX,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICE TO OMBUDSMAN.—Each State shall notify the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) of the State's findings of noncompliance with any of the requirements of subsections (b), (c), and (d), with respect to a skilled nursing facility in the State.

"(C) NOTICE TO PHYSICIANS AND SKILLED NURSING FACILITY ADMINISTRATOR LICENSING BOARD.—If a State finds that a skilled nursing facility has provided substandard quality of care, the State shall notify—

---

[60] Copy read "“(C)".

"(i) the attending physician of each resident with respect to which such finding is made, and

"(ii) the State board responsible for the licensing of the skilled nursing facility administrator at the facility.

"(D)[60a] ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys and certifications under this subsection.".

(c) Posting Survey Results.—Section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by inserting, after "readily available form and place" in the fifth sentence, the following: ", and require (in the case of skilled nursing facilities) the posting in a place readily accessible to patients (and patients' representatives),".

SEC. 4203. ENFORCEMENT PROCESS.

(a) State Requirement.—Title XVIII of the Social Security Act is amended—

(1) in section 1864(d) (42 U.S.C. 1395aa(d)), as added by section 4201(a)(2) and as amended by section 4202(a)(1) of this Act, by inserting before the period at the end the following: "and the establishment of remedies under sections 1819(h)(2)(B) and 1819(h)(2)(C) (relating to establishment and application of remedies)"; and

(2) by adding at the end of section 1819 of such Act, as added by section 4201(a)(3) and as amended by section 4202(a)(2), the end the following new subsection:

"(h) Enforcement Process.—

"(1) In general.—If a State finds, on the basis of a standard, extended, or partial extended survey under subsection (g)(2) or otherwise, that a skilled nursing facility no longer meets a requirement of subsection (b), (c), or (d), and further finds that the facility's deficiencies—

"(A) immediately jeopardize the health or safety of its residents, the State shall recommend to the Secretary that the Secretary take such action as described in paragraph (2)(A)(i); or

"(B) do not immediately jeopardize the health or safety of its residents, the State may recommend to the Secretary that the Secretary take such action as described in paragraph (2)(A)(ii).

If a State finds that a skilled nursing facility meets the requirements of subsections (b), (c), and (d), but, as of a previous period, did not meet such requirements, the State may recommend a civil money penalty under paragraph (2)(B)(ii) for the days in which it finds that the facility was not in compliance with such requirements.

"(2) Secretarial authority.—

"(A) In general.—With respect to any skilled nursing facility in a State, if the Secretary finds, or pursuant to a recommendation of the State under paragraph (1) finds, that a skilled nursing facility no longer meets a requirement of subsection (b), (c), (d), or (e), and further finds that the facility's deficiencies—

[60a] Copy read " "(C)".

"(i) immediately jeopardize the health or safety of its residents, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subparagraph (B)(iii), or terminate the facility's participation under this title and may provide, in addition, for one or more of the other remedies described in subparagraph (B); or

"(ii) do not immediately jeopardize the health or safety of its residents, the Secretary may impose any of the remedies described in subparagraph (B).

Nothing in this subparagraph shall be construed as restricting the remedies available to the Secretary to remedy a skilled nursing facility's deficiencies. If the Secretary finds, or pursuant to the recommendation of the State under paragraph (1) finds, that a skilled nursing facility meets such requirements but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subparagraph (B)(ii) for the days on which he finds that the facility was not in compliance with such requirements.

"(B) Specified remedies.—The Secretary may take the following actions with respect to a finding that a facility has not met an applicable requirement:

"(i) Denial of payment.—The Secretary may deny any further payments under this title with respect to all individuals entitled to benefits under this title in the facility or with respect to such individuals admitted to the facility after the effective date of the finding.

"(ii) Authority with respect to civil money penalties.—The Secretary may impose a civil money penalty in an amount not to exceed $10,000 for each day of noncompliance and the Secretary shall impose and collect such a penalty in the same manner as civil money penalties are imposed and collected under section 1128A.

"(iii) Appointment of temporary management.—In consultation with the State, the Secretary may appoint temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the Secretary has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

The Secretary shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. In addition, the Secretary may provide for other specified remedies, such as directed plans of correction.

"(C) CONTINUATION OF PAYMENTS PENDING REMEDIATION.—The Secretary may continue payments, over a period of not longer than 6 months, under this title with respect to a skilled nursing facility not in compliance with a requirement of subsection (b), (c), or (d), if—

"(i) the State survey agency finds that it is more appropriate to take alternative action to assure compliance of the facility with the requirements than to terminate the certification of the facility,

"(ii) the State has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(iii) the facility agrees to repay to the Federal Government payments received under this subparagraph if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for approval of corrective actions requested by States under this subparagraph.

"(D) ASSURING PROMPT COMPLIANCE.—If a skilled nursing facility has not complied with any of the requirements of subsections (b), (c), and (d), within 3 months after the date the facility is found to be out of compliance with such requirements, the Secretary shall impose the remedy described in subparagraph (B)(i) for all individuals who are admitted to the facility after such date.

"(E) REPEATED NONCOMPLIANCE.—In the case of a skilled nursing facility which, on 3 consecutive standard surveys conducted under subsection (g)(2), has been found to have provided substandard quality of care, the Secretary shall (regardless of what other remedies are provided)—

"(i) impose the remedy described in subparagraph (B)(i), and

"(ii) monitor the facility under subsection (g)(4)(B), until the facility has demonstrated, to the satisfaction of the Secretary, that it is in compliance with the requirements of subsections (b), (c), and (d), and that it will remain in compliance with such requirements.

"(3) EFFECTIVE PERIOD OF DENIAL OF PAYMENT.—A finding to deny payment under this subsection shall terminate when the Secretary finds that the facility is in substantial compliance with all the requirements of subsections (b), (c), and (d).

"(4) IMMEDIATE TERMINATION OF PARTICIPATION FOR FACILITY WHERE SECRETARY FINDS NONCOMPLIANCE AND IMMEDIATE JEOPARDY.—If the Secretary finds that a skilled nursing facility has not met a requirement of subsection (b), (c), or (d), and finds that the failure immediately jeopardizes the health or safety of its residents, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(B)(iii), or the Secretary shall terminate the facility's participation under this title. If the facility's participation under this title is terminated, the State shall provide for the safe and orderly transfer of the residents eligible under this title consistent with the requirements of subsection (c)(2).

"(5) CONSTRUCTION.—The remedies provided under this subsection are in addition to those otherwise available under State or Federal law and shall not be construed as limiting such other remedies, including any remedy available to an individual at common law. The remedies described in clauses (i), (iii), and (iv) of paragraph (2)(A) may be imposed during the pendency of any hearing.

"(6) SHARING OF INFORMATION.—Notwithstanding any other provision of law, all information concerning skilled nursing facilities required by this section to be filed with the Secretary or a State agency shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under this title and title XIX, including investigations by State medicaid fraud control units.".

42 USC 1395i-3 note.

SEC. 4204. EFFECTIVE DATES.

(a) NEW REQUIREMENTS AND SURVEY AND CERTIFICATION PROCESS.—Except as otherwise specifically provided in section 1819 of the Social Security Act, the amendments made by this part shall apply to extended care services furnished on or after October 1, 1990, without regard to whether regulations to implement such amendments are promulgated by such date.

(b) WAIVER OF PAPERWORK REDUCTION.—Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this part and implementing the amendments made by this part.

42 USC 1395i-3 note.

SEC. 4205. ANNUAL REPORT.

The Secretary of Health and Human Services shall report to the Congress annually on the extent to which skilled nursing facilities are complying with the requirements of subsections (b), (c), and (d) of section 1819 of the Social Security Act (as added by the amendments made by this part) and the number and type of enforcement actions taken by States and the Secretary under section 1819(h) of such Act (as added by section 4203 of this Act).

SEC. 4206. CONSTRUCTION.

42 USC 1395i-3.

Section 1819 of the Social Security Act is amended by adding at the end the following new subsection:

"(i) CONSTRUCTION.—Where requirements or obligations under this section are identical to those provided under section 1919 of this Act, the fulfillment of those requirements or obligations under section 1919 shall be considered to be the fulfillment of the corresponding requirements or obligations under this section.".

PART 2—MEDICAID PROGRAM

SEC. 4211. REQUIREMENTS FOR NURSING FACILITIES.

(a) SPECIFICATION OF FACILITY REQUIREMENTS.—Title XIX of the Social Security Act is amended—

42 USC 1396s.

(1) by redesignating section 1922 as section 1923,

42 USC 1396r, 1396r-3.

(2) by redesignating section 1919 as section 1922 and by transferring and inserting such section after section 1921, and

(3) by inserting after section 1918 the following new section:

“REQUIREMENTS FOR NURSING FACILITIES

“Sec. 1919. (a) Nursing Facility Defined.—In this title, the term ‘nursing facility’ means an institution (or a distinct part of an institution) which— 42 USC 1396r.

“(1) is primarily engaged in providing to residents—

“(A) skilled nursing care and related services for residents who require medical or nursing care,

“(B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or

“(C) on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities,

and is not primarily for the care and treatment of mental diseases;

“(2) has in effect a transfer agreement (meeting the requirements of section 1861(l)) with one or more hospitals having agreements in effect under section 1866; and

“(3) meets the requirements for a nursing facility described in subsections (b), (c), and (d) of this section.

Such term also includes any facility which is located in a State on an Indian reservation and is certified by the Secretary as meeting the requirements of paragraph (1) and subsections (b), (c), and (d).

“(b) Requirements Relating to Provision of Services.—

“(1) Quality of life.—

“(A) In general.—A nursing facility must care for its residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident.

“(B) Quality assessment and assurance.—A nursing facility must maintain a quality assessment and assurance committee, consisting of the director of nursing services, a physician designated by the facility, and at least 3 other members of the facility’s staff, which (i) meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary and (ii) develops and implements appropriate plans of action to correct identified quality deficiencies.

“(2) Scope of services and activities under plan of care.—A nursing facility must provide services and activities to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident in accordance with a written plan of care which—

“(A) describes the medical, nursing, and psychosocial needs of the resident and how such needs will be met;

“(B) is initially prepared, with the participation to the extent practicable of the resident or the resident’s family or legal representative, by a team which includes the resident’s attending physician and a registered professional nurse with responsibility for the resident; and

“(C) is periodically reviewed and revised by such team after each assessment under paragraph (3).

“(3) Residents’ assessment.—

“(A) Requirement.—A nursing facility must conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity, which assessment—

"(i) describes the resident's capability to perform daily life functions and significant impairments in functional capacity;

"(ii) is based on a uniform minimum data set specified by the Secretary under subsection (f)(6)(A);

"(iii) in the case of a resident eligible for benefits under this title, uses an instrument which is specified by the State under subsection (e)(5); and

"(iv) in the case of a resident eligible for benefits under part A of title XVIII, includes the identification of medical problems.

"(B) CERTIFICATION.—

"(i) IN GENERAL.—Each such assessment must be conducted or coordinated (with the appropriate participation of health professionals) by a registered professional nurse who signs and certifies the completion of the assessment. Each individual who completes a portion of such an assessment shall sign and certify as to the accuracy of that portion of the assessment.

"(ii) PENALTY FOR FALSIFICATION.—

"(I) An individual who willfully and knowingly certifies under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $1,000 with respect to each assessment.

"(II) An individual who willfully and knowingly causes another individual to certify under clause (i) a material and false statement in a resident assessment is subject to a civil money penalty of not more than $5,000 with respect to each assessment.

"(III) The Secretary shall provide for imposition of civil money penalties under this clause in a manner similar to that for the imposition of civil money penalties under section 1128A.

"(iii) USE OF INDEPENDENT ASSESSORS.—If a State determines, under a survey under subsection (g) or otherwise, that there has been a knowing and willful certification of false assessments under this paragraph, the State may require (for a period specified by the State) that resident assessments under this paragraph be conducted and certified by individuals who are independent of the facility and who are approved by the State.

"(C) FREQUENCY.—

"(i) IN GENERAL.—Such an assessment must be conducted—

"(I) promptly upon (but no later than 4 days after the date of) admission for each individual admitted on or after October 1, 1990, and by not later than October 1, 1991, for each resident of the facility on that date;

"(II) promptly after a significant change in the resident's physical or mental condition; and

"(III) in no case less often than once every 12 months.

"(ii) RESIDENT REVIEW.—The nursing facility must examine each resident no less frequently than once every 3 months and, as appropriate, revise the resident's assessment to assure the continuing accuracy of the assessment.

"(D) USE.—The results of such an assessment shall be used in developing, reviewing, and revising the resident's plan of care under paragraph (2).

"(E) COORDINATION.—Such assessments shall be coordinated with any State-required preadmission screening program to the maximum extent practicable in order to avoid duplicative testing and effort.

"(F) REQUIREMENTS RELATING TO PREADMISSION SCREENING FOR MENTALLY ILL AND MENTALLY RETARDED INDIVIDUALS.—A nursing facility must not admit, on or after January 1, 1989, any new resident who—

"(i) is mentally ill (as defined in subsection (e)(7)(G)(i)) unless the State mental health authority has determined (based on an independent physical and mental evaluation performed by a person or entity other than the State mental health authority) prior to admission that, because of the physical and mental condition of the individual, the individual requires the level of services provided by a nursing facility, and, if the individual requires such level of services, whether the individual requires active treatment for mental illness, or

"(ii) is mentally retarded (as defined in subsection (e)(7)(G)(ii)) unless the State mental retardation or developmental disability authority has determined prior to admission that, because of the physical and mental condition of the individual, the individual requires the level of services provided by a nursing facility, and, if the individual requires such level of services, whether the individual requires active treatment for mental retardation.

"(4) PROVISION OF SERVICES AND ACTIVITIES.—

"(A) IN GENERAL.—To the extent needed to fulfill all plans of care described in paragraph (2), a nursing facility must provide (or arrange for the provision of)—

"(i) nursing and related services and specialized rehabilitative services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident;

"(ii) medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident;

"(iii) pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals) to meet the needs of each resident;

"(iv) dietary services that assure that the meals meet the daily nutritional and special dietary needs of each resident;

"(v) an on-going program, directed by a qualified professional, of activities designed to meet the interests and the physical, mental, and psychosocial well-being of each resident; and "(vi) routine dental services (to the extent covered under the State plan) and emergency dental services to meet the needs of each resident.

The services provided or arranged by the facility must meet professional standards of quality.

"(B) **Qualified persons providing services.**—Services described in clauses (i), (ii), (iii), (iv), and (vi) of subparagraph (A) must be provided by qualified persons in accordance with each resident's written plan of care.

"(C) **Required nursing care; facility waivers.**—

"(i) **General requirements.**—With respect to nursing facility services provided on or after October 1, 1990, a nursing facility—

"(I) except as provided in clause (ii), must provide 24-hour licensed nursing services which are sufficient to meet the nursing needs of its residents, and

"(II) except as provided in clause (ii), must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.

"(ii) **Facility waivers.**—

"(i) **Waiver by state.**—A State may waive the requirement of subclause (I) or (II) of clause (i) with respect to a facility if—

"(I) the facility demonstrates to the satisfaction of the State that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel,

"(II) the State determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility, and

"(III) the State finds that, for any such periods in which licensed nursing services are not available, a registered nurse or a physician is obligated to respond immediately to telephone calls from the facility.

A waiver under this clause shall be subject to annual review and to the review of the Secretary and subject to clause (ii) shall be accepted by the Secretary for purposes of this title to the same extent as is the State's certification of the facility. In granting or renewing a waiver, a State may require the facility to employ other qualified, licensed personnel.

"(ii) **Assumption of waiver authority by secretary.**—If the Secretary determines that a State has shown a clear pattern and practice of allowing waivers in the absence of diligent efforts by facilities to meet the staffing requirements, the Secretary shall assume and excercise the authority of the State to grant waivers.

"(5) **Required training of nurse aides.**—

"(A) **In general.**—A nursing facility must not use (on a full-time, temporary, per diem, or other basis) any individual, who is not a licensed health professional (as defined in subparagraph (E)), as a nurse aide in the facility on or after

January 1, 1990, for more than 4 months unless the individual—

"(i) has completed a training and competency evaluation program, or a competency evaluation program, approved by the State under subsection (e)(1)(A), and

"(ii) is competent to provide such services.

"(B) Offering competency evaluation programs for current employees.—A nursing facility must provide, for individuals used as a nurse aide by the facility as of July 1, 1989, for a competency evaluation program approved by the State under subsection (e)(1) and such preparation as may be necessary for the individual to complete such a program by January 1, 1990.

"(C) Competency.—The nursing facility must not permit an individual, other than in a training and competency evaluation program approved by the State, to serve as a nurse aide or provide services of a type for which the individual has not demonstrated competency and must not use such an individual as a nurse aide unless the facility has inquired of the State registry established under subsection (e)(2)(A) as to information in the registry concerning the individual.

"(D) Re-training required.—For purposes of subparagraph (A), if, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual performed nursing or nursing-related services for monetary compensation, such individual shall complete a new training and competency evaluation program.

"(E) Regular in-service education.—The nursing facility must provide such regular performance review and regular in-service education as assures that individuals used as nurse aides are competent to perform services as nurse aides, including training for individuals providing nursing and nursing-related services to residents with cognitive impairments.

"(F) Nurse aide defined.—In this paragraph, the term 'nurse aide' means any individual providing nursing or nursing-related services to residents in a nursing facility, but does not include an individual—

"(i) who is a licensed health professional (as defined in subparagraph (G)), or

"(ii) who volunteers to provide such services without monetary compensation.

"(G) Licensed health professional defined.—In this paragraph, the term 'licensed health professional' means a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, registered professional nurse, licensed practical nurse, or licensed or certified social worker.

"(6) Physician supervision and clinical records.—A nursing facility must—

"(A) require that the health care of every resident be provided under the supervision of a physician;

"(B) provide for having a physician available to furnish necessary medical care in case of emergency; and

"(C) maintain clinical records on all residents, which records include the plans of care (described in paragraph (2)) and the residents' assessments (described in paragraph (3)), as well as the results of any pre-admission screening conducted under subsection (e)(7).

"(7) REQUIRED SOCIAL SERVICES.—In the case of a nursing facility with more than 120 beds, the facility must have at least one social worker (with at least a bachelor's degree in social work or similar professional qualifications) employed full-time to provide or assure the provision of social services.

"(c) REQUIREMENTS RELATING TO RESIDENTS' RIGHTS.—

"(1) GENERAL RIGHTS.—

"(A) SPECIFIED RIGHTS.—A nursing facility must protect and promote the rights of each resident, including each of the following rights:

"(i) FREE CHOICE.—The right to choose a personal attending physician, to be fully informed in advance about care and treatment, to be fully informed in advance of any changes in care or treatment that may affect the resident's well-being, and (except with respect to a resident adjudged incompetent) to participate in planning care and treatment or changes in care and treatment.

"(ii) FREE FROM RESTRAINTS.—The right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms. Restraints may only be imposed—

"(I) to ensure the physical safety of the resident or other residents, and

"(II) only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances specified by the Secretary) until such an order could reasonably be obtained.

"(iii) PRIVACY.—The right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of resident groups.

"(iv) CONFIDENTIALITY.—The right to confidentiality of personal and clinical records.

"(v) ACCOMMODATION OF NEEDS.—The right—

"(I) to reside and receive services with reasonable accommodations of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered, and

"(II) to receive notice before the room or roommate of the resident in the facility is changed.

"(vi) GRIEVANCES.—The right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

"(vii) PARTICIPATION IN RESIDENT AND FAMILY GROUPS.—The right of the resident to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility.

[61] "(viii) PARTICIPATION IN OTHER ACTIVITIES.—The right of the resident to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

[62] "(ix) EXAMINATION OF SURVEY RESULTS.—The right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Secretary or a State with respect to the facility and any plan of correction in effect with respect to the facility.

[63] "(x) OTHER RIGHTS.—Any other right established by the Secretary.

Clause (iii) shall not be construed as requiring the provision of a private room.

"(B) NOTICE OF RIGHTS.—A nursing facility must—

"(i) inform each resident, orally and in writing at the time of admission to the facility, of the resident's legal rights during the stay at the facility;

"(ii) make available to each resident, upon reasonable request, a written statement of such rights (which statement is updated upon changes in such rights);

"(iii) inform each resident who is entitled to medical assistance under this title—

"(I) at the time of admission to the facility or, if later, at the time the resident becomes eligible for such assistance, of the items and services (including those specified under section 1902(a)(28)(B)) that are included in nursing facility services under the State plan and for which the resident may not be charged (except as permitted in section 1916), and of those other items and services that the facility offers and for which the resident may be charged and the amount of the charges for such items and services, and

"(II) of changes in the items and services described in subclause (I) and of changes in the charges imposed for items and services described in that subclause; and

"(iv) inform each other resident, in writing before or at the time of admission and periodically during the resident's stay, of services available in the facility and of related charges for such services, including any charges for services not covered under title XVIII or by the facility's basic per diem charge.

The written description of legal rights under this subparagraph shall include a description of the protection of personal funds under paragraph (6) and a statement that a resident may file a complaint with a State survey and certification agency respecting resident abuse and neglect and misappropriation of resident property in the facility.

---

[61] Copy read " "(ix)".

[62] Copy read " "(x)".

[63] Copy read " "(xi)".

"(C) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under this title shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

"(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care described in paragraph (2)) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually an independent, external consultant reviews the appropriateness of the drug plan of each resident receiving such drugs.

"(2) TRANSFER AND DISCHARGE RIGHTS.—

"(A) IN GENERAL.—A nursing facility must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility unless—

"(i) the transfer or discharge is necessary to meet the resident's welfare and the resident's welfare cannot be met in the facility;

"(ii) the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;

"(iii) the safety of individuals in the facility is endangered;

"(iv) the health of individuals in the facility would otherwise be endangered;

"(v) the resident has failed, after reasonable and appropriate notice, to pay (or to have paid under this title or title XVIII on the resident's behalf) an allowable charge imposed by the facility for an item or service requested by the resident and for which a charge may be imposed consistent with this title and title XVIII; or

"(vi) the facility ceases to operate.

In each[64] of the cases described in clauses (i) through (iv), the basis for the transfer or discharge must be documented in the resident's clinical record. In the cases described in clauses (i) and (ii), the documentation must be made by the resident's physician, and in the case described in clause (iv) the documentation must be made by a physician. For purposes of clause (v), in the case of a resident who becomes eligible for assistance under this title after admission to the facility, only charges which may be imposed under this title shall be considered to be allowable.

"(B) PRE-TRANSFER AND PRE-DISCHARGE NOTICE.—

"(i) IN GENERAL.—Before effecting a transfer or discharge of a resident, a nursing facility must—

---

[64] Copy read "In the each".

"(I) notify the resident (and, if known, an immediate family member of the resident or legal representative) of the transfer or discharge and the reasons therefor,

"(II) record the reasons in the resident's clinical record (including any documentation required under subparagraph (A)), and

"(III) include in the notice the items described in clause (iii).

"(ii) TIMING OF NOTICE.—The notice under clause (i)(I) must be made at least 30 days in advance of the resident's transfer or discharge except—

"(I) in a case described in clause (iii) or (iv) of subparagraph (A);

"(II) in a case described in clause (ii) of subparagraph (A), where the resident's health improves sufficiently to allow a more immediate transfer or discharge;

"(III) in a case described in clause (i) of subparagraph (A), where a more immediate transfer or discharge is necessitated by the resident's urgent medical needs; or

"(IV) in a case where a resident has not resided in the facility for 30 days.

In the case of such exceptions, notice must be given as many days before the date of the transfer or discharge as is practicable.

"(iii) ITEMS INCLUDED IN NOTICE.—Each notice under clause (i) must include—

"(I) for transfers or discharges effected on or after October 1, 1989, notice of the resident's right to appeal the transfer or discharge under the State process established under subsection (e)(3);

"(II) the name, mailing address, and telephone number of the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965);

"(III) in the case of residents with developmental disabilities, the mailing address and telephone number of the agency responsibile for the protection and advocacy system for developmentally disabled individuals established under part C of the Developmental Disabilities Assistance and Bill of Rights Act; and

"(IV) in the case of mentally ill residents (as defined in subsection (e)(7)(G)(i)), the mailing address and telephone number of the agency responsible for the protection and advocacy system for mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

"(C) ORIENTATION.—A nursing facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

"(D) NOTICE ON BED-HOLD POLICY AND READMISSION.—

"(i) NOTICE BEFORE TRANSFER.—Before a resident of a nursing facility is transferred for hospitalization or therapeutic leave, a nursing facility must provide written information to the resident and an immediate family member or legal representative concerning—

"(I) the provisions of the State plan under this title regarding the period (if any) during which the resident will be permitted under the State plan to return and resume residence in the facility, and

"(II) the policies of the facility regarding such a period, which policies must be consistent with clause (iii).

"(ii) Notice upon transfer.—At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility must provide written notice to the resident and an immediate family member or legal representative of the duration of any period described in clause (i).

"(iii) Permitting resident to return.—A nursing facility must establish and follow a written policy under which a resident—

"(I) who is eligible for medical assistance for nursing facility services under a State plan,

"(II) who is transferred from the facility for hospitalization or therapeutic leave, and

"(III) whose hospitalization or therapeutic leave exceeds a period paid for under the State plan for the holding of a bed in the facility for the resident,

will be permitted to be readmitted to the facility immediately upon the first availability of a bed in a semiprivate room in the facility if, at the time of readmission, the resident requires the services provided by the facility.

"(3) Access and visitation rights.—A nursing facility must—

"(A) permit immediate access to any resident by any representative of the Secretary, by any representative of the State, by an ombudsman or agency described in subclause (II), (III), or (IV) of paragraph (2)(B)(iii), or by the resident's individual physician;

"(B) permit immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives of the resident;

"(C) permit immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident;

"(D) permit reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time; and

"(E) permit representatives of the State ombudsman (described in paragraph (2)(B)(iii)(II)), with the permission of the resident (or the resident's legal representative) and consistent with State law, to examine a resident's clinical records.

"(4) Equal access to quality care.—

"(A) In general.—A nursing facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services required under the State plan for all individuals regardless of source of payment.

"(B) CONSTRUCTION.—

"(i) NOTHING PROHIBITING ANY CHARGES FOR NON-MEDICAID PATIENTS.—Subparagraph (A) shall not be construed as prohibiting a nursing facility from charging any amount for services furnished, consistent with the notice in paragraph (1)(B) describing such charges.

"(ii) NO ADDITIONAL SERVICES REQUIRED.—Subparagraph (A) shall not be construed as requiring a State to offer additional services on behalf of a resident than are otherwise provided under the State plan.

"(5) ADMISSIONS POLICY.—

"(A) ADMISSIONS.—With respect to admissions practices, a nursing facility must—

"(i)(I) not require individuals applying to reside or residing in the facility to waive their rights to benefits under this title or title XVIII, (II) not require oral or written assurance that such individuals are not eligible for, or will not apply for, benefits under this title or title XVIII, and (III) prominently display in the facility written information, and provide to such individuals oral and written information, about how to apply for and use such benefits and how to receive refunds for previous payments covered by such benefits;

"(ii) not require a third party guarantee of payment to the facility as a condition of admission (or expedited admission) to, or continued stay in, the facility; and

"(iii) in the case of an individual who is entitled to medical assistance for nursing facility services, not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State plan under this title, any gift, money, donation, or other consideration as a precondition of admitting (or expediting the admission of) the individual to the facility or as a requirement for the individual's continued stay in the facility.

"(B) CONSTRUCTION.—

"(i) NO PREEMPTION OF STRICTER STANDARDS.—Subparagraph (A) shall not be construed as preventing States or political subdivisions therein from prohibiting, under State or local law, the discrimination against individuals who are entitled to medical assistance under the State plan with respect to admissions practices of nursing facilities.

"(ii) CONTRACTS WITH LEGAL REPRESENTATIVES.—Subparagraph (A)(ii) shall not be construed as preventing a facility from requiring an individual, who has legal access to a resident's income or resources available to pay for care in the facility, to sign a contract (without incurring personal financial liability) to provide payment from the resident's income or resources for such care.

"(iii) CHARGES FOR ADDITIONAL SERVICES REQUESTED.—Subparagraph (A)(iii) shall not be construed as preventing a facility from charging a resident, eligible for medical assistance under the State plan, for items or services the resident has requested and received and that are not specified in the State plan as included in the term 'nursing facility services'.

"(iv) BONA FIDE CONTRIBUTIONS.—Subparagraph (A)(iii) shall not be construed as prohibiting a nursing facility from soliciting, accepting, or receiving a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the resident (or potential resident), but only to the extent that such contribution is not a condition of admission, expediting admission, or continued stay in the facility.

"(6) PROTECTION OF RESIDENT FUNDS.—

"(A) IN GENERAL.—The nursing facility—

"(i) may not require residents to deposit their personal funds with the facility, and

"(ii) once the facility accepts the written authorization of the resident, must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph.

"(B) MANAGEMENT OF PERSONAL FUNDS.—Upon a facility's acceptance of written authorization of a resident under subparagraph (A)(ii), the facility must manage and account for the personal funds of the resident deposited with the facility as follows:

"(i) DEPOSIT.—The facility must deposit any amount of personal funds in excess of $50 with respect to a resident in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credits all interest earned on such separate account to such account. With respect to any other personal funds, the facility must maintain such funds in a non-interest bearing account or petty cash fund.

"(ii) ACCOUNTING AND RECORDS.—The facility must assure a full and complete separate accounting of each such resident's personal funds, maintain a written record of all financial transactions involving the personal funds of a resident deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record.

"(iii) NOTICE OF CERTAIN BALANCES.—The facility must notify each resident receiving medical assistance under the State plan under title XIX when the amount in the resident's account reaches $200 less than the dollar amount determined under section 1611(a)(3)(B) and the fact that if the amount in the account (in addition to the value of the resident's other nonexempt resources) reaches the amount determined under such section the resident may lose eligibility for such medical assistance or for benefits under title XVI.

"(iv) CONVEYANCE UPON DEATH.—Upon the death of a resident with such an account, the facility must convey promptly the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate.

"(C) ASSURANCE OF FINANCIAL SECURITY.—The facility must purchase a surety bond, or otherwise provide assurance satisfactory to the Secretary, to assure the security of all personal funds of residents deposited with the facility.

"(D) LIMITATION ON CHARGES TO PERSONAL FUNDS.—The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under this title or title XVIII.

"(d) REQUIREMENTS RELATING TO ADMINISTRATION AND OTHER MATTERS.—

"(1) ADMINISTRATION.—

"(A) IN GENERAL.—A nursing facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident (consistent with requirements established under subsection (f)(5)).

"(B) REQUIRED NOTICES.—If a change occurs in—

"(i) the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the facility,

"(ii) the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of the facility,

"(iii) the corporation, association, or other company responsible for the management of the facility, or

"(iv) the individual who is the administrator or director of nursing of the facility,

the nursing facility must provide notice to the State agency responsible for the licensing of the facility, at the time of the change, of the change and of the identity of each new person, company, or individual described in the respective clause.

"(C) NURSING FACILITY ADMINISTRATOR.—The administrator of a nursing facility must meet standards established by the Secretary under subsection (f)(4).

"(2) LICENSING AND LIFE SAFETY CODE.—

"(A) LICENSING.—A nursing facility must be licensed under applicable State and local law.

"(B) LIFE SAFETY CODE.—A nursing facility must meet such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable to nursing homes; except that—

"(i) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon a facility, but only if such waiver would not adversely affect the health and safety of residents or personnel, and

"(ii) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects residents of and personnel in nursing facilities.

"(3) SANITARY AND INFECTION CONTROL AND PHYSICAL ENVIRONMENT.—A nursing facility must—

"(A) establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment in which residents reside and to help prevent the development and transmission of disease and infection, and

"(B) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents, personnel, and the general public.

"(4) MISCELLANEOUS.—

"(A) COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND PROFESSIONAL STANDARDS.—A nursing facility must operate and provide services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124 and with accepted professional standards and principles which apply to professionals providing services in such a facility.

"(B) OTHER.—A nursing facility must meet such other requirements relating to the health and safety of residents or relating to the physical facilities thereof as the Secretary may find necessary.".

42 USC 1396r.

(c) STATE REQUIREMENTS RELATING TO NURSING FACILITY REQUIREMENTS.—Section 1919 of such Act is further amended by adding at the end the following new subsection:

"(e) STATE REQUIREMENTS RELATING TO NURSING FACILITY REQUIREMENTS.—As a condition of approval of [65] its plan under this title, a State must provide for the following:

"(1) SPECIFICATION AND REVIEW OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND OF NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—The State must—

"(A) by not later than September 1, 1988, specify those training and competency evaluation programs, and those competency evaluation programs, that the State approves for purposes of subsection (b)(5) and that meet the requirements established under clause (i) or (ii) of subsection (f)(2)(A), and

"(B) by not later than September 1, 1990, provide for the review and reapproval of such programs, at a frequency and using a methodology consistent with the requirements established under subsection (f)(2)(A)(iii).

The failure of the Secretary to establish requirements under subsection (f)(2) shall not relieve any State of its responsibility under this paragraph.

"(2) NURSE AIDE REGISTRY.—

"(A) IN GENERAL.—By not later than January 1, 1989, the State shall establish and maintain a registry of all individuals who have satisfactorily completed a nurse aide training and competency evaluation program, or a nurse aide competency evaluation program, approved under paragraph (1) in the State.

"(B) INFORMATION IN REGISTRY.—The registry under subparagraph (A) shall provide (in accordance with regulations of the Secretary) for the inclusion of specific documented findings by a State under subsection (g)(1)(C) of resident neglect or abuse or misappropriation of resident property involving an individual listed in the registry, as well as any brief statement of the individual disputing the findings. In the case of inquiries to the registry concerning an individual listed in the registry, any information disclosed concerning such a finding shall also include disclosure of any such statement in the registry relating to the finding or a clear and accurate summary of such a statement.

---

[65] Copy read "approval its".

"(3) STATE APPEALS PROCESS FOR TRANSFERS.—The State, for transfers from nursing facilities effected on or after October 1, 1989, must provide for a fair mechanism, meeting the guidelines established under subsection (f)(3), for hearing appeals on transfers of residents of such facilities; but the failure of the Secretary to establish such guidelines under such subsection shall not relieve any State of its responsibility under this paragraph.

"(4) NURSING FACILITY ADMINISTRATOR STANDARDS.—By not later than July 1, 1989, the State must have implemented and enforced the nursing facility administrator standards developed under subsection (f)(4) respecting the qualification of administrators of nursing facilities.

"(5) SPECIFICATION OF RESIDENT ASSESSMENT INSTRUMENT.—Effective July 1, 1990, the State shall specify the instrument to be used by nursing facilities in the State in complying with the requirement of subsection (b)(3)(A)(iii). Such instrument shall be—

"(A) one of the instruments designated under subsection (f)(6)(B), or

"(B) an instrument which the Secretary has approved as being consistent with the minimum data set of core elements, common definitions, and utilization guidelines specified by the Secretary under subsection (f)(6)(A).

"(6) NOTICE OF MEDICAID RIGHTS.—Each State, as a condition of approval of its plan under this title, effective April 1, 1988, must develop (and periodically update) a written notice of the rights and obligations of residents of nursing facilities (and spouses of such residents) under this title.

"(7) STATE REQUIREMENTS FOR PREADMISSION SCREENING AND RESIDENT REVIEW.—

"(A) PREADMISSION SCREENING.—Effective January 1, 1989, the State must have in effect a preadmission screening program, for making determinations (using any criteria developed under subsection (f)(8)) described in subsection (b)(3)(F) for mentally ill and mentally retarded individuals (as defined in subparagraph (G)) who are admitted to nursing facilities on or after January 1, 1989. The failure of the Secretary to develop minimum criteria under subsection (f)(8) shall not relieve any State of its responsibility to have a preadmission screening program under this subparagraph or to perform resident reviews under subparagraph (B).

"(B) STATE REQUIREMENT FOR ANNUAL RESIDENT REVIEW.—

"(i) FOR MENTALLY ILL RESIDENTS.—As of April 1, 1990, in the case of each resident of a nursing facility who is mentally ill, the State mental health authority must review and determine (using any criteria developed under subsection (f)(8) and based on an independent physical and mental evaluation performed by a person or entity other than the State mental health authority)—

"(I) whether or not the resident, because of the resident's physical and mental condition, requires the level of services provided by a nursing facility or requires the level of services of an inpatient psychiatric hospital for individuals under age 21 (as described in section 1905(h)) or of an institution for mental diseases providing medical assistance to individuals 65 years of age or older; and

"(II) whether or not the resident requires active treatment for mental illness.

"(ii) FOR MENTALLY RETARDED RESIDENTS.—As of April 1, 1990, in the case of each resident of a nursing facility who is mentally retarded, the State mental retardation or developmental disability authority must review and determine (using any criteria developed under subsection (f)(8))—

"(I) whether or not the resident, because of the resident's physical and mental condition, requires the level of services provided by a nursing facility or requires the level of services of an intermediate care facility described under section 1905(d); and

"(II) whether or not the resident requires active treatment for mental retardation.

"(iii) FREQUENCY OF REVIEWS.—

"(I) ANNUAL.—Except as provided in subclauses (II) and (III), the reviews and determinations under clauses (i) and (ii) must be conducted with respect to each mentally ill or mentally retarded resident not less often than annually.

"(II) PREADMISSION REVIEW CASES.—In the case of a resident subject to a preadmission review under subsection (b)(3)(F), the review and determination under clause (i) or (ii) need not be done until the resident has resided in the nursing facility for 1 year.

"(III) INITIAL REVIEW.—The reviews and determinations under clauses (i) and (ii) must first be conducted (for each resident not subject to preadmission review under subsection (b)(3)(F)) by not later than April 1, 1990.

"(C) RESPONSE TO PREADMISSION SCREENING AND RESIDENT REVIEW.—As of April 1, 1990, the State must meet the following requirements:

"(i) LONG-TERM RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES, BUT REQUIRING ACTIVE TREATMENT.—In the case of a resident who is determined, under subparagraph (B), not to require the level of services provided by a nursing facility, but to require active treatment for mental illness or mental retardation, and who has continuously resided in a nursing facility for at least 30 months before the date of the determination, the State must, in consultation with the resident's family or legal representative and care-givers—

"(I) inform the resident of the institutional and noninstitutional alternatives covered under the State plan for the resident,

"(II) offer the resident the choice of remaining in the facility or of receiving covered services in an alternative appropriate institutional or noninstitutional setting,

"(III) clarify the effect on eligibility for services under the State plan if the resident chooses to leave the facility (including its effect on readmission to the facility), and

"(IV) regardless of the resident's choice, provide for (or arrange for the provision of) such active treatment for the mental illness or mental retardation.

A State shall not be denied payment under this title for nursing facility services for a resident described in this clause because the resident does not require the level of services provided by such a facility, if the resident chooses to remain in such a facility.

"(ii) OTHER RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES, BUT REQUIRING ACTIVE TREATMENT.—In the case of a resident who is determined, under subparagraph (B), not to require the level of services provided by a nursing facility, but to require active treatment for mental illness or mental retardation, and who has not continuously resided in a nursing facility for at least 30 months before the date of the determination, the State must, in consultation with the resident's family or legal representative and care-givers—

"(I) arrange for the safe and orderly discharge of the resident from the facility, consistent with the requirements of subsection (c)(2),

"(II) prepare and orient the resident for such discharge, and

"(III) provide for (or arrange for the provision of) such active treatment for the mental illness or mental retardation.

"(iii) RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES AND NOT REQUIRING ACTIVE TREATMENT.—In the case of a resident who is determined, under subparagraph (B), not to require the level of services provided by a nursing facility and not to require active treatment for mental illness or mental retardation, the State must—

"(I) arrange for the safe and orderly discharge of the resident from the facility, consistent with the requirements of subsection (c)(2), and

"(II) prepare and orient the resident for such discharge.

"(D) DENIAL OF PAYMENT WHERE FAILURE TO CONDUCT PREADMISSION SCREENING.—No payment may be made under section 1903(a) with respect to nursing facility services furnished to an individual for whom a determination is required under subsection (b)(3)(F) or subparagraph (B) but for whom the determination is not made.

Contracts.

"(E) PERMITTING ALTERNATIVE DISPOSITION PLANS.—With respect to residents of a nursing facility who are mentally retarded or mentally ill and who are determined under subparagraph (B) not to require the level of services of such a facility, but who require active treatment for mental illness or mental retardation, a State and the nursing facility shall be considered to be in compliance with the requirement of this paragraph if, before October 1, 1988, the State and the Secretary have entered into an agreement relating to the disposition of such residents of the facility and the State is in compliance with such agreement. Such an agreement may provide for the disposition of the residents after the date specified in subparagraph (C).

"(F) APPEALS PROCEDURES.—Each State, as a condition of approval of its plan under this title, effective January 1, 1989, must have in effect an appeals process for individuals adversely affected by determinations under subparagraph (A) or (B).

"(G) DEFINITIONS.—In this paragraph and in subsection (b)(3)(F):

"(i) An individual is considered to be 'mentally ill' if the individual has a primary or secondary diagnosis of mental disorder (as defined in the Diagnostic and Statistical Manual of Mental Disorders, 3rd edition) and does not have a primary diagnosis of dementia (including Alzheimer's disease or a related disorder).

"(ii) An individual is considered to be 'mentally retarded' if the individual is mentally retarded or a person with a related condition (as described in section 1905(d)).

"(iii) The term 'active treatment' has the meaning given such term by the Secretary in regulations, but does not include, in the case of a resident of a nursing facility, services within the scope of services which the facility must provide or arrange for its residents under subsection (b)(4).

"(f) RESPONSIBILITIES OF SECRETARY RELATING TO NURSING FACILITY REQUIREMENTS.—

"(1) GENERAL RESPONSIBILITY.—It is the duty and responsibility of the Secretary to assure that requirements which govern the provision of care in nursing facilities under State plans approved under this title, and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of residents and to promote the effective and efficient use of public moneys.

"(2) REQUIREMENTS FOR NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS AND FOR NURSE AIDE COMPETENCY EVALUATION PROGRAMS.—

"(A) IN GENERAL.—For purposes of subsections (b)(5) and (e)(1)(A), the Secretary shall establish, by not later than July 1, 1988—

"(i) requirements for the approval of nurse aide training and competency evaluation programs, including requirements relating to (I) the areas to be covered in such a program (including at least basic nursing skills, personal care skills, cognitive, behavioral and social care, basic restorative services, and residents' rights), content of the curriculum, (II) minimum hours of initial and ongoing training and retraining (including not less than 75 hours in the case of initial training), (III) qualifications of instructors, and (IV) procedures for determination of competency;

"(ii) requirements for the approval of nurse aide competency evaluation programs, including requirement relating to the areas to be covered in such a program, including at least basic nursing skills, personal care skills, cognitive, behavioral and social care, basic restorative services, and residents' rights, and procedures for determination of competency;

"(iii) requirements respecting the minimum frequency and methodology to be used by a State in reviewing such programs' compliance with the requirements for such programs.

"(B) APPROVAL OF CERTAIN PROGRAMS.—Such requirements—

"(i) may permit approval of programs offered by or in facilities, as well as outside facilities (including employee organizations), and of programs in effect on the date of the enactment of this section;

"(ii) shall permit a State to find that an individual who has completed (before January 1, 1989) a nurse aide training and competency evaluation program shall be deemed to have completed such a program approved under subsection (b)(5) if the State determines that, at the time the program was offered, the program met the requirements for approval under such paragraph; and

"(iii) shall prohibit approval of such a program—

"(I) offered by or in a nursing facility which has been determined to be out of compliance with the requirements of subsection (b), (c), or (d), within the previous 2 years, or

"(II) offered by or in a nursing facility unless the State makes the determination, upon an individual's completion of the program, that the individual is competent to provide nursing and nursing-related services in nursing facilities.

A State may not delegate its responsibility under clause (iii)(II) to the nursing facility.

"(3) FEDERAL GUIDELINES FOR STATE APPEALS PROCESS FOR TRANSFERS.—For purposes of subsections (c)(2)(B)(iii) and (e)(3), by not later than October 1, 1988, the Secretary shall establish guidelines for minimum standards which State appeals processes under subsection (e)(3) must meet to provide a fair mechanism for hearing appeals on transfers of residents from nursing facilities.

"(4) SECRETARIAL STANDARDS QUALIFICATION OF ADMINISTRATORS.—For purposes of subsections (d)(1)(C) and (e)(4), the Secretary shall develop, by not later than March 1, 1988, standards to be applied in assuring the qualifications of administrators of nursing facilities.

"(5) CRITERIA FOR ADMINISTRATION.—The Secretary shall establish criteria for assessing a nursing facility's compliance with the requirement of subsection (d)(1) with respect to—

"(A) its governing body and management,

"(B) agreements with hospitals regarding transfers of residents to and from the hospitals and to and from other nursing facilities,

"(C) disaster preparedness,

"(D) direction of medical care by a physician,

"(E) laboratory and radiological services,

"(F) clinical records, and

"(G) resident and advocate participation.

"(6) SPECIFICATION OF RESIDENT ASSESSMENT DATA SET AND INSTRUMENTS.—The Secretary shall—

"(A) not later than January 1, 1989, specify a minimum data set of core elements and common definitions for use by nursing facilities in conducting the assessments required under subsection (b)(3), and establish guidelines for utilization of the data set; and

"(B) by not later than April 1, 1990, designate one or more instruments which are consistent with the specification made under subparagraph (A) and which a State may specify under subsection (e)(5)(A) for use by nursing facilities in complying with the requirements of subsection (b)(3)(A)(iii).

"(7) LIST OF ITEMS AND SERVICES FURNISHED IN NURSING FACILITIES NOT CHARGEABLE TO THE PERSONAL FUNDS OF A RESIDENT.—

"(A) REGULATIONS REQUIRED.—Pursuant to the requirement of section 21(b) of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, the Secretary shall issue regulations, on or before the first day of the seventh month to begin after the date of enactment of this section, that define those costs which may be charged to the personal funds of patients in nursing facilities who are individuals receiving medical assistance with respect to nursing facility services under this title and those costs which are to be included in the payment amount under this title for nursing facility services.

"(B) RULE IF FAILURE TO PUBLISH REGULATIONS.—If the Secretary does not issue the regulations under subparagraph (A) on or before the date required in that subparagraph, in the case of a resident of a nursing facility who is eligible to receive benefits for nursing facility services under this title, for purposes of section 1902(a)(28)(B), the Secretary shall be deemed to have promulgated regulations under this paragraph which provide that the costs which may not be charged to the personal funds of such resident (and for which payment is considered to be made under this title) do not include, at a minimum, the costs for routine personal hygiene items and services furnished by the facility.

"(8) FEDERAL MINIMUM CRITERIA AND MONITORING FOR PREADMISSION SCREENING AND RESIDENT REVIEW.—

"(A) MINIMUM CRITERIA.—The Secretary shall develop, by not later than October 1, 1988, minimum criteria for States to use in making determinations under subsections (b)(3)(F) and (e)(7)(B) and in permitting individuals adversely affected to appeal such determinations, and shall notify the States of such criteria.

"(B) MONITORING COMPLIANCE.—The Secretary shall review, in a sufficient number of cases to allow reasonable inferences, each State's compliance with the requirements of subsection (e)(7)(C)(ii) (relating to discharge and placement for active treatment of certain residents).

"(9) [66] CRITERIA FOR MONITORING STATE WAIVERS.—The Secretary shall develop, by not later than October 1, 1988, criteria and procedures for monitoring State performances in granting waivers pursuant to subsection (b)(4)(C)(ii).".

(b) INCORPORATING REQUIREMENTS INTO STATE PLAN.—

(1) IN GENERAL.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (13)(A), by inserting "which, in the case of nursing facilities, take into account the costs of complying with subsections (b) (other than paragraph (3)(F) thereof), (c), and (d) of section 1919 and provide (in the case of a nursing facility with a waiver under section 1919(b)(4)(C)(ii)) for an appropriate reduction to take into account the lower costs (if any) of the facility for nursing care," after "State" the second place it appears; and

(B) by amending paragraph (28) to read as follows:

"(28) provide—

"(A) that any nursing facility receiving payments under such plan must satisfy all the requirements of subsections (b) through (d) of section 1919 as they apply to such facilities;

"(B) for including in 'nursing facility services' at least the items and services specified (or deemed to be specified) by the Secretary under section 1919(f)(7) and making available upon request a description of the items and services so included;

"(C) for procedures to make available to the public the data and methodology used in establishing payment rates for nursing facilities under this title; and

"(D) for compliance (by the date specified in the respective sections) with the requirements of—

"(i) section 1919(f) (relating to implementation of nursing facility requirements, including paragraph (6)(B), relating to specification of resident assessment instrument);

"(ii) section 1919(g) (relating to responsibility for survey and certification of nursing facilities); and

"(iii) sections 1919(h)(2)(B) and 1919(h)(2)(D) (relating to establishment and application of remedies);".

42 USC 1396a note.

(2) STATE PLAN AMENDMENT REQUIRED.—A plan of a State under title XIX of the Social Security Act shall not be considered to have met the requirement of section 1902(a)(13)(A) of the Social Security Act (as amended by paragraph (1)(A) of this subsection), as of the first day of a Federal fiscal year (beginning on or after October 1, 1990), unless the State has submitted to the Secretary of Health and Human Services, as of April 1 before the fiscal year, an amendment to such State plan to provide for an appropriate adjustment in payment amounts for nursing facility services furnished during the Federal fiscal year. The Secretary shall, not later than September 30 before the fiscal year concerned, review each such plan amendment for

---

[66] Copy read " "(8)".

compliance with such requirement and by such date shall approve or disapprove each such amendment. If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement. The absence of approval of such a plan amendment does not relieve the State or any nursing facility of any obligation or requirement under title XIX of the Social Security Act (as amended by this Act).

Reports.
42 USC 1396r note.

(c) EVALUATION.—The Secretary of Health and Human Services shall evaluate, and report to Congress by not later than January 1, 1993, on the implementation of the resident assessment process for residents of nursing facilities under the amendments made by this section.

(d) FUNDING.—

(1) IN GENERAL.—Section 1903(a)(2) of such Act (42 U.S.C. 1396b(a)(2)) is amended—

(A) by inserting "(A)" after "(2)", and

(B) by adding at the end the following new subparagraphs:

"(B) notwithstanding paragraph (1) or subparagraph (A), with respect to amounts expended for nursing aide training and competency evaluation programs, and competency evaluation programs, described in section 1919(e)(1), regardless of whether the programs are provided in or outside nursing facilities or of the skill of the personnel involved in such programs, an amount equal to 50 percent of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to such programs; plus

"(C) an amount equal to 75 percent of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to preadmission screening and resident review activities conducted by the State under section 1919(e)(7); plus".

42 USC 1396b note.

(2) ENHANCED FUNDING FOR NURSE AIDE TRAINING.—For calendar quarters during fiscal years 1988 and 1989, with respect to payment under section 1903(a)(2)(B) of the Social Security Act to a State for additional amounts expended by the State under its plan approved under title XIX of such Act for nursing aide training and competency evaluation programs, and competency evaluation programs, described in section 1919(e)(1) of such title, any reference to "50 percent" is deemed a reference to the sum of the Federal medical assistance percentage (determined under section 1905(b) of such Act) plus 25 percentage points, but not to exceed 90 percent.

(e) REVISION OF PREVIOUS DEFINITIONS.—Section 1905 of such Act (42 U.S.C. 1396d) is amended—

(1) by amending subsection (c) to read as follows:

"(c) For definition of the term 'nursing facility', see section 1919(a).";

(2) in subsection (d)—

(A) by striking "intermediate care facility services" and inserting "intermediate care facility for the mentally retarded",

(B) by striking "may include services in a public" and inserting "means an",

(C) in paragraph (3), by inserting "in the case of a public institution," after "(3)";

(3) in subsection (f), by striking "skilled" each place it appears; and

(4) by striking subsection (i).

(f) Making Coverage of Nursing Facility Services Mandatory for Adults.—Section 1905(a)(4)(A) of such Act (42 U.S.C. 1396d(a)(4)(A)) is amended by striking "skilled".

(g) Elimination of Payment Differential.—Section 1903 of such Act (42 U.S.C. 1396b) is amended—

(1) by striking subsection (h), and

(2) in subsection (a)(1), by striking ", (h), and" and inserting "and".

(h) Clarifying Terminology.—(1) Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended—

(A) in subparagraph (A)(ii)(VI), by striking "skilled" and by inserting "for the mentally retarded" after "intermediate care facility";

(B) in subparagraph (C)(iv), by striking "intermediate care facility services" and inserting "in an intermediate care facility"; and

(C) in subparagraph (D), by striking "skilled".

(2) Section 1902(a)(13) of such Act (42 U.S.C. 1396a(a)(13)) is amended—

(A) in subparagraph (A), by striking ", skilled nursing facility, and intermediate care facility services" and inserting "services, nursing facility services, and services in an intermediate care facility for the mentally retarded";[67]

(B) in subparagraph (A), by striking ", skilled nursing facility, and intermediate care facility and" and inserting "nursing facility, and intermediate care facility for the mentally retarded and";

(C) in subparagraph (C), by striking "skilled nursing facilities and intermediate care facilities" and inserting "nursing facilities"; and

(D) in subparagraph (D)—

(i) by striking "skilled nursing facility or intermediate care facility" and inserting "nursing facility", and

(ii) by striking "skilled nursing facility services or intermediate care facility services" and inserting "nursing facility services".

(3) Section 1902(a)(30)(B) of such Act (42 U.S.C. 1396a(a)(30)(B)) is amended by striking "skilled nursing facility, intermediate care facility," each place it appears and inserting "intermediate care facility for the mentally retarded,".

(4) Section 1902(e)(3)(B)(i) of such Act (42 U.S.C. 1396a(e)(3)(B)(i)) is amended by striking "skilled nursing facility, or intermediate care facility" and inserting "nursing facility, or intermediate care facility for the mentally retarded".

(5) Section 1902(e)(9) of such Act (42 U.S.C. 1396a(e)(9)) is amended—

(A) in subparagraph (A)(iii), by striking "skilled nursing facility, or intermediate care facility," and inserting "nursing facil ity, or intermediate care facility for the mentally retarded" and

---

[67] Copy read "retarded",".

(B) in subparagraph (B), by striking "skilled nursing facilities, or intermediate care facilities" and inserting "nursing facilities, or intermediate care facilities for the mentally retarded".

(6) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended—

(A) in paragraph (5), by striking "skilled",

(B) in paragraph (14), by striking ", skilled nursing facility services, and intermediate care facility services" and inserting "and nursing facility services", and

(C) in paragraph (15), by striking "intermediate care facility services (other than such services" and inserting "services in an intermediate care facility for the mentally retarded (other than".

(7) Section 1128B of such Act (42 U.S.C. 1320a-7b) is amended—

(A) in subsection (c), by striking "intermediate care facility" and inserting "nursing facility, intermediate care facility for the mentally retarded", and

(B) in subsection (d)(2)(A), by striking "skilled nursing facility, or intermediate care facility" and inserting "nursing facility, or intermediate care facility for the mentally retarded".

(8) Section 1911 of such Act (42 U.S.C. 1396j) is amended by striking ", intermediate care facility, or skilled nursing facility" each place it appears and inserting "or nursing facility".

(9) Section 1913 of such Act (42 U.S.C. 1396l) is amended—

(A) in the heading, by striking "SKILLED NURSING AND INTERMEDIATE CARE SERVICES" and inserting "NURSING FACILITY SERVICES";

(B) in subsection (a)—

(i) by striking "skilled nursing facility services and intermediate care facility services" and inserting "nursing facility services", and

(ii) by inserting before the period at the end the following: "and which, with respect to the provision of such services, meets the requirements of subsections (b) through (d) of section 1919";

(C) in subsection (b)(1)—

(i) by striking "skilled nursing or intermediate care facility services" and inserting "nursing facility services", and

(ii) by striking "skilled nursing and intermediate care facilities" and inserting "nursing facilities"; and

(D) in subsection (b)(3), by striking "skilled nursing or intermediate care facility services" and inserting "nursing facility services".

(10) Section 1915(c) of such Act (42 U.S.C. 1396n(c)) is amended—

(A) in paragraph (1), by striking "skilled nursing facility or intermediate care facility" and inserting "nursing facility or intermediate care facility for the mentally retarded";

(B) in paragraph (2)(B)(i), by striking ", skilled nursing facility, or intermediate care facility services" and inserting "services, nursing facility services, or services in an intermediate care facility for the mentally retarded";

(C) in paragraph (2)(B), by striking "need" and all that follows up to the semicolon and inserting "need for inpatient hospital services, nursing facility services, or services in an intermediate care facility for the mentally retarded";

(D) in paragraph (2)(C), by striking "or skilled nursing facility or intermediate care facility" and inserting ", nursing facility, or intermediate care facility for the mentally retarded";

(E) in paragraph (2)(C), by striking "or skilled nursing facility or intermediate care facility services" and inserting ", nursing facility services, or services in an intermediate care facility for the mentally retarded";

(F) in paragraph (5), by striking "skilled nursing facility or intermediate care facility" and inserting "nursing facility or intermediate care facility for the mentally retarded"; and

(G) in paragraph (7), by striking "or in skilled nursing or intermediate care facilities" and inserting ", nursing facilities, or intermediate care facilities for the mentally retarded".

(11) Section 1916 of such Act (42 U.S.C. 1396m) is amended, in subsections (a)(2)(C) and (b)(2)(C), by striking "skilled nursing facility, intermediate care facility" and inserting "nursing facility, intermediate care facility for the mentally retarded". 42 USC 1396*o*.

(12) Section 1917 of such Act (42 U.S.C. 1396p), as amended by this title, is further amended—

(A) in subsections (a)(1)(B)(i) and (c)(2)(B)(i), by striking "skilled nursing facility, intermediate care facility" and inserting "nursing facility, intermediate care facility for the mentally retarded", and

(B) in subsection (c)(3)(A), by striking "skilled".

(i) Utilization Review.—Section 1903(i)(4) of such Act (42 U.S.C. 1396b(i)(4)) is amended by striking "or skilled nursing facility" each place it appears.

(j) Technical Assistance.—The Secretary of Health and Human Services shall, upon request by a State, furnish technical assistance with respect to the development and implementation of reimbursement methods for nursing facilities that take into account the case mix of residents in the different facilities. 42 USC 1396a note.

(k) Report on Staffing Requirements.—The Secretary of Health and Human Services shall report to Congress, by not later than January 1, 1993, on the progress made in implementing the nursing facility staffing requirements of subparagraph (C) of section 1919(b)(4) of the Social Security Act (as amended by subsection (a) of this section), including the number and types of waivers approved under subparagraph (C)(ii) of such section and the number of facilities which have received waivers. 42 USC 1396r note.

(l) Conforming Amendment.—Section 9516(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "section 1919" and inserting "section 1922". 42 USC 1396r-3 note.

SEC. 4212. SURVEY AND CERTIFICATION PROCESS.

(a) In General.—Section 1919 of the Social Security Act, as inserted by section 4211, is amended by adding at the end the following new subsection:

"(g) Survey and Certification Process.—

"(1) State and federal responsibility.—

"(A) In general.—Under each State plan under this title, the State shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of nursing facilities (other than facilities of the State) with the requirements of subsections (b), (c), and (d). The Secretary shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of State nursing facilities with the requirements of such subsections.

"(B) EDUCATIONAL PROGRAM.—Each State shall conduct periodic educational programs for the staff and residents (and their representatives) of nursing facilities in order to present current regulations, procedures, and policies under this section.

"(C) INVESTIGATION OF ALLEGATIONS OF RESIDENT NEGLECT AND ABUSE AND MISAPPROPRIATION OF RESIDENT PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of nursing facilities under this subsection, for a process for the receipt, review, and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide of a resident in a nursing facility. If the State finds, after notice to the nurse aide involved and a reasonable opportunity for a hearing for the nurse aide to rebut allegations, that a nurse aide whose name is contained in a nurse aide registry has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the nurse aide and the registry of such finding.

"(D) CONSTRUCTION.—The failure of the Secretary to establish standards under subsection (f) shall not relieve a State of its responsibility under this subsection.

"(2) SURVEYS.—

"(A) ANNUAL STANDARD SURVEY.—

"(i) IN GENERAL.—Each nursing facility shall be subject to a [68] standard survey, to be conducted without any prior notice to the facility. Any individual who notifies (or causes to be notified) a nursing facility of the time or date on which such a survey is scheduled to be conducted is subject to a civil money penalty of not to exceed $2,000. The Secretary shall provide for imposition of civil money penalties under this clause in a manner similar to that for the imposition of civil money penalties under section 1128A. The Secretary shall review each State's procedures for scheduling and conduct of standard surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(ii) CONTENTS.—Each standard survey shall include, for a case-mix stratified sample of residents—

"(I) a survey of the quality of care furnished, as measured by indicators of medical, nursing, and rehabilitative care, dietary and nutrition services, activities and social participation, and sanitation, infection control, and the physical environment,

"(II) written plans of care provided under subsection (b)(2) and an audit of the residents' assessments under subsection (b)(3) to determine the accuracy of such assessments and the adequacy of such plans of care, and

"(III) a review of compliance with residents' rights under subsection (c).

"(iii) FREQUENCY.—

---

[68] Copy read "to an standard".

"(I) IN GENERAL.—Each nursing facility shall be subject to a standard survey not later than 15 months after the date of the previous standard survey conducted under this subparagraph. The statewide [69] average interval between standard surveys of a nursing facility shall not exceed 12 months.

"(II) SPECIAL SURVEYS.—If not otherwise conducted under subclause (I), a standard survey (or an abbreviated standard survey) may be conducted within 2 months of any change of ownership, administration, management of a nursing facility, or director of nursing in order to determine whether the change has resulted in any decline in the quality of care furnished in the facility.

"(B) EXTENDED SURVEYS.—

"(i) IN GENERAL.—Each nursing facility which is found, under a standard survey, to have provided substandard quality of care shall be subject to an extended survey. Any other facility may, at the Secretary's or State's discretion, be subject to such an extended survey (or a partial extended survey).

"(ii) TIMING.—The extended survey shall be conducted immediately after the standard survey (or, if not practical, not later than 2 weeks after the date of completion of the standard survey).

"(iii) CONTENTS.—In such an extended survey, the survey team shall review and identify the policies and procedures which produced such substandard quality of care and shall determine whether the facility has complied with all the requirements described in subsections (b), (c), and (d). Such review shall include an expansion of the size of the sample of residents' assessments reviewed and a review of the staffing, of in-service training, and, if appropriate, of contracts with consultants.

"(iv) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an extended or partial extended survey as a prerequisite to imposing a sanction against a facility under subsection (h) on the basis of findings in a standard survey.

"(C) SURVEY PROTOCOL.—Standard and extended surveys shall be conducted—

"(i) based upon a protocol which the Secretary has developed, tested, and validated by not later than January 1, 1990, and

"(ii) by individuals, of a survey team, who meet such minimum qualifications as the Secretary establishes by not later than such date.

The failure of the Secretary to develop, test, or validate such protocols or to establish such minimum qualifications shall not relieve any State of its responsibility (or the Secretary of the Secretary's responsibility) to conduct surveys under this subsection.

---

[69] Copy read "Statewide".

"(D) CONSISTENCY OF SURVEYS.—Each State shall implement programs to measure and reduce inconsistency in the application of survey results among surveyors.

"(E) SURVEY TEAMS.—

"(i) IN GENERAL.—Surveys under this subsection shall be conducted by a multidisciplinary team of professionals (including a registered professional nurse).

"(ii) PROHIBITION OF CONFLICTS OF INTEREST.—A State may not use as a member of a survey team under this subsection an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the facility surveyed respecting compliance with the requirements of subsections (b), (c), and (d), or who has a personal or familial financial interest in the facility being surveyed.

"(iii) TRAINING.—The Secretary shall provide for the comprehensive training of State and Federal surveyors in the conduct of standard and extended surveys under this subsection, including the auditing of resident assessments and plans of care. No individual shall serve as a member of a survey team unless the individual has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary.

"(3) VALIDATION SURVEYS.—

"(A) IN GENERAL.—The Secretary shall conduct onsite surveys of a representative sample of nursing facilities in each State, within 2 months of the date of surveys conducted under paragraph (2) by the State, in a sufficient number to allow inferences about the adequacies of each State's surveys conducted under paragraph (2). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under paragraph (2). If the State has determined that an individual nursing facility meets the requirements of subsections (b), (c), and (d), but the Secretary determines that the facility does not meet such requirements, the Secretary's determination as to the facility's noncompliance with such requirements is binding and supersedes that of the State survey.

"(B) SCOPE.—With respect to each State, the Secretary shall conduct surveys under subparagraph (A) each year with respect to at least 5 percent of the number of nursing facilities surveyed by the State in the year, but in no case less than 5 nursing facilities in the State.

"(C) REDUCTION IN ADMINISTRATIVE COSTS FOR SUBSTANDARD PERFORMANCE.—If the Secretary finds, on the basis of such surveys, that a State has failed to perform surveys as required under paragraph (2) or that a State's survey and certification performance otherwise is not adequate, the Secretary may provide for the training of survey teams in the State and shall provide for a reduction of the payment otherwise made to the State under section 1903(a)(2)(D) with respect to a quarter equal to 33 percent multiplied by a fraction, the denominator of which is equal to the total number of residents in nursing facilities surveyed by the Secretary that quarter and the numerator of which is equal to the total number of residents in nursing facilities which were found pursuant to such surveys to be not in compliance with any of the requirements of subsections (b), (c), and (d). A State that is dissatisfied with the Secretary's findings under this subparagraph may obtain reconsideration and review of the findings under section 1116 in the same manner as a State may seek reconsideration and review under that section of the Secretary's determination under section 1116(a)(1).

"(C) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a nursing facility with any of the requirements of subsections (b), (c), and (d), the Secretary may conduct a survey of the facility and, on that basis, make independent and binding determinations concerning the extent to which the nursing facility meets such requirements.

"(4) INVESTIGATION OF COMPLAINTS AND MONITORING NURSING FACILITY COMPLIANCE.—Each State shall maintain procedures and adequate staff to—

"(A) investigate complaints of violations of requirements by nursing facilities, and

"(B) monitor, on-site, on a regular, as needed basis, a nursing facility's compliance with the requirements of subsections (b), (c), and (d), if—

"(i) the facility has been found not to be in compliance with such requirements and is in the process of correcting deficiencies to achieve such compliance;

"(ii) the facility was previously found not to be in compliance with such requirements, has corrected deficiencies to achieve such compliance, and verification of continued compliance is indicated; or

"(iii) the State has reason to question the compliance of the facility with such requirements.

A State may maintain and utilize a specialized team (including an attorney, an auditor, and appropriate health care professionals) for the purpose of identifying, surveying, gathering and preserving evidence, and carrying out appropriate enforcement actions against chronically substandard nursing facilities.

"(5) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys and certifications made respecting nursing facilities, including statements of deficiencies and plans of correction,

"(ii) copies of cost reports of such facilities filed under this title or under title XVIII,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICE TO OMBUDSMAN.— Each State shall notify the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) of the State's findings of noncompliance with any of the requirements of subsections (b), (c), and (d), with respect to a nursing facility in the State.

"(C) NOTICE TO PHYSICIANS AND NURSING FACILITY ADMINISTRATOR LICENSING BOARD.—If a State finds that a nursing facility has provided substandard quality of care, the State shall notify—

"(i) the attending physician of each resident with respect to which such finding is made, and

"(ii) any State board responsible for the licensing of the nursing facility administrator of the facility.

"(D) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys and certifications under this subsection.".

(b) POSTING SURVEY RESULTS.—Section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by inserting, after "readily available form and place" in the fifth sentence, the following: ", and require (in the case of skilled nursing facilities) the posting in a place readily accessible to patients (and patients' representatives),".

(c) INCREASING MATCHING PERCENTAGE FOR NURSING HOME SURVEY AND CERTIFICATION ACTIVITIES.—(1) Section 1903(a)(2) of such Act (42 U.S.C. 1396b(a)(2)), as amended by this title, is further amended by adding at the end the following new subparagraph:

"(D) for each calendar quarter during—

"(i) fiscal year 1991, an amount equal to 90 percent,

"(ii) fiscal year 1992, an amount equal to 85 percent,

"(iii) fiscal year 1993, an amount equal to 80 percent, and

"(iv) fiscal year 1994 and thereafter, an amount equal to 75 percent,

of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to State activities under section 1919(g); plus".

(2) Section 1903(r) of such Act (42 U.S.C. 1396b(r)) is amended by striking "paragraphs (2)" each place it appears and inserting "paragraphs (2)(A)".

42 USC 1396b note.

(3) For purposes of section 1903(a) of the Social Security Act, proper expenses incurred by a State for medical review by independent professionals of the care provided to residents of nursing facilities who are entitled to medical assistance under title XIX of such Act shall be reimbursable as expenses necessary for the proper and efficient administration of the State plan under that title.

(d) REVISION OF PENALTY PROVISIONS.—(1) Section 1903(g) of such Act (42 U.S.C. 1396b(g)) is amended—

(A) in paragraph (1)—

(i) by striking "or intermediate care facility services" the first place it appears and inserting "or services in an intermediate care facility for the mentally retarded",

(ii) by striking ", skilled nursing facility services for 30 days,",

(iii) by striking ", skilled nursing facility services, or intermediate care facility services" and inserting "or services in an intermediate care facility for the mentally retarded",

(iv) by striking ", skilled nursing facilities, and intermediate care facilities" and inserting "and intermediate care facilities for the mentally retarded";

(B) in paragraph (4)(B), by striking ", skilled nursing facilities, and intermediate care facilities" and inserting "and intermediate care facilities for the mentally retarded";

(C) in paragraph (6)—

(i) by striking subparagraph (B),

(ii) in subparagraph (C), by striking "intermediate care facility services" and inserting "services in an intermediate care facility for the mentally retarded", and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(D) by striking paragraph (7).

(2) Section 1902(a)(31) of such Act (42 U.S.C. 1396a(a)(31)) is amended—

(A) in the matter before subparagraph (A), by striking "skilled nursing facility services" and all that follows through "where" and inserting "services in an intermediate care facility for the mentally retarded (where", and

(B) in subparagraph (B), by striking "skilled nursing or intermediate care facility" and inserting "intermediate care facility for the mentally retarded".

(3) Section 1902(a)(33)(B) of such Act (42 U.S.C. 1396a(a)(33)(B)) is amended by inserting ", except as provided in section 1919(d)," after "(B) that".

Effective date. 42 USC 1396a note.

(4) The amendments made by this subsection shall not apply to a State until such date (not earlier than October 1, 1990) as of which the Secretary determines that—

(A) the State has specified the resident assessment instrument under section 1919(e)(5) of the Social Security Act, and

(B) the State has begun conducting surveys under section 1919(g)(2) of such Act.

(e) MISCELLANEOUS CONFORMING AMENDMENTS.—(1) Section 1902(a)(44) of such Act (42 U.S.C. 1396a(a)(44)) is amended—

(A) in the matter before subparagraph (A), by striking "skilled nursing facility services, intermediate care facility services" and inserting "services in an intermediate care facility for the mentally retarded", and

(B) in subparagraph (A), by striking "that are intermediate care facility services in an institution for the mentally retarded" and inserting "that are services in an intermediate care facility for the mentally retarded".

(2) Section 1903(a)(7) of such Act (42 U.S.C. 1396b(a)(7)) is amended by inserting "subject to section 1919(g)(3)(B)," after "(7)".

(3) Section 1910 of such Act (42 U.S.C. 1396i) is amended—

(A) by striking "SKILLED NURSING FACILITIES AND" in the heading,

(B) by striking subsection (a), and

(C) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(4) Section 1866(c) of such Act (42 U.S.C. 1395cc(c)) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

SEC. 4213. ENFORCEMENT PROCESS.

(a) IN GENERAL.—Section 1919 of the Social Security Act, as inserted by section 4201 and amended by section 4202, is further amended by adding at the end the following new subsection:

"(h) ENFORCEMENT PROCESS.—

"(1) IN GENERAL.—If a State finds, on the basis of a standard, extended, or partial extended survey under subsection (g)(2) or otherwise, that a nursing facility no longer meets a requirement of subsection (b), (c), or (d), and further finds that the facility's deficiencies—

"(A) immediately jeopardize the health or safety of its residents, the State shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(iii), or terminate the facility's participation under the State plan and may provide, in addition, for one or more of the other remedies described in paragraph (2); or

"(B) do not immediately jeopardize the health or safety of its residents, the State may—

"(i) terminate the facility's participation under the State plan,

"(ii) provide for one or more of the remedies described in paragraph (2), or

"(iii) do both.

Nothing in this paragraph shall be construed as restricting the remedies available to a State to remedy a nursing facility's deficiencies. If a State finds that a nursing facility meets the requirements of subsections (b), (c), and (d), but, as of a previous period, did not meet such requirements, the State may provide for a civil money penalty under paragraph (2)(A)(i) for the days in which it finds that the facility was not in compliance with such requirements.

Regulations.

"(2) SPECIFIED REMEDIES.—

"(A) LISTING.—Except as provided in subparagraph (B)(ii), each State shall establish by law (whether statute or regulation) at least the following remedies:

"(i) Denial of payment under the State plan with respect to any individual admitted to the nursing facility involved after such notice to the public and to the facility as may be provided for by the State.

"(ii) A civil money penalty assessed and collected, with interest, for each day in which the facility is or was out of compliance with a requirement of subsection (b), (c), or (d). Funds collected by a State as a result of imposition of such a penalty (or as a result of the imposition by the State of a civil money penalty for activities described in subsections (b)(3)(B)(ii)(I), (b)(3)(B)(ii)(II), or (g)(2)(A)(i)) shall be applied to the protection of the health or property of residents of nursing facilities that the State or the Secretary finds deficient, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for personal funds lost.

"(iii) The appointment of temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the State has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

"(iv) The authority, in the case of an emergency, to close the facility, to transfer residents in that facility to other facilities, or both.

The State also shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. In addition, the State may provide for other specified remedies, such as directed plans of correction.

"(B) Deadline and guidance.—(i) Except as provided in clause (ii), as a condition for approval of a State plan for calendar quarters beginning on or after October 1, 1989, each State shall establish the remedies described in clauses (i) through (iv) of subparagraph (A) by not later than October 1, 1989. The Secretary shall provide, through regulations or otherwise by not later than October 1, 1988, guidance to States in establishing such remedies; but the failure of the Secretary to provide such guidance shall not relieve a State of the responsibility for establishing such remedies.

Regulations.

"(ii) A State may establish alternative remedies (other than termination of participation) other than those described in clauses (i) through (iv) of subparagraph (A), if the State demonstrates to the Secretary's satisfaction that the alternative remedies are as effective in deterring noncompliance and correcting deficiencies as those described in subparagraph (A).

"(C) Assuring prompt compliance.—If a nursing facility has not complied with any of the requirements of subsections (b), (c), and (d), within 3 months after the date the facility is found to be out of compliance with such requirements, the State shall impose the remedy described in subparagraph (A)(i) for all individuals who are admitted to the facility after such date.

"(D) Repeated noncompliance.—In the case of a nursing facility which, on 3 consecutive standard surveys conducted under subsection (g)(2), has been found to have provided substandard quality of care, the State shall (regardless of what other remedies are provided)—

"(i) impose the remedy described in subparagraph (A)(i), and

"(ii) monitor the facility under subsection (g)(4)(B),

until the facility has demonstrated, to the satisfaction of the State, that it is in compliance with the requirements of subsections (b), (c), and (d), and that it will remain in compliance with such requirements.

"(E) Funding.—The reasonable expenditures of a State to provide for temporary management and other expenses associated with implementing the remedies described in clauses (iii) and (iv) of subparagraph (A) shall be considered, for purposes of section 1903(a)(7), to be necessary for the proper and efficient administration of the State plan.

"(F) INCENTIVES FOR HIGH QUALITY CARE.—In addition to the remedies specified in this paragraph, a State may establish a program to reward, through public recognition, incentive payments, or both, nursing facilities that provide the highest quality care to residents who are entitled to medical assistance under this title. For purposes of section 1903(a)(7), proper expenses incurred by a State in carrying out such a program shall be considered to be expenses necessary for the proper and efficient administration of the State plan under this title.

"(3) SECRETARIAL AUTHORITY.—

"(A) FOR STATE NURSING FACILITIES.—With respect to a State nursing facility, the Secretary shall have the authority and duties of a State under this subsection, including the authority to impose remedies described in clauses (i), (ii), and (iii) of paragraph (2)(A).

"(B) OTHER NURSING FACILITIES.—With respect to any other nursing facility in a State, if the Secretary finds that a nursing facility no longer meets a requirement of subsection (b), (c), (d), or (e), and further finds that the facility's deficiencies—

"(i) immediately jeopardize the health or safety of its residents, the Secretary shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in subparagraph (C)(iii), or terminate the facility's participation under the State plan and may provide, in addition, for one or more of the other remedies described in subparagraph (C); or

"(ii) do not immediately jeopardize the health or safety of its residents, the Secretary may impose any of the remedies described in subparagraph (C).

Nothing in this subparagraph shall be construed as restricting the remedies available to the Secretary to remedy a nursing facility's deficiencies. If the Secretary finds that a nursing facility meets such requirements but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subparagraph (C)(ii) for the days on which he finds that the facility was not in compliance with such requirements.

"(C) SPECIFIED REMEDIES.—The Secretary may take the following actions with respect to a finding that a facility has not met an applicable requirement:

"(i) DENIAL OF PAYMENT.—The Secretary may deny any further payments to the State for medical assistance furnished by the facility to all individuals in the facility or to individuals admitted to the facility after the effective date of the finding.

"(ii) AUTHORITY WITH RESPECT TO CIVIL MONEY PENALTIES.—The Secretary may impose a civil money penalty in an amount not to exceed $10,000 for each day of noncompliance and the Secretary shall impose and collect such a penalty in the same manner as civil money penalties are imposed and collected under section 1128A.

"(iii) Appointment of temporary management.—In consultation with the State, the Secretary may appoint temporary management to oversee the operation of the facility and to assure the health and safety of the facility's residents, where there is a need for temporary management while—

"(I) there is an orderly closure of the facility, or

"(II) improvements are made in order to bring the facility into compliance with all the requirements of subsections (b), (c), and (d).

The temporary management under this clause shall not be terminated under subclause (II) until the Secretary has determined that the facility has the management capability to ensure continued compliance with all the requirements of subsections (b), (c), and (d).

The Secretary shall specify criteria, as to when and how each of such remedies is to be applied, the amounts of any fines, and the severity of each of these remedies, to be used in the imposition of such remedies. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. In addition, the Secretary may provide for other specified remedies, such as directed plans of correction.

"(D) Continuation of payments pending remediation.—The Secretary may continue payments, over a period of not longer than 6 months, under this title with respect to a nursing facility not in compliance with a requirement of subsection (b), (c), or (d), if—

"(i) the State survey agency finds that it is more appropriate to take alternative action to assure compliance of the facility with the requirements than to terminate the certification of the facility,

"(ii) the State has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(iii) the State agrees to repay to the Federal Government payments received under this subparagraph if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for approval of corrective actions requested by States under this subparagraph.

"(4) Effective period of denial of payment.—A finding to deny payment under this subsection shall terminate when the State or Secretary (or both, as the case may be) finds that the facility is in substantial compliance with all the requirements of subsections (b), (c), and (d).

"(5) Immediate termination of participation for facility where State or Secretary finds noncompliance and immediate jeopardy.—If either the State or the Secretary finds that a nursing facility has not met a requirement of subsection (b), (c), or (d), and finds that the failure immediately jeopardizes the health or safety of its residents, the State and the Secretary shall notify the other of such finding, and the State or the Secretary, respectively, shall take immediate action to remove the jeopardy and correct the deficiencies through the remedy specified in paragraph (2)(A)(iii) or (3)(C)(iii), or terminate the facility's participation under the State plan. If the facility's participation in the State plan is terminated by either the State or the Secretary, the State shall provide for the safe and orderly transfer of the residents eligible under the State plan consistent with the requirements of subsection (c)(2).

"(6) SPECIAL RULES WHERE STATE AND SECRETARY DO NOT AGREE ON FINDING OF NONCOMPLIANCE.—

"(A) STATE FINDING OF NONCOMPLIANCE AND NO SECRETARIAL FINDING OF NONCOMPLIANCE.—If the Secretary finds that a nursing facility has met all the requirements of subsections (b), (c), and (d), but a State finds that the facility has not met such requirements and the failure does not immediately jeopardize the health or safety of its residents, the State's findings shall control and the remedies imposed by the State shall be applied.

"(B) SECRETARIAL FINDING OF NONCOMPLIANCE AND NO STATE FINDING OF NONCOMPLIANCE.—If the Secretary finds that a nursing facility has not met all the requirements of subsections (b), (c), and (d), and that the failure does not immediately jeopardize the health or safety of its residents, but the State has not made such a finding, the Secretary—

"(i) may impose any remedies specified in paragraph (3)(C) with respect to the facility, and

"(ii) shall (pending any termination by the Secretary) permit continuation of payments in accordance with paragraph (3)(D).

"(7) SPECIAL RULES FOR TIMING OF TERMINATION OF PARTICIPATION WHERE REMEDIES OVERLAP.—If both the Secretary and the State find that a nursing facility has not met all the requirements of subsections (b), (c), and (d), and neither finds that the failure immediately jeopardizes the health or safety of its residents—

"(A)(i) if both find that the facility's participation under the State plan should be terminated, the State's timing of any termination shall control so long as the termination date does not occur later than 6 months after the date of the finding to terminate;

"(ii) if the Secretary, but not the State, finds that the facility's participation under the State plan should be terminated, the Secretary shall (pending any termination by the Secretary) permit continuation of payments in accordance with paragraph (3)(D); or

"(iii) if the State, but not the Secretary, finds that the facility's participation under the State plan should be terminated, the State's decision to terminate, and timing of such termination, shall control; and

"(B)(i) if the Secretary or the State, but not both, establishes one or more remedies which are additional or alternative to the remedy of terminating the facility's participation under the State plan, such additional or alternative remedies shall also be applied, or

"(ii) if both the Secretary and the State establish one or more remedies which are additional or alternative to the remedy of terminating the facility's participation under the

State plan, only the additional or alternative remedies of the Secretary shall apply.

"(8) CONSTRUCTION.—The remedies provided under this subsection are in addition to those otherwise available under State or Federal law and shall not be construed as limiting such other remedies, including any remedy available to an individual at common law. The remedies described in clauses (i), (iii), and (iv) of paragraph (2)(A) may be imposed during the pendency of any hearing.

"(9) SHARING OF INFORMATION.—Notwithstanding any other provision of law, all information concerning nursing facilities required by this section to be filed with the Secretary or a State agency shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under this title and title XVIII, including investigations by State medicaid fraud control units.".

(b) CONFORMING AMENDMENTS.—(1) Section 1902 of such Act (42 U.S.C. 1396a) is amended by striking subsection (i).

(2) Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by striking the period at the end of paragraph (7) and inserting "; or" and by adding at the end the following new paragraph:

"(8) with respect to any amount expended for medical assistance for nursing facility services to reimburse (or otherwise compensate) a nursing facility for payment of a civil money penalty imposed under section 1919(h).".

SEC. 4214. EFFECTIVE DATES.

42 USC 1396r note.

(a) NEW REQUIREMENTS AND SURVEY AND CERTIFICATION PROCESS.—Except as otherwise specifically provided in section 1919 of the Social Security Act, the amendments made by sections 4211 and 4212 (relating to nursing facility requirements and survey and certification requirements) shall apply to nursing facility services furnished on or after October 1, 1990, without regard to whether regulations to implement such amendments are promulgated by such date; except that section 1902(a)(28)(B) of the Social Security Act (as amended by section 4211(b) of this Act), relating to requiring State medical assistance plans to specify the services included in nursing facility services, shall apply to calendar quarters beginning more than 6 months after the date of the enactment of this Act, without regard to whether regulations to implement such section are promulgated by such date.

(b) ENFORCEMENT.—(1) Except as otherwise specifically provided in section 1919 of the Social Security Act, the amendments made by section 4213 of this Act apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the date of the enactment of this Act, without regard to whether regulations to implement such amendments are promulgated by such date.

(c) TRANSITIONAL RULE.—In applying the amendments made by this part for services furnished before October 1, 1990—

(A) any reference to a nursing facility is deemed a reference to a skilled nursing facility or intermediate care facility (other than an intermediate care facility for the mentally retarded), and

(B) with respect to such a skilled nursing facility or intermediate care facility, any reference to a requirement of subsection (b), (c), or (d), is deemed a reference to the provisions of section 1861(j) or section 1905(c), respectively, of the Social Security Act.

(d) WAIVER OF PAPERWORK REDUCTION.—Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this part and implementing the amendments made by this part.

42 USC 1396r note.

SEC. 4215. ANNUAL REPORT.

The Secretary of Health and Human Services shall report to the Congress annually on the extent to which nursing facilities are complying with the requirements of subsections (b), (c), and (d) of section 1919 of the Social Security Act (as added by the amendments made by this part) and the number and type of enforcement actions taken by States and the Secretary under section 1919(h) of such Act (as added by section 4213 of this Act).

42 USC 1396r.

SEC. 4216. CONSTRUCTION.

Section 1919 of the Social Security Act is amended by adding at the end the following new subsection:

"(i) CONSTRUCTION.—Where requirements or obligations under this section are identical to those provided under section 1819 of this Act, the fulfillment of those requirements or obligations under section 1819 shall be considered to be the fulfillment of the corresponding requirements or obligations under this section.".

Effective date.
42 USC 1396r-3 note.

SEC. 4217. FINAL REGULATIONS WITH RESPECT TO PLANS OF CORRECTION OR REDUCTION.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate final regulations to implement the amendments made by section 9516 of the Consolidated Omnibus Budget Reconciliation Act of 1985. 100 Sta.. 82.

(b) The regulations promulgated under paragraph (1) shall be effective as if promulgated on the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 4218. MEDICAID CERTIFICATIONS AND RECERTIFICATIONS FOR CERTAIN SERVICES.

(a) IN GENERAL.—Section 1902(a)(44) of the Social Security Act (42 U.S.C. 1396a(a)(44)) is amended—

(1) in subparagraph (A)—

(A) by striking "physician certifies" and inserting "physician (or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician) certifies", and

(B) by striking "the physician, or a physician assistant or nurse practitioner under the supervision of a physician," and inserting "a physician, a physician assistant under the supervision of a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician,"; and

(2) in subparagraph (B), by striking "a physician;" and inserting "a physician, or, in the case of skilled nursing facility

services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to certifications or recertifications during the period beginning on July 1, 1988, and ending on October 1, 1990.

42 USC 1396a note.

Subtitle D—Vaccine Compensation

Vaccine Compensation Amendments of 1987.

SEC. 4301. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This subtitle may be cited as the "Vaccine Compensation Amendments of 1987".

42 USC 201 note.

(b) REFERENCE.—Whenever in this subtitle (other than in section 4302(a)) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 4302. EFFECTIVE DATE.

(a) IN GENERAL.—Section 323(a) of the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa-1 note) is amended by striking out "Subtitle 2 of such title and this title shall take effect on the effective date of a tax" and all that follows in that section and inserting in lieu thereof "parts A and B of subtitle 2 of such title shall take effect on October 1, 1988 and parts C and D of such title and this title shall take effect on the date of the enactment of the Vaccine Compensation Amendments of 1987.".

(b) REFERENCES.—

(1) Sections 2111, 2115, 2119(a), 2122, 2123, 2125, 2126, 2127, and 2128 (42 U.S.C. 300aa-11, 300aa-15, 300aa-199a), 300aa-22, 300aa-23, 300aa-25, 300aa-26, 300aa-27, 300aa-28) are each amended by striking out "effective date of this subtitle" each place it appears and inserting in lieu thereof "effective date of this part".

42 USC 300aa-19.

(2) Sections 2111(a)(5)(A), 2115(e)(2) and 2116 (42 U.S.C. 300aa-11(a)(5)(A), 300aa-15(e)(2), 300a-16) are each amended by striking out "effective date of this title" each place it appears and inserting in lieu thereof "effective date of this part".

42 USC 300aa-16.

SEC. 4303. COMPENSATION.

(a) SOURCE.—Section 2115 (42 U.S.C. 300aa-15) is amended by adding at the end the following:

"(i) SOURCE OF COMPENSATION.—

"(1) Payment of compensation under the Program to a petitioner for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part shall be made from appropriations under subsection (i).

"(2) Payment of compensation under the Program to a petitioner for a vaccine-related injury or death associated with the administration of a vaccine on or after the effective date of this part shall be made from the Vaccine Injury Compensation Trust Fund established under section 9510 of the Internal Revenue Code of 1986.".

(b) AUTHORIZATION.—Section 2115 (42 U.S.C. 300aa-15) (as amended by subsection (a)) is amended by adding at the end the following:

"(j) AUTHORIZATION.—For the payment of compensation under the Program to a petitioner for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part there are authorized to be appropriated $80,000,000 for fiscal year 1989, $80,000,000 for fiscal year 1990, $80,000,000 for fiscal year 1991, and $80,000,000 for fiscal year 1992. Amounts appropriated under this subsection shall remain available until expended.".

42 USC 300aa-15.

(c) MINIMUM.—Section 2115(a)(1) (42 U.S.C. 300a-15(a)(1)) is amended by striking out the last sentence of subparagraphs (A) and (B).

(d) LUMP SUM.—

(1) Section 2115 (42 U.S.C. 300aa-15) is amended—

(A) by striking out the last two sentences after paragraph (4) in subsection (a), and

(B) by adding at the end of the first subsection (f) the following:

"(4)(A) Except as provided in subparagraph (B), payment of compensation under the Program shall be made in a lump sum determined on the basis of the net present value of the elements of the compensation.

"(B) In the case of a payment of compensation under the Program to a petitioner for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part the compensation shall be paid in 4 equal annual installments. If the appropriations under subsection (i) are insufficient to make a payment of an annual installment, section 2111(a) shall not apply to a civil action for damages brought by the petitioner entitled to the payment.".

42 USC 300aa-12.

(2)(A) Subsections (e) and (f) of section 2112 (42 U.S.C. 300a-12) are repealed and subsection (g) of such section is redesignated as subsection (e).

(B) Section 2118 (42 U.S.C. 300aa-18) is repealed.

(e) LIMIT.—Section 2115(b) (42 U.S.C. 300aa-15(b)) is amended by striking out "shall only include the compensation described in paragraphs (1)(A) and (2) of subsection (a)" and inserting in lieu thereof the following: "may not include the compensation described in paragraph (1)(B) of subsection (a) and may include attorneys' fees and other costs included in a judgment under subsection (e), except that the total amount that may be paid as compensation under paragraphs (3) and (4) of subsection (a) and included as attorneys' fees and other costs under subsection (e) may not exceed $30,000".

(f) TERMINATION OF PROGRAM.—Part D of title XXI is amended by adding at the end the following:

"TERMINATION OF PROGRAM

42 USC 300aa-34.

"SEC. 2134. (a) REVIEWS.—The Secretary shall review the number of awards of compensation made under the program to petitioners under section 2111 for vaccine-related injuries and deaths associated with the administration of vaccines on or after the effective date of this part as follows:

"(1) The Secretary shall review the number of such awards made in the 12-month period beginning on the effective date of this part.

"(2) At the end of each 3-month period beginning after the expiration of the 12-month period referred to in paragraph (1) the Secretary shall review the number of such awards made in the 3-month period.

"(b) REPORT.—

"(1) If in conducting a review under subsection (a) the Secretary determines that at the end of the period reviewed the total number of awards made by the end of that period and accepted under section 2121(a) exceeds the number of awards listed next to the period reviewed in the table in paragraph (2)—

"(A) the Secretary shall notify the Congress of such determination, and

"(B) beginning 180 days after the receipt by Congress of a notification under paragraph (1), no petition for a vaccine-related injury or death associated with the administration of a vaccine on or after the effective date of this part may be filed under section 2111.

Section 2111(a) and part B shall not apply to civil actions for damages for a vaccine-related injury or death for which a petition may not be filed because of subparagraph (B).

"(2) The table referred to in paragraph (1) is as follows:

[70] "Period reviewed:	Total number of awards by the end of the period reviewed
12 months after the effective date of part	150
13th through the 15th month after such date	188
16th through the 18th month after such date	225
19th through the 21st month after such date	263
22nd through the 24th month after such date	300
25th through the 27th month after such date	338
28th through the 30th month after such date	375
31st through the 33rd month after such date	413
34th through the 36th month after such date	450
37th through the 39th month after such date	488
40th through the 42nd month after such date	525
43rd through the 45th month after such date	563
46th through the 48th month after such date	600.".

(g) TECHNICAL.—Section 2115 (42 U.S.C. 300a-15) is amended by redesignating the second subsection (f) and subsection (g) as subsections (g) and (h), respectively.

42 USC 300aa-15.

SEC. 4304. PETITIONS.

(a) APPLICATION OF LIMITS.—Section 2111(a) (42 U.S.C. 300aa-11) is amended by adding at the end the following:

"(8) This subsection applies only to a person who has sustained a vaccine-related injury or death and who is qualified to file a petition for compensation under the Program.".

(b) QUALIFICATION.—

(1) Section 2111(b)(1) (42 U.S.C. 300a-11(b)(1)(A)) is amended by striking out "may file" and inserting in lieu thereof "may, if the person meets the requirements of subsection (c)(1), file".

42 USC 300aa-11.

(2) Section 2111(c)(1)(D) (42 U.S.C. 300a-11(c)(1)(D)) is amended (A) by striking out "for more than 1 year" and inserting in lieu thereof "for more than 6 months", (B) by striking out ", (ii)" and

---

[70] Copy read "Period reviewed:".

inserting in lieu thereof "and", and (C) by striking out "(iii)" and inserting in lieu thereof "(ii)".

42 USC 300aa-21.

(c) WITHDRAWAL.—Section 2121 (42 U.S.C. 300a-21) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

"(b) WITHDRAWAL OF PETITION.—If the United States Claims Court fails to enter a judgment under section 2112 on a petition filed under section 2111 within 365 days after the date on which the petition was filed, the petitioner may submit to the court a notice in writing withdrawing the petition. Such a notice shall be filed not later than 90 days after the expiration of such 365-day period. A person who has submitted a notice under this subsection may, notwithstanding section 2111(a)(2), thereafter maintain a civil action for damages in a State or Federal court without regard to part B and consistent with otherwise applicable law.".

SEC. 4305. CITIZEN'S ACTIONS.

42 USC 300aa-31.

Section 2131(c) (42 U.S.C. 300a-31(c)) [71] is amended by striking out "to any party, whenever the court determines that such award is appropriate" and inserting in lieu thereof "to any plaintiff who substantially prevails on one or more significant issues in the action".

42 USC 300aa-11.

SEC. 4306. VACCINE ADMINISTRATORS.

Section 2111(a) (42 U.S.C. 300a-11) is amended by striking out "vaccine manufacturer" each place it appears and inserting in lieu thereof "vaccine administrator or manufacturer".

SEC. 4307. COURT JURISDICTION.

Subtitle 2 of title XXI is amended as follows:

(1) Section 2111(a)(1) (42 U.S.C. 300aa-11(a)(1)) is amended by striking out "with the United States district court for the district in which the petitioner resides or the injury or death occurred" and inserting in lieu thereof "with the United States Claims Court".

(2) Section 2111(a)(2)(A)(ii) (42 U.S.C. 300aa-11(a)(2)(A)(ii)) is amended by striking out "a district court of the United States" and inserting in lieu thereof "the United States Claims Court".

(3) Section 2112 (42 U.S.C. 300aa-12) is amended—

(A) in subsection (a), by striking out "district courts of the United States" and inserting in lieu thereof "United States Claims Court" and by striking out "the courts" and inserting in lieu thereof "the court",

(B) in subsection (c)(1), by striking out "the district court of the United States in which the petition is filed" and inserting in lieu thereof "the United States Claims Court", and

(C) in subsection (g), by striking out "a district court of the United States" and inserting in lieu thereof "the United States Claims Court" and by striking out "for the circuit in which the court is located" and inserting in lieu thereof "for the Federal Circuit".

(4) Section 2113(c) (42 U.S.C. 300aa-13(c)) is amended by striking out "a district court of the United States" and inserting in lieu thereof "the United States Claims Court".

---

[71] Copy read "300a-31(c)".

(5) Section 2115(e)(1) (42 U.S.C. 300aa-15(e)(1)) is amended by striking out "of a court" and inserting in lieu thereof "of the United States Claims Court".

(6) Paragraph (2) of subsection (f) of section 2115 (42 U.S.C. 300aa-15) is amended by striking out "district court of the United States" and inserting in lieu thereof "United States Claims Court".

(7) Section 2117(a) (42 U.S.C. 300aa-17(a)) is amended by striking out "(1)", by running in the text of paragraph (1) into the subsection heading, and by striking out paragraph (2).

(8) Section 2121(a) (42 U.S.C. 300aa-21(a)) is amended by striking out "a district court of the United States" and inserting in lieu thereof "the United States Claims Court" and by striking out "a court" each place it occurs and inserting in lieu thereof "the court".

(9) Section 2123(e) (42 U.S.C. 300aa-23(e)) is amended by striking out "a district court of the United States" and inserting in lieu thereof "the United States Claims Court".

Subtitle E—Rural Health

SEC. 4401. OFFICE OF RURAL HEALTH POLICY.

Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"OFFICE OF RURAL HEALTH POLICY

Establishment.
42 USC 912.

"SEC. 711. (a) There shall be established in the Department of Health and Human Services (in this section referred to as the 'Department')[72] an Office of Rural Health Policy (in this section referred to as the 'Office'). The Office shall be headed by a Director, who shall advise the Secretary on the effects of current policies and proposed statutory, regulatory, administrative, and budgetary changes in the programs established under titles XVIII and XIX on the financial viability of small rural hospitals, the ability of rural areas (and rural hospitals in particular) to attract and retain physicians and other health professionals, and access to (and the quality of) health care in rural areas.

"(b) In addition to advising the Secretary with respect to the matters specified in subsection (a), the Director, through the Office, shall—

"(1) oversee compliance with the requirements of section 1102(b) of this Act and section 4083 of the Omnibus Budget Reconciliation Act of 1987,

"(2) establish and maintain a clearinghouse for collecting and disseminating information on—

"(A) rural health care issues,

"(B) research findings relating to rural health care, and

"(C) innovative approaches to the delivery of health care in rural areas,

"(3) coordinate the activities within the Department that relate to rural health care, and

---

[72] Copy read " "Department")".

"(4) provide information to the Secretary and others in the Department with respect to the activities, of other Federal departments and agencies, that relate to rural health care.".

SEC. 4402. IMPACT ANALYSES OF MEDICARE AND MEDICAID RULES AND REGULATIONS ON SMALL RURAL HOSPITALS.

(a) IN GENERAL.—Section 1102 of the Social Security Act (42 U.S.C. 1302) is amended—

(1) by inserting "(a)" after "SEC. 1102.", and

(2) by adding at the end thereof the following new subsection:

"(b)(1) Whenever the Secretary publishes a general notice of proposed rulemaking for any rule or regulation proposed under title XVIII, title XIX, or part B of this title that may have a significant impact on the operations of a substantial number of small rural hospitals, the Secretary shall prepare and make available for public comment an initial regulatory impact analysis. Such analysis shall describe the impact of the proposed rule or regulation on such hospitals and shall set forth, with respect to small rural hospitals, the matters required under section 603 of title 5, United States Code, to be set forth with respect to small entities. The initial regulatory impact analysis (or a summary) shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule or regulation.

Federal Register, publication.

"(2) Whenever the Secretary promulgates a final version of a rule or regulation with respect to which an initial regulatory impact analysis is required by paragraph (1), the Secretary shall prepare a final regulatory impact analysis with respect to the final version of such rule or regulation. Such analysis shall set forth, with respect to small rural hospitals, the matters required under section 604 of title 5, United States Code, to be set forth with respect to small entities. The Secretary shall make copies of the final regulatory impact analysis available to the public and shall publish, in the Federal Register at the time of publication of the final version of the rule or regulation, a statement describing how a member of the public may obtain a copy of such analysis.

Federal Register, publication.

"(3) If a regulatory flexibility analysis is required by chapter 6 of title 5, United States Code, for a rule or regulation to which this subsection applies, such analysis shall specifically address the impact of the rule or regulation on small rural hospitals.".

42 USC 1302 note.

(b) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to regulations proposed more than 30 days after the date of the enactment of this Act.

42 USC 1395b-1 note.

SEC. 4403. SET ASIDE FOR EXPERIMENTS AND DEMONSTRATION PROJECTS RELATING TO RURAL HEALTH CARE ISSUES.

(a) SET ASIDE.—Not less than ten percent of the total amounts expended in each fiscal year by the Secretary of Health and Human Services (in this section referred to as the "Secretary") after October 1, 1988, with respect to experiments and demonstration projects authorized by section 402 of the Social Security Amendments of 1967 and the experiments and demonstration projects authorized by the Social Security Amendments of 1972 shall be expended for experiments and demonstration projects relating exclusively or substantially to rural health issues, including (but not limited to) the impact of the payment methodology under section 1886(d) of the Social Security Act on the financial viability of small rural hospitals, the effect of medicare payment policies on the ability of rural areas (and rural hospitals in particular) to attract and retain physicians and other health professionals, the appropriateness of medicare conditions of participation and staffing requirements for small rural hospitals, and the impact of medicare policies on access to (and the quality of) health care in rural areas.

(b) AGENDA.—The Secretary of Health and Human Services shall establish an agenda of experiments and demonstration projects, relating exclusively or substantially to rural health issues, that are in progress or have been proposed, and shall include such agenda in the annual report submitted pursuant to section 1875(b) of the Social Security Act. The agenda shall be accompanied by a statement setting forth the amounts that have been obligated and expended with respect to such experiments and projects in the current and most recently completed fiscal years.

TITLE V—ENERGY AND ENVIRONMENT PROGRAMS

Subtitle A—Nuclear Waste Amendments

Nuclear Waste Policy Amendments Act of 1987.
42 USC 10101 note.

SEC. 5001. SHORT TITLE.

This subtitle may be cited as the "Nuclear Waste Policy Amendments Act of 1987".

SEC. 5002. DEFINITIONS.

Section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101) is amended by adding at the end the following new paragraphs:

"(30) The term 'Yucca Mountain site' means the candidate site in the State of Nevada recommended by the Secretary to the President under section 112(b)(1)(B) on May 27, 1986.

"(31) The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or a monitored retrievable storage facility. Such term may, at the discretion of the Secretary, include units of local government that are contiguous with such unit.

"(32) The term 'Negotiator' means the Nuclear Waste Negotiator.

"(33) As used in title IV, the term 'Office' means the Office of the Nuclear Waste Negotiator established under title IV of this Act.

"(34) The term 'monitored retrievable storage facility' means the storage facility described in section 141(b)(1).".

PART A—REDIRECTION OF THE NUCLEAR WASTE PROGRAM

SEC. 5011. FIRST REPOSITORY.

(a) SITE SPECIFIC ACTIVITIES.—Title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10121-10171) is amended by adding at the end the following new subtitle:

"SUBTITLE E—REDIRECTION OF THE NUCLEAR WASTE PROGRAM

"SELECTION OF YUCCA MOUNTAIN SITE

42 USC 10172.

"SEC. 160. (a) IN GENERAL.—(1) The Secretary shall provide for an orderly phase-out of site specific activities at all candidate sites other than the Yucca Mountain site.

"(2) The Secretary shall terminate all site specific activities (other than reclamation activities) at all candidate sites, other than the Yucca Mountain site, within 90 days after the date of enactment of the Nuclear Waste Policy Amendments Act of 1987.

"(b) Effective on the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the State of Nevada shall be eligible to enter into a benefits agreement with the Secretary under section 170.".

(b) SITE RECOMMENDATION TO THE PRESIDENT.—Section 112(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132(b)) is amended by—

(1) striking out paragraph (1)(C) and redesignating the subsequent subparagraphs accordingly; and

(2) in subparagraph (C) [73] (as redesignated) by striking "subparagraphs (B) and (C)" and inserting "subparagraph (B)".

(c) TERMINATION OF CANDIDATE SITE SCREENING.—Section 112 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132) is amended by striking all of subsection (d) and redesignating subsequent subsections accordingly.

(d) TIMELY SITE CHARACTERIZATION.—Section 112 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132) is amended by striking all of subsection (f) and redesignating subsequent subsections accordingly.

(e) SITE CHARACTERIZATION.—Section 113(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10133(a)) is amended—

(1) by striking "State involved" and all that follows through "tribe involved" and inserting "State of Nevada"; and

(2) by striking "beginning" and all that follows through "geological media" and inserting "at the Yucca Mountain site".

(f) COMMISSION AND STATES.—Section 113(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10133(b)) is amended—

(1) in paragraph (1)—

(A) by striking "any candidate site" and inserting "the Yucca Mountain site";

(B) by striking "either" and all that follows through "may be" and insert "the Governor or legislature of the State of Nevada";

(2) in paragraph (2), by striking "at any candidate site" and inserting "at the Yucca Mountain site"; and

(3) in paragraph (3)—

(A) by striking "a candidate site" and inserting "the Yucca Mountain site";

(B) by striking "either"; and

(C) by striking "the State" and all that follows through "may be" and inserting "the State of Nevada".

(g) RESTRICTIONS.—Section 113(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10133(c)) is amended—

(1) in paragraph (1)—

---

[73] Copy read "(C), (as".

(A) by striking "any candidate site" and inserting "the Yucca Mountain site"; and

(B) by striking "such candidate site" each place it appears and inserting "such site";

(2) in paragraph (2), by striking "candidate" each place it appears; and

(3) by striking paragraphs (3) and (4) and inserting the following:

"(3) If the Secretary at any time determines the Yucca Mountain site to be unsuitable for development as a repository, the Secretary shall—

"(A) terminate all site characterization activities at such site;

"(B) notify the Congress, the Governor and legislature of Nevada of such termination and the reasons for such termination;

"(C) remove any high-level radioactive waste, spent nuclear fuel, or other radioactive materials at or in such site as promptly as practicable;

"(D) take reasonable and necessary steps to reclaim the site and to mitigate any significant adverse environmental impacts caused by site characterization activities at such site;

"(E) suspend all future benefits payments under subtitle F with respect to such site; and

"(F) report to Congress not later than 6 months after such determination the Secretary's recommendations for further action to assure the safe, permanent disposal of spent nuclear fuel and high-level radioactive waste, including the need for new legislative authority.". Reports.

(h) HEARINGS AND PRESIDENTIAL RECOMMENDATION.—Section 114(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(a)) is amended—

(1) in paragraph (1)—

(A) by striking "each site" through "development of a repository" and inserting "the Yucca Mountain site";

(B) by striking "in which such site is located";

(C) by striking "not less than 3" and all that follows through "subsequent repositories" and inserting "the Yucca Mountain site";

(D) by striking "in which such site" and all that follows through "case may be" and insert "of Nevada";

(E) by striking the sentence beginning with "In making site recommendations";

(F) by amending subparagraph (D) to read as follows:

"(D) a final environmental impact statement prepared for the Yucca Mountain site pursuant to subsection (f) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), together with comments made concerning such environmental impact statement by the Secretary of the Interior, the Council on Environmental Quality, the Administrator, and the Commission, except that the Secretary shall not be required in any such environmental impact statement to consider the need for a repository, the alternatives to geological disposal, or alternative sites to the Yucca Mountain site;"; and

(G) in subparagraph (H), by striking "the State" and all that follows through the end of the sentence and inserting "the State of Nevada";

(2) by striking paragraphs (2) and (3) and inserting the following:

President of U.S.

"(2)(A) If, after recommendation by the Secretary, the President considers the Yucca Mountain site qualified for application for a construction authorization for a repository, the President shall submit a recommendation of such site to Congress.

"(B) The President shall submit with such recommendation a copy of the statement for such site prepared by the Secretary under paragraph (1)."; and

(3) in paragraph (4) by—

(A) striking "(4)(A)" and inserting "(3)(A)";

(B) striking "any site under this subsection" and inserting "the Yucca Mountain site"; and

(C) by striking "report" and inserting "statement".

(i) SUBMISSION OF APPLICATION.—Section 114(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(b)) is amended—

(1) by striking "a site for a repository" and inserting "the Yucca Mountain site"; and

(2) by striking "in which" and all that follows through "may be," and inserting "of Nevada".

(j) COMMISSION ACTION.—Section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) is amended in the first sentence—

(1) by striking "than—" and all that follows through "(2) the expiration" and inserting "than the expiration"; and

(2) by striking "(e)(2); whichever occurs later" and inserting "(e)(2)".

(k) PROJECT DECISION SCHEDULE.—Section 114(e) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(e)) is amended by striking "repository involved" and inserting "repository".

(l) ENVIRONMENTAL IMPACT STATEMENT.—Section 114(f) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(f)) is amended to read as follows:

"(f) ENVIRONMENTAL IMPACT STATEMENT.—(1) Any recommendation made by the Secretary under this section shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). A final environmental impact statement prepared by the Secretary under such Act shall accompany any recommendation to the President to approve a site for a repository.

"(2) With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), compliance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for a repository, the time of the initial availability of a repository, and all alternatives to the isolation of high-level radioactive waste and spent nuclear fuel in a repository.

"(3) For purposes of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section, the Secretary need not consider alternate sites to the Yucca Mountain site for the repository to be developed under this subtitle.

"(4) Any environmental impact statement prepared in connection with a repository proposed to be constructed by the Secretary under this subtitle shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"(5) Nothing in this Act shall be construed to amend or otherwise detract from the licensing requirements of the Nuclear Regulatory Commission established in title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.).

"(6) In any such statement prepared with respect to the repository to be constructed under this subtitle, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.".

(m) ON-SITE REPRESENTATIVE.—Section 117 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10137) is amended by adding at the end the following new subsection:

"(d) ON-SITE REPRESENTATIVE.—The Secretary shall offer to any State, Indian tribe or unit of local government within whose jurisdiction a site for a repository or monitored retrievable storage facility is located under this title an opportunity to designate a representative to conduct on-site oversight activities at such site. Reasonable expenses of such representatives shall be paid out of the Waste Fund.".

SEC. 5012. SECOND REPOSITORY.

Subtitle E of title I of the Nuclear Waste Policy Act of 1982 (as created by section 5011 of this Act) is amended by adding at the end the following new section:

"SITING A SECOND REPOSITORY

"SEC. 161. (a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities. 42 USC 10172a.

"(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1. 2007, but not later than January 1, 2010, on the need for a second repository.

"(c) TERMINATION OF GRANITE RESEARCH.—Not later than 6 months after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall phase out in an orderly manner funding for all research programs in existence on such date of enactment designed to evaluate the suitability of crystalline rock as a potential repository host medium.

"(d) ADDITIONAL SITING CRITERIA.—In the event that the Secretary at any time after such date of enactment considers any sites in crystalline rock for characterization or selection as a repository, the Secretary shall consider (as a supplement to the siting guidelines under section 112) such potentially disqualifying factors as—

"(1) seasonal increases in population;

"(2) proximity to public drinking water supplies, including those of metropolitan areas; and

"(3) the impact that characterization or siting decisions would have on lands owned or placed in trust by the United States for Indian tribes.".

PART B—MONITORED RETRIEVABLE STORAGE

SEC. 5021. AUTHORIZATION OF MONITORED RETRIEVABLE STORAGE.

Subtitle C of the Nuclear [74] Waste Policy Act of 1982 is amended by adding at the end the following new sections:

"AUTHORIZATION OF MONITORED RETRIEVABLE STORAGE

42 USC 10162.

"SEC. 142. (a) NULLIFICATION OF OAK RIDGE SITING PROPOSAL.—The proposal of the Secretary (EC-1022, 100th Congress) to locate a monitored retrievable storage facility at a site on the Clinch River in the Roane County portion of Oak Ridge, Tennessee, with alternative sites on the Oak Ridge Reservation of the Department of Energy and on the former site of a proposed nuclear powerplant in Hartsville, Tennessee, is annulled and revoked. In carrying out the provisions of sections 144 and 145, the Secretary shall make no presumption or preference to such sites by reason of their previous selection.

"(b) AUTHORIZATION.—The Secretary is authorized to site, construct, and operate one monitored retrievable storage facility subject to the conditions described in sections 143 through 149.

"MONITORED RETRIEVABLE STORAGE COMMISSION

42 USC 10163.

"SEC. 143. (a) ESTABLISHMENT.—(1)(A) There is established a Monitored Retrievable Storage Review Commission (hereinafter in this section referred to as the 'MRS Commission'), that shall consist of 3 members who shall be appointed by and serve at the pleasure of the President pro tempore of the Senate and the Speaker of the House of Representatives.

"(B) [75] Members of the MRS Commission shall be appointed not later than 30 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987 from among persons who as a result of training, experience and attainments are exceptionally well qualified to evaluate the need for a monitored retrievable storage facility as a part of the Nation's nuclear waste management system.

Reports.

"(C) The MRS Commission shall prepare a report on the need for a monitored retrievable storage facility as a part of a national nuclear waste management system that achieves the purposes of this Act. In preparing the report under this subparagraph, the MRS Commission shall—

"(i) review the status and adequacy of the Secretary's evaluation of the systems advantages and disadvantages of bringing such a facility into the national nuclear waste disposal system;

"(ii) obtain comment and available data on monitored retrievable storage from affected parties, including States containing potentially acceptable sites;

"(iii) evaluate the utility of a monitored retrievable storage facility from a technical perspective; and

---

[74] Copy read "C of Nuclear".

[75] Copy read " "(B)(i)".

"(iv) make a recommendation to Congress as to whether such a facility should be included in the national nuclear waste management system in order to achieve the purposes of this Act, including meeting needs for packaging and handling of spent nuclear fuel, improving the flexibility of the repository development schedule, and providing temporary storage of spent nuclear fuel accepted for disposal.

"(2) In preparing the report and making its recommendation under paragraph (1) the MRS Commission shall compare such a facility to the alternative of at-reactor storage of spent nuclear fuel prior to disposal of such fuel in a repository under this Act. Such comparison shall take into consideration the impact on—

"(A) repository design and construction;

"(B) waste package design, fabrication and standardization;

"(C) waste preparation;

"(D) waste transportation systems;

"(E) the reliability of the national system for the disposal of radioactive waste;

"(F) the ability of the Secretary to fulfill contractual commitments of the Department under this Act to accept spent nuclear fuel for disposal; and

"(G) economic factors, including the impact on the costs likely to be imposed on ratepayers of the Nation's electric utilities for temporary at-reactor storage of spent nuclear fuel prior to final disposal in a repository, as well as the costs likely to be imposed on ratepayers of the Nation's electric utilities in building and operating such a facility.

Reports.

"(3) The report under this subsection, together with the recommendation of the MRS Commission, shall be transmitted to Congress on June 1, 1989.

"(4)(A)(i) Each member of the MRS Commission shall be paid at the rate provided for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the MRS Commission, and shall receive travel expenses, including per diem in lieu of subsistence in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"(ii) The MRS Commission may appoint and fix compensation, not to exceed the rate of basic pay payable for GS-18 of the General Schedule, for such staff as may be necessary to carry out its functions.

"(B)(i) The MRS Commission may hold hearings, sit and act at such times and places, take such testimony and receive such evidence as the MRS Commission considers appropriate. Any member of the MRS Commission may administer oaths or affirmations to witnesses appearing before the MRS Commission.

"(ii) The MRS Commission may request any Executive agency, including the Department, to furnish such assistance or information, including records, data, files, or documents, as the Commission considers necessary to carry out its functions. Unless prohibited by law, such agency shall promptly furnish such assistance or information.

"(iii) To the extent permitted by law, the Administrator of the General Services Administration shall, upon request of the MRS Commission, provide the MRS Commission with necessary administrative services, facilities, and support on a reimbursable basis.

"(iv) The MRS Commission may procure temporary and intermittent services from experts and consultants to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates and under such rules as the MRS Commission considers reasonable.

"(C) The MRS Commission shall cease to exist 60 days after the submission to Congress of the report required under this subsection.

"SURVEY

42 USC 10164.

"SEC. 144. After the MRS Commission submits its report to the Congress under section 143, the Secretary may conduct a survey and evaluation of potentially suitable sites for a monitored retrievable storage facility. In conducting such survey and evaluation, the Secretary shall consider the extent to which siting a monitored retrievable storage facility at each site surveyed would—

"(1) enhance the reliability and flexibility of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this Act;

"(2) minimize the impacts of transportation and handling of such fuel and waste;

"(3) provide for public confidence in the ability of such system to safely dispose of the fuel and waste;

"(4) impose minimal adverse effects on the local community and the local environment;

"(5) provide a high probability that the facility will meet applicable environmental, health, and safety requirements in a timely fashion;

"(6) provide such other benefits to the system for the disposal of spent nuclear fuel and high-level radioactive waste as the Secretary deems appropriate; and

"(7) unduly burden a State in which significant volumes of high-level radioactive waste resulting from atomic energy defense activities are stored.

"SITE SELECTION

42 USC 10165.

"SEC. 145. (a) IN GENERAL.—The Secretary may select the site evaluated under section 144 that the Secretary determines on the basis of available information to be the most suitable for a monitored retrievable storage facility that is an integral part of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this Act.

"(b) LIMITATION.—The Secretary may not select a site under subsection (a) until the Secretary recommends to the President the approval of a site for development as a repository under section 114(a).

"(c) SITE SPECIFIC ACTIVITIES.—The Secretary may conduct such site specific activities at each site surveyed under section 144 as he determines may be necessary to support an application to the Commission for a license to construct a monitored retrievable storage facility at such site.

"(d) ENVIRONMENTAL ASSESSMENT.—Site specific activities and selection of a site under this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare an environmental assessment with respect to such selection in accordance with regulations issued by the Secretary implementing such Act. Such environmental assessment shall be based upon available information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such site is selected.

"(e) NOTIFICATION BEFORE SELECTION.—(1) At least 6 months before selecting a site under subsection (a), the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such potential selection and the basis for such selection.

"(2) Before selecting any site under subsection (a), the Secretary shall hold at least one public hearing in the vicinity of such site to solicit any recommendations of interested parties with respect to issues raised by the selection of such site.

"(f) NOTIFICATION OF SELECTION.—The Secretary shall promptly notify Congress and the appropriate State or Indian tribe of the selection under subsection (a).

"(g) LIMITATION.—No monitored retrievable storage facility authorized pursuant to section 142(b) may be constructed in the State of Nevada.

"NOTICE OF DISAPPROVAL

"SEC. 146. (a) IN GENERAL.—The selection of a site under section 145 shall be effective at the end of the period of 60 calendar days beginning on the date of notification under such subsection, unless the governing body of the Indian tribe on whose reservation such site is located, or, if the site is not on a reservation, the Governor and the legislature of the State in which the site is located, has submitted to Congress a notice of disapproval with respect to such site. If any such notice of disapproval has been submitted under this subsection, the selection of the site under section 145 shall not be effective except as provided under section 115(c). 42 USC 10166.

"(b) REFERENCES.—For purposes of carrying out the provisions of this subsection, references in section 115(c) to a repository shall be considered to refer to a monitored retrievable storage facility and references to a notice of disapproval of a repository site designation under section 116(b) or 118(a) shall be considered to refer to a notice of disapproval under this section.

"BENEFITS AGREEMENT

"SEC. 147. Once selection of a site for a monitored retrievable storage facility is made by the Secretary under section 145, the Indian tribe on whose reservation the site is located, or, in the case that the site is not located on a reservation, the State in which the site is located, shall be eligible to enter into a benefits agreement with the Secretary under section 170. 42 USC 10167.

"CONSTRUCTION AUTHORIZATION

"SEC. 148. (a) ENVIRONMENTAL IMPACT STATEMENT.—(1) Once the selection of a site is effective under section 146, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to construction of a monitored retrievable storage facility, except that any environmental impact statement prepared with respect to such facility shall not be required to 42 USC 10168.

consider the need for such facility or any alternative to the design criteria for such facility set forth in section 141(b)(1).

"(2) Nothing in this section shall be construed to limit the consideration of alternative facility designs consistent with the criteria described in section 141(b)(1) in any environmental impact statement, or in any licensing procedure of the Commission, with respect to any monitored retrievable storage facility authorized under section 142(b).

"(b) Application for Construction License.—Once the selection of a site for a monitored retrievable storage facility is effective under section 146, the Secretary may submit an application to the Commission for a license to construct such a facility as part of an integrated nuclear waste management system and in accordance with the provisions of this section and applicable agreements under this Act affecting such facility.

"(c) Licensing.—Any monitored retrievable storage facility authorized pursuant to section 142(b) shall be subject to licensing under section 202(3) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(3)). In reviewing the application filed by the Secretary for licensing of such facility, the Commission may not consider the need for such facility or any alternative to the design criteria for such facility set forth in section 141(b)(1).

"(d) Licensing Conditions.—Any license issued by the Commission for a monitored retrievable storage facility under this section shall provide that—

"(1) construction of such facility may not begin until the Commission has issued a license for the construction of a repository under section 115(d);

"(2) construction of such facility or acceptance of spent nuclear fuel or high-level radioactive waste shall be prohibited during such time as the repository license is revoked by the Commission or construction of the repository ceases;

"(3) the quantity of spent nuclear fuel or high-level radioactive waste at the site of such facility at any one time may not exceed 10,000 metric tons of heavy metal until a repository under this Act first accepts spent nuclear fuel or solidified high-level radioactive waste; and

"(4) the quantity of spent nuclear fuel or high-level radioactive waste at the site of such facility at any one time may not exceed 15,000 metric tons of heavy metal.

"FINANCIAL ASSISTANCE

42 USC 10169. "Sec. 149. The provisions of section 116(c) or 118(b) with respect to grants, technical assistance, and other financial assistance shall apply to the State, to affected Indian tribes and to affected units of local government in the case of a monitored retrievable storage facility in the same manner as for a repository.".

PART C—BENEFITS

SEC. 5031. BENEFITS.

Title I of the Nuclear Waste Policy Act of 1982 is further amended by adding at the end the following new subtitles:

"SUBTITLE F—BENEFITS

"BENEFITS AGREEMENTS

"SEC. 170. (a) IN GENERAL.—(1) The Secretary may enter into a benefits agreement with the State of Nevada concerning a repository or with a State or an Indian tribe concerning a monitored retrievable storage facility for the acceptance of high-level radioactive waste or spent nuclear fuel in that State or on the reservation of that tribe, as appropriate. 42 USC 10173.

"(2) The State or Indian tribe may enter into such an agreement only if the State Attorney General or the appropriate governing authority of the Indian tribe or the Secretary of the Interior, in the absence of an appropriate governing authority, as appropriate, certifies to the satisfaction of the Secretary that the laws of the State or Indian tribe provide adequate authority for that entity to enter into the benefits agreement.

"(3) Any benefits agreement with a State under this section shall be negotiated in consultation with affected units of local government in such State.

"(4) Benefits and payments under this subtitle may be made available only in accordance with a benefits agreement under this section.

"(b) AMENDMENT.—A benefits agreement entered into under subsection (a) may be amended only by the mutual consent of the parties to the agreement and terminated only in accordance with section 173.

"(c) AGREEMENT WITH NEVADA.—The Secretary shall offer to enter into a benefits agreement with the Governor of Nevada. Any benefits agreement with a State under this subsection shall be negotiated in consultation with any affected units of local government in such State.

"(d) MONITORED RETRIEVABLE STORAGE.—The Secretary shall offer to enter into a benefits agreement relating to a monitored retrievable storage facility with the governing body of the Indian tribe on whose reservation the site for such facility is located, or, if the site is not located on a reservation, with the Governor of the State in which the site is located and in consultation with affected units of local government in such State.

"(e) LIMITATION.—Only one benefits agreement for a repository and only one benefits agreement for a monitored retrievable storage facility may be in effect at any one time.

"(f) JUDICIAL REVIEW.—Decisions of the Secretary under this section are not subject to judicial review.

"CONTENT OF AGREEMENTS

"SEC. 171. (a) IN GENERAL.—(1) In addition to the benefits to which a State, an affected unit of local government or Indian tribe is entitled under title I, the Secretary shall make payments to a State or Indian tribe that is a party to a benefits agreement under section 170 in accordance with the following schedule: 42 USC 10173a.

"BENEFITS SCHEDULE

(amounts in $ millions)

Event	MRS	Repository
(A) Annual payments prior to first spent fuel receipt	5	10
(B) Upon first spent fuel receipt	10	20
(C) Annual payments after first spent fuel receipt until closure of the facility	10	20

"(2) For purposes of this section, the term—

"(A) 'MRS' means a monitored retrievable storage facility,

"(B) 'spent fuel' means high-level radioactive waste or spent nuclear fuel, and

"(C) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

"(3) Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

"(4) If the first spent fuel payment under paragraph (1)(B) is made within six months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to one-twelfth of such annual payment under paragraph (1)(A) for each full month less than six that has not elapsed since the last annual payment under paragraph (1)(A).

"(5) Notwithstanding paragraph (1), (2), or (3), no payment under this section may be made before January 1, 1989, and any payment due under this title before January 1, 1989, shall be made on or after such date.

"(6) Except as provided in paragraph (7), the Secretary may not restrict the purposes for which the payments under this section may be used.

"(7)(A) Any State receiving a payment under this section shall transfer an amount equal to not less than one-third of the amount of such payment to affected units of local government of such State.

"(B) A plan for this transfer and appropriate allocation of such portion among such governments shall be included in the benefits agreement under section 170 covering such payments.

"(C) In the event of a dispute concerning such plan, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

"(b) CONTENTS.—A benefits agreement under section 170 shall provide that—

"(1) a Review Panel be established in accordance with section 172;

"(2) the State or Indian tribe that is party to such agreement waive its rights under title I to disapprove the recommendation of a site for a repository;

"(3) the parties to the agreement shall share with one another information relevant to the licensing process for the repository or monitored retrievable storage facility, as it becomes available;

"(4) the State or Indian tribe that is party to such agreement participate in the design of the repository or monitored retrievable storage facility and in the preparation of documents required under law or regulation governing the effects of the facility on the public health and safety; and

"(5) the State or Indian tribe waive its rights, if any, to impact assistance under sections 116(c)(1)(B)(ii), 116(c)(2), 118(b)(2)(A)(ii), and 118(b)(3).

"(c) The Secretary shall make payments to the States or affected Indian tribes under a benefits agreement under this section from the Waste Fund. The signature of the Secretary on a valid benefits agreement under section 170 shall constitute a commitment by the United States to make payments in accordance with such agreement.

"REVIEW PANEL

"SEC. 172. (a) IN GENERAL.—The Review Panel required to be established by section 171(b)(1) of this Act shall consist of a Chairman selected by the Secretary in consultation with the Governor of the State or governing body of the Indian tribe, as appropriate, that is party to such agreement and 6 other members as follows: 42 USC 10173b.

"(1) 2 members selected by the Governor of such State or governing body of such Indian tribe;

"(2) 2 members selected by units of local government affected by the repository or monitored retrievable storage facility;

"(3) 1 member to represent persons making payments into the Waste Fund, to be selected by the Secretary; and

"(4) 1 member to represent other public interests, to be selected by the Secretary.

"(b) TERMS.—(1) The members of the Review Panel shall serve for terms of 4 years each.

"(2) Members of the Review Panel who are not full-time employees of the Federal Government, shall receive a per diem compensation for each day spent conducting work of the Review Panel, including their necessary travel or other expenses while engaged in the work of the Review Panel.

"(3) Expenses of the Panel shall be paid by the Secretary from the Waste Fund.

"(c) DUTIES.—The Review Panel shall—

"(1) advise the Secretary on matters relating to the proposed repository or monitored retrievable storage facility, including issues relating to design, construction, operation, and decommissioning of the facility;

"(2) evaluate performance of the repository or monitored retrievable storage facility, as it considers appropriate;

"(3) recommend corrective actions to the Secretary;

"(4) assist in the presentation of State or affected Indian tribe and local perspectives to the Secretary; and

"(5) participate in the planning for and the review of preoperational data on environmental, demographic, and socioeconomic conditions of the site and the local community.

"(d) INFORMATION.—The Secretary shall promptly make available promptly any information in the Secretary's possession requested by the Panel or its Chairman.

"(e) FEDERAL ADVISORY COMMITTEE ACT.—The requirements of the Federal Advisory Committee Act shall not apply to a Review Panel established under this title.

"TERMINATION

42 USC 10173c.

"SEC. 173. (a) IN GENERAL.—The Secretary may terminate a benefits agreement under this title if—

"(1) the site under consideration is disqualified for its failure to comply with guidelines and technical requirements established by the Secretary in accordance with this Act; or

"(2) the Secretary determines that the Commission cannot license the facility within a reasonable time.

"(b) TERMINATION BY STATE OR INDIAN TRIBE.—A State or Indian tribe may terminate a benefits agreement under this title only if the Secretary disqualifies the site under consideration for its failure to comply with technical requirements established by the Secretary in accordance with this Act or the Secretary determines that the Commission cannot license the facility within a reasonable time.

"(c) DECISIONS OF THE SECRETARY.—Decisions of the Secretary under this section shall be in writing, shall be available to Congress and the public, and are not subject to judicial review.

"SUBTITLE G—OTHER BENEFITS

"CONSIDERATION IN SITING FACILITIES

42 USC 10174.

"SEC. 174. The Secretary, in siting Federal research projects, shall give special consideration to proposals from States where a repository is located.

"REPORT

42 USC 10174a.

"SEC. 175. (a) IN GENERAL.—Within one year of the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall report to Congress on the potential impacts of locating a repository at the Yucca Mountain site, including the recommendations of the Secretary for mitigation of such impacts and a statement of which impacts should be dealt with by the Federal Government, which should be dealt with by the State with State resources, including the benefits payments under section 171, and which should be a joint Federal-State responsibility. The report under this subsection shall include the analysis of the Secretary of the authorities available to mitigate these impacts and the appropriate sources of funds for such mitigation.

"(b) IMPACTS TO BE[76] CONSIDERED.—Potential impacts to be addressed in the report under this subsection (a) shall include impacts on—

"(1) education, including facilities and personnel for elementary and secondary schools, community colleges, vocational and technical schools and universities;

"(2) public health, including the facilities and personnel for treatment and distribution of water, the treatment of sewage, the control of pests and the disposal of solid waste;

"(3) law enforcement, including facilities and personnel for the courts, police and sheriff's departments, district attorneys and public defenders and prisons;

"(4) fire protection, including personnel, the construction of fire stations, and the acquisition of equipment;

"(5) medical care, including emergency services and hospitals;

---

[76] Copy read "TO BE".

"(6) cultural and recreational needs, including facilities and personnel for libraries and museums and the acquisition and expansion of parks;

"(7) distribution of public lands to allow for the timely expansion of existing, or creation of new, communities and the construction of necessary residential and commercial facilities;

"(8) vocational training and employment services;

"(9) social services, including public assistance programs, vocational and physical rehabilitation programs, mental health services, and programs relating to the abuse of alcohol and controlled substances;

"(10) transportation, including any roads, terminals, airports, bridges, or railways associated with the facility and the repair and maintenance of roads, terminals, airports, bridges, or railways damaged as a result of the construction, operation, and closure of the facility;

"(11) equipment and training for State and local personnel in the management of accidents involving high-level radioactive waste;

"(12) availability of energy;

"(13) tourism and economic development, including the potential loss of revenue and future economic growth; and

"(14) other needs of the State and local governments that would not have arisen but for the characterization of the site and the construction, operation, and eventual closure of the repository facility.".

SEC. 5032. PARTICIPATION OF STATES.

(a) Financial Assistance.—Section 116(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10136(c)) is amended to read as follows:

"(c) Financial Assistance.—(1)(A) The Secretary shall make grants to the State of Nevada and any affected unit of local government for the purpose of participating in activities required by this section and section 117 or authorized by written agreement entered into pursuant to section 117(c). Any salary or travel expense that would ordinarily be incurred by such State or affected unit of local government, may not be considered eligible for funding under this paragraph.

"(B) The Secretary shall make grants to the State of Nevada and any affected unit of local government for purposes of enabling such State or affected unit of local government— Grants.

"(i) to review activities taken under this subtitle with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of a repository on such State, or affected unit of local government and its residents;

"(ii) to develop a request for impact assistance under paragraph (2);

"(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

"(iv) to provide information to Nevada residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

"(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

"(C) Any salary or travel expense that would ordinarily be incurred by the State of Nevada or any affected unit of local government may not be considered eligible for funding under this paragraph.

"(2)(A)(i) The Secretary shall provide financial and technical assistance to the State of Nevada, and any affected unit of local government requesting such assistance.

"(ii) Such assistance shall be designed to mitigate the impact on such State or affected unit of local government of the development of such repository and the characterization of such site.

"(iii) Such assistance to such State or affected unit of local government of such State shall commence upon the initiation of site characterization activities.

Reports.

"(B) The State of Nevada and any affected unit of local government may request assistance under this subsection by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from site characterization activities at the Yucca Mountain site. Such report shall be submitted to the Secretary after the Secretary has submitted to the State a general plan for site characterization activities under section 113(b).

"(C) As soon as practicable after the Secretary has submitted such site characterization plan, the Secretary shall seek to enter into a binding agreement with the State of Nevada setting forth—

"(i) the amount of assistance to be provided under this subsection to such State or affected unit of local government; and

"(ii) the procedures to be followed in providing such assistance.

Grants.

"(3)(A) In addition to financial assistance provided under paragraphs (1) and (2), the Secretary shall grant to the State of Nevada and any affected unit of local government an amount each fiscal year equal to the amount such State or affected unit of local government, respectively, would receive if authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such State or affected unit of local government.

"(B) Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

Grants.

"(4)(A) The State of Nevada or any affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

"(i) the date on which the Secretary notifies the Governor and legislature of the State of Nevada of the termination of site characterization activities at the site in such State;

"(ii) the date on which the Yucca Mountain site is disapproved under section 115; or

"(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first.

"(B) The State of Nevada or any affected unit of local government may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities or site characterization activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

"(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds, shall be made available to such State or affected unit of local government under paragraph (1) or (2), except for—

"(i) such funds as may be necessary to support activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than 1 year;

"(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such State with the Secretary during such 2-year period; and

"(iii) such funds as may be provided under an agreement entered into under title IV.

"(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Waste Fund.

"(6) No State, other than the State of Nevada, may receive financial assistance under this subsection after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987.".

SEC. 5033. PARTICIPATION OF INDIAN TRIBES.

Section 118(b)(5) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10138(b)(5)) is amended by—

(1) striking "or" at the end of clause (ii); and

(2) adding at the end the following new clause:

"(iv) the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987;".

PART D—NUCLEAR WASTE NEGOTIATOR

SEC. 5041. NUCLEAR WASTE NEGOTIATOR.

The Nuclear Waste Policy Act of 1982 is amended by adding at the end the following new title:

"TITLE IV—NUCLEAR WASTE NEGOTIATOR

"DEFINITION

"SEC. 401. For purposes of this title, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, any other territory or possession of the United States, and the Republic of the Marshall Islands. 42 USC 10241.

"THE OFFICE OF THE NUCLEAR WASTE NEGOTIATOR

"SEC. 402. (a) ESTABLISHMENT.—There is established within the Executive Office of the President the Office of the Nuclear Waste Negotiator. 42 USC 10242.

"(b) THE NUCLEAR WASTE NEGOTIATOR.—(1) The Office shall be headed by a Nuclear Waste Negotiator who shall be appointed by the President, by and with the advice and consent of the Senate. The Negotiator shall hold office at the pleasure of the President, and shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5, United States Code. President of U.S.

"(2) The Negotiator shall attempt to find a State or Indian tribe willing to host a repository or monitored retrievable storage facility at a technically qualified site on reasonable terms and shall negotiate with any State or Indian tribe which expresses an interest in hosting a repository or monitored retrievable storage facility.

"DUTIES OF THE NEGOTIATOR

42 USC 10243. "SEC. 403. (a) NEGOTIATIONS WITH POTENTIAL HOSTS.—(1) The Negotiator shall—

"(A) seek to enter into negotiations on behalf of the United States, with—

"(i) the Governor of any State in which a potential site is located; and

"(ii) the governing body of any Indian tribe on whose reservation a potential site is located; and

"(B) attempt to reach a proposed agreement between the United States and any such State or Indian tribe specifying the terms and conditions under which such State or tribe would agree to host a repository or monitored retrievable storage facility within such State or reservation.

"(2) In any case in which State law authorizes any person or entity other than the Governor to negotiate a proposed agreement under this section on behalf of the State, any reference in this title to the Governor shall be considered to refer instead to such other person or entity.

"(b) CONSULTATION WITH AFFECTED STATES, SUBDIVISIONS OF STATES, AND TRIBES.—In addition to entering into negotiations under subsection (a), the Negotiator shall consult with any State, affected unit of local government, or any Indian tribe that the Negotiator determines may be affected by the siting of a repository or monitored retrievable storage facility and may include in any proposed agreement such terms and conditions relating to the interest of such States, affected units of local government, or Indian tribes as the Negotiator determines to be reasonable and appropriate.

"(c) CONSULTATION WITH OTHER FEDERAL AGENCIES.—The Negotiator may solicit and consider the comments of the Secretary, the Nuclear Regulatory Commission, or any other Federal agency on the suitability of any potential site for site characterization. Nothing in this subsection shall be construed to require the Secretary, the Nuclear Regulatory Commission, or any other Federal agency to make a finding that any such site is suitable for site characterization.

"(d) PROPOSED AGREEMENT.—(1) The Negotiator shall submit to the Congress any proposed agreement between the United States and a State or Indian tribe negotiated under subsection (a) and an environmental assessment prepared under section 404(a) for the site concerned.

"(2) Any such proposed agreement shall contain such terms and conditions (including such financial and institutional arrangements) as the Negotiator and the host State or Indian tribe determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of such State, affected unit of local government, or Indian tribe under sections 116(c), 117, and 118(b).

"(3)(A) No proposed agreement entered into under this section shall have legal effect unless enacted into Federal law.

"(B) A State or Indian tribe shall enter into an agreement under this section in accordance with the laws of such State or tribe Nothing in this section may be construed to prohibit the disapproval of a proposed agreement between a State and the United States under this section by a referendum or an act of the legislature of such State.

"(4) Notwithstanding any proposed agreement under this section, the Secretary may construct a repository or monitored retrievable storage facility at a site agreed to under this title only if authorized by the Nuclear Regulatory Commission in accordance with the Atomic Energy Act of 1954 (42 U.S.C. 2012 et seq.), title II of the Energy Reorganization Act of 1982 (42 U.S.C. 5841 et seq.) and any other law applicable to authorization of such construction.

"ENVIRONMENTAL ASSESSMENT OF SITES

"Sec. 404. (a) In General.—Upon the request of the Negotiator, the Secretary shall prepare an environmental assessment of any site that is the subject of negotiations under section 403(a). 42 USC 10244.

"(b) Contents.—(1) Each environmental assessment prepared for a repository site shall include a detailed statement of the probable impacts of characterizing such site and the construction and operation of a repository at such site.

"(2) Each environmental assessment prepared for a monitored retrievable storage facility site shall include a detailed statement of the probable impacts of construction and operation of such a facility at such site.

"(c) Judicial Review.—The issuance of an environmental assessment under subsection (a) shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119.

"(d) Public Hearings.—(1) In preparing an environmental assessment for any repository or monitored retrievable storage facility site, the Secretary shall hold public hearings in the vicinity of such site to inform the residents of the area in which such site is located that such site is being considered and to receive their comments.

"(2) At such hearings, the Secretary shall solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment required under subsection (a) and the site characterization plan described in section 113(b)(1).

"(e) Public Availability.—Each environmental assessment prepared under subsection (a) shall be made available to the public.

"(f) Evaluation of Sites.—(1) In preparing an environmental assessment under subsection (a), the Secretary shall use available geophysical, geologic, geochemical and hydrologic, and other information and shall not conduct any preliminary borings or excavations at any site that is the subject of such assessment unless—

"(A) such preliminary boring or excavation activities were in progress on or before the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987; or

"(B) the Secretary certifies that, in the absence of preliminary borings or excavations, adequate information will not be available to satisfy the requirements of this Act or any other law.

"(2) No preliminary boring or excavation conducted under this section shall exceed a diameter of 40 inches.

"SITE CHARACTERIZATION; LICENSING

42 USC 10245.

"Sec. 405. (a) Site Characterization.—Upon enactment of legislation to implement an agreement to site a repository negotiated under section 403(a), the Secretary shall conduct appropriate site characterization activities for the site that is the subject of such agreement subject to the conditions and terms of such agreement. Any such site characterization activities shall be conducted in accordance with section 113, except that references in such section to the Yucca Mountain site and the State of Nevada shall be deemed to refer to the site that is the subject of the agreement and the State or Indian tribe entering into the agreement.

"(b) Licensing.—(1) Upon the completion of site characterization activities carried out under subsection (a), the Secretary shall submit to the Nuclear Regulatory Commission an application for construction authorization for a repository at such site.

"(2) The Nuclear Regulatory Commission shall consider an application for a construction authorization for a repository or monitored retrievable storage facility in accordance with the laws applicable to such applications, except that the Nuclear Regulatory Commission shall issue a final decision approving or disapproving the issuance of a construction authorization not later than 3 years after the date of the submission of such application.

"MONITORED RETRIEVABLE STORAGE

42 USC 10246.

"Sec. 406. (a) Construction and Operation.—Upon enactment of legislation to implement an agreement negotiated under section 403(a) to site a monitored retrievable storage facility, the Secretary shall construct and operate such facility as part of an integrated nuclear waste management system in accordance with the terms and conditions of such agreement.

Grants.

"(b) Financial Assistance.—The Secretary may make grants to any State, Indian tribe, or affected unit of local government to assess the feasibility of siting a monitored retrievable storage facility under this section at a site under the jurisdiction of such State, tribe, or affected unit of local government.

"ENVIRONMENTAL IMPACT STATEMENT

42 USC 10247.

"Sec. 407. (a) In General.—Issuance of a construction authorization for a repository or monitored retrievable storage facility under section 405(b) shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(b) Preparation.—A final environmental impact statement shall be prepared by the Secretary under such Act and shall accompany any application to the Nuclear Regulatory Commission for a construction authorization.

"(c) Adoption.—(1) Any such environmental impact statement shall, to the extent practicable, be adopted by the Nuclear Regulatory Commission, in accordance with section 1506.3 of title 40, Code of Federal Regulations, in connection with the issuance by the Nuclear Regulatory Commission of a construction authorization and license for such repository or monitored retrievable storage facility.

"(2)(A) In any such statement prepared with respect to a repository to be constructed under this title at the Yucca Mountain site, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.

"(B) In any such statement prepared with respect to a repository to be constructed under this title at a site other than the Yucca Mountain site, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, or nongeologic alternatives to such site but shall consider the Yucca Mountain site as an alternate to such site in the preparation of such statement.

"ADMINISTRATIVE POWERS OF THE NEGOTIATOR

"SEC. 408. In carrying out his functions under this title, the Negotiator may— 42 USC 10248.

"(1) appoint such officers and employees as he determines to be necessary and prescribe their duties;

"(2) obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code;

"(3) promulgate such rules and regulations as may be necessary to carry out such functions;

"(4) utilize the services, personnel, and facilities of other Federal agencies (subject to the consent of the head of any such agency);

"(5) for purposes of performing administrative functions under this title, and to the extent funds are appropriated, enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary and on such terms as the Negotiator determines to be appropriate, with any agency or instrumentality of the United States, or with any public or private person or entity; Contracts.

"(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

"(7) adopt an official seal, which shall be judicially noticed;

"(8) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States;

"(9) hold such hearings as are necessary to determine the views of interested parties and the general public; and

"(10) appoint advisory committees under the Federal Advisory Committee Act (5 U.S.C. App.).

"COOPERATION OF OTHER DEPARTMENTS AND AGENCIES

"SEC. 409. Each department, agency, and instrumentality of the United States, including any independent agency, may furnish the Negotiator such information as he determines to be necessary to carry out his functions under this title. 42 USC 10249.

"TERMINATION OF THE OFFICE

"SEC. 410. The Office shall cease to exist not later than 30 days after the date 5 years after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987. 42 USC 10250.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 10251.

"SEC. 411. Notwithstanding subsection (d) of section 302, and subject to subsection (e) of such section, there are authorized to be appropriated for expenditures from amounts in the Waste Fund established in subsection (c) of such section, such sums as may be necessary to carry out the provisions of this title.".

PART E—NUCLEAR WASTE TECHNICAL REVIEW BOARD

SEC. 5051. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) is further amended by adding at the end the following new title:

"TITLE V—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"DEFINITIONS

42 USC 10261.

"SEC. 501. As used in this title:

"(1) The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

"(2) The term 'Board' means the Nuclear Waste Technical Review Board established under section 502.

"NUCLEAR WASTE TECHNICAL REVIEW BOARD

42 USC 10262.

"SEC. 502. (a) ESTABLISHMENT.—There is established a Nuclear Waste Technical Review Board that shall be an independent establishment within the executive branch.

President of U.S.

"(b) MEMBERS.—(1) The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987 from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

President of U.S.

"(2) The President shall designate a member of the Board to serve as chairman.

"(3)(A) The National Academy of Sciences shall, not later than 90 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

"(B) The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

"(C)(i) Each person nominated for appointment to the Board shall be—

"(I) eminent in a field of science or engineering, including environmental sciences; and

"(II) selected solely on the basis of established records of distinguished service.

"(ii) The membership of the Board shall be representative of the broad range of scientific and engineering disciplines related to activities under this title.

"(iii) No person shall be nominated for appointment to the Board who is an employee of—

"(I) the Department of Energy;

"(II) a national laboratory under contract with the Department of Energy; or

"(III) an entity performing high-level radioactive waste or spent nuclear fuel activities under contract with the Department of Energy.

"(4) Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

"(5) Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after the date of enactment of the Nuclear Waste Policy Amendments Act of 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment.

"FUNCTIONS

"SEC. 503. The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, including— 42 USC 10263.

"(1) site characterization activities; and

"(2) activities relating to the packaging or transportation of high-level radioactive waste or spent nuclear fuel.

"INVESTIGATORY POWERS

"SEC. 504. (a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board. 42 USC 10264.

"(b) PRODUCTION OF DOCUMENTS.—(1) Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

"(2) Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

"COMPENSATION OF MEMBERS

"SEC. 505. (a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board. 42 USC 10265.

"(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsistence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"STAFF

"SEC. 506. (a) CLERICAL STAFF.—(1) Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical 42 USC 10266.

staff as may be necessary to discharge the responsibilities of the Board.

"(2) Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) PROFESSIONAL STAFF.—(1) Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

"(2) Not more than 10 professional staff members may be appointed under this subsection.

"(3) Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

"SUPPORT SERVICES

42 USC 10267.

"SEC. 507. (a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

"(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General, the Librarian of Congress, and the Director of the Office of Technology Assessment shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

"(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

"(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

"REPORT

42 USC 10268.

"SEC. 508. The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations. The first such report shall be submitted not later than 12 months after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 509. Notwithstanding subsection (d) of section 302, and subject to subsection (e) of such section, there are authorized to be appropriated for expenditures from amounts in the Waste Fund established in subsection (c) of such section such sums as may be necessary to carry out the provisions of this title. 42 USC 10269.

"TERMINATION OF THE BOARD

"SEC. 510. The Board shall cease to exist not later than 1 year after the date on which the Secretary begins disposal of high-level radioactive waste or spent nuclear fuel in a repository.". 42 USC 10270.

PART F—MISCELLANEOUS

SEC. 5061. TRANSPORTATION.

Title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10121-10171) is further amended by adding at the end the following new subtitle:

"SUBTITLE H—TRANSPORTATION

"TRANSPORTATION

"SEC. 180. (a) No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under subtitle A or under subtitle C except in packages that have been certified for such purpose by the Commission. 42 USC 10175.

"(b) The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under subtitle A or under subtitle C.

"(c) The Secretary shall provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste under subtitle A or under subtitle C. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Waste Fund shall be the source of funds for work carried out under this subsection.".

SEC. 5062. TRANSPORTATION OF PLUTONIUM BY AIRCRAFT THROUGH UNITED STATES AIR SPACE.

42 USC 5841 note.

(a) IN GENERAL.—Notwithstanding any other provision of law, no form of plutonium may be transported by aircraft through the air space of the United States from a foreign nation to a foreign nation unless the Nuclear Regulatory Commission has certified to Congress that the container in which such plutonium is transported is safe, as determined in accordance with subsection (b), the second undesignated paragraph under section 201 of Public Law 94-79 (89 Stat. 413; 42 U.S.C. 5841 note), and all other applicable laws.

(b) RESPONSIBILITIES OF THE NUCLEAR REGULATORY COMMISSION.—

(1) DETERMINATION OF SAFETY.—The Nuclear Regulatory Commission shall determine whether the container referred to in subsection (a) is safe for use in the transportation of plutonium by aircraft and transmit to Congress a certification for the

purposes of such subsection in the case of each container determined to be safe.

(2) TESTING.—In order to make a determination with respect to a container under paragraph (1), the Nuclear Regulatory Commission shall—

(A) require an actual drop test from maximum cruising altitude of a full-scale sample of such container loaded with test materials; and

(B) require an actual crash test of a cargo aircraft fully[77] loaded with full-scale samples of such container loaded with test material unless the Commission determines, after consultation with an independent scientific review panel, that the stresses on the container produced by other tests used in developing the container exceed the stresses which would occur during a worst case plutonium air shipment accident.

(3) LIMITATION.—The Nuclear Regulatory Commission may not certify under this section that a container is safe for use in the transportation of plutonium by aircraft if the container ruptured or released its contents during testing conducted in accordance with paragraph (2).

(4) EVALUATION.—The Nuclear Regulatory Commission shall evaluate the container certification required by title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) and subsection (a) in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.) and all other applicable law.

(c) CONTENT OF CERTIFICATION.—A certification referred to in subsection (a) with respect to a container shall include—

(1) the determination of the Nuclear Regulatory Commission as to the safety of such container;

(2) a statement that the requirements of subsection (b)(2) were satisfied in the testing of such container; and

(3) a statement that the container did not rupture or release its contents into the environment during testing.

(d) DESIGN OF TESTING PROCEDURES.—The tests required by subsection (b) shall be designed by the Nuclear Regulatory Commission to replicate actual worst case transportation conditions to the maximum extent practicable. In designing such tests, the Commission shall provide for public notice of the proposed test procedures, provide a reasonable opportunity for public comment on such procedures, and consider such comments, if any.

(e) TESTING RESULTS: REPORTS AND PUBLIC DISCLOSURE.—The Nuclear Regulatory Commission shall transmit to Congress a report on the results of each test conducted under this section and shall make such results available to the public.

President of U.S.

(f) ALTERNATIVE ROUTES AND MEANS OF TRANSPORTATION.—With respect to any shipments of plutonium from a foreign nation to a foreign nation which are subject to United States consent rights contained in an Agreement for Peaceful Nuclear Cooperation, the President is authorized to make every effort to pursue and conclude arrangements for alternative routes and means of transportation, including sea shipment. All such arrangements shall be subject to stringent physical security conditions, and other conditions designed to protect the public health and safety, and provisions of this section, and all other applicable laws.

---

[77] Copy read "full".

(g) INAPPLICABILITY TO MEDICAL DEVICES.—Subsections (a) through (e) shall not apply with respect to plutonium in any form contained in a medical device designed for individual human application.

(h) INAPPLICABILITY TO MILITARY USES.—Subsections (a) through (e) shall not apply to plutonium in the form of nuclear weapons nor to other shipments of plutonium determined by the Department of Energy to be directly connected with the United States national security or defense programs.

(i) INAPPLICABILITY TO PREVIOUSLY CERTIFIED CONTAINERS.—This section shall not apply to any containers for the shipment of plutonium previously certified as safe by the Nuclear Regulatory Commission under Public Law 94-79 (89 Stat. 413; 42 U.S.C. 5841 note).

(j) PAYMENT OF COSTS.—All costs incurred by the Nuclear Regulatory Commission associated with the testing program required by this section, and administrative costs related thereto, shall be reimbursed to the Nuclear Regulatory Commission by any foreign country receiving plutonium shipped through United States airspace in containers specified by the Commission.

SEC. 5063. SUBSEABED DISPOSAL.

Title II of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10191-10203) is amended by adding at the end the following new section:

"SUBSEABED DISPOSAL

Reports.
42 USC 10204.

"SEC. 224. (a) STUDY.—Within 270 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall report to Congress on subseabed disposal of spent nuclear fuel and high-level radioactive waste. The report under this subsection shall include—

"(1) an assessment of the current state of knowledge of subseabed disposal as an alternative technology for disposal of spent nuclear fuel and high-level radioactive waste;

"(2) an estimate of the costs of subseabed disposal;

"(3) an analysis of institutional factors associated with subseabed disposal, including international aspects of a decision of the United States to proceed with subseabed disposal as an option for nuclear waste management;

"(4) a full discussion of the environmental and public health and safety aspects of subseabed disposal;

"(5) recommendations on alternative ways to structure an effort in research, development, and demonstration with respect to subseabed disposal; and

"(6) the recommendations of the Secretary with respect to research, development and demonstration in subseabed disposal of spent nuclear fuel and high-level radioactive waste.

Establishment.

"(b) OFFICE OF SUBSEABED DISPOSAL RESEARCH.—(1) There is hereby established an Office of Subseabed Disposal Research within the Office of Energy Research of the Department of Energy. The Office shall be headed by the Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Energy Research, and compensated at a rate determined by applicable law.

"(2) The Director of the Office of Subseabed Disposal Research shall be responsible for carrying out research, development, and demonstration activities on all aspects of subseabed disposal of high-level radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Director of the Office of Energy Research, and the first such Director shall be appointed within 30 days of the date of enactment of the Nuclear Waste Policy Amendments Act of 1987.

Grants.
Contracts.

"(3) In carrying out his responsibilities under this Act, the Secretary may make grants to, or enter into contracts with, the Subseabed Consortium described in subsection (d) of this section, and other persons.

"(4)(A) Within 60 days of the date of enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall establish a university-based Subseabed Consortium involving leading oceanographic universities and institutions, national laboratories, and other organizations to investigate the technical and institutional feasibility of subseabed disposal.

"(B) The Subseabed Consortium shall develop a research plan and budget to achieve the following objectives by 1995:

"(i) demonstrate the capacity to identify and characterize potential subseabed disposal sites;

"(ii) develop conceptual designs for a subseabed disposal system, including estimated costs and institutional requirements; and

"(iii) identify and assess the potential impacts of subseabed disposal on the human and marine environment.

Reports.

"(C) In 1990, and again in 1995, the Subseabed Consortium shall report to Congress on the progress being made in achieving the objectives of paragraph (2).

Reports.

"(5) The Director of the Office of Subseabed Disposal Research shall annually prepare and submit a report to the Congress on the activities and expenditures of the Office.".

SEC. 5604. DRY CASK STORAGE.

(a) Study.—During the period between the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987 and October 1, 1988, the Secretary of Energy (hereinafter in this section referred to as the "Secretary") shall conduct a study and evaluation of the use of dry cask storage technology at the sites of civilian nuclear power reactors for the temporary storage of spent nuclear fuel until such time as a permanent geologic repository has been constructed and licensed by the Nuclear Regulatory Commission (hereinafter in this section referred to as the "Commission") and is capable of receiving spent nuclear fuel. The Secretary shall report to Congress on the study under this paragraph by October 1, 1988.

Reports.

(b) Contents of Study.—In conducting the study under paragraph (1) the Secretary shall—

(1) consider the costs of dry cask storage technology, the extent to which dry cask storage on the site of civilian nuclear power reactors will affect human health and the environment, the extent to which the storage on the sites of civilian nuclear power reactors affects the costs and risk of transporting spent nuclear fuel to a central facility such as a monitored retrievable storage facility, and any other factors the Secretary considers appropriate;

(2) consider the extent to which amounts in the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) can be used, and should be used, to provide funds to construct, operate, maintain, and safeguard spent nuclear fuel in dry cask storage at the sites for civilian nuclear power reactors;

(3) consult with the Commission and include the views of the Commission in the report under paragraph (1); and

(4) solicit the views of State and local governments and the public.

SEC. 5065. AMENDMENTS TO THE TABLE OF CONTENTS.

The table of contents of the Nuclear Waste Policy Act of 1982 is amended by—

(1) adding at the end of subtitle C the following new sections:

"Sec. 142. Authorization of monitored retrievable storage.
"Sec. 143. Monitored Retrievable Storage Commission.
"Sec. 144. Survey.
"Sec. 145. Site selection.
"Sec. 146. Notice of disapproval.
"Sec. 147. Benefits agreement.
"Sec. 148. Construction authorization.
"Sec. 149. Financial assistance.";

(2) adding at the end of title I the following new subtitles:

"SUBTITLE E—REDIRECTION OF THE NUCLEAR WASTE PROGRAM

"Sec. 160. Selection of Yucca Mountain site.
"Sec. 161. Siting a second repository.

"SUBTITLE F—BENEFITS

"Sec. 170. Benefits agreements.
"Sec. 171. Content of agreements.
"Sec. 172. Review panel.
"Sec. 173. Termination.

"SUBTITLE G—OTHER BENEFITS

"Sec. 174. Consideration in siting facilities.
"Sec. 175. Report.

"SUBTITLE H—TRANSPORTATION

"Sec. 180. Transportation.";

(3) adding at the end of title II the following new section.

"Sec. 224. Subseabed disposal."; and

(4) adding at the end the following new titles:

"TITLE IV—NUCLEAR WASTE NEGOTIATOR

"Sec. 401. Definition.
"Sec. 402. The Office of Nuclear Waste Negotiator.
"Sec. 403. Duties of the Negotiator.
"Sec. 404. Environmental assessment of sites.
"Sec. 405. Site characterization; licensing.
"Sec. 406. Monitored retrievable storage
"Sec. 407. Environmental impact statement.
"Sec. 408. Administrative powers of the Negotiator
"Sec. 409. Cooperation of other departments and agencies.
"Sec. 410. Termination of the office.".

Federal Onshore Oil and Gas Leasing Reform Act of 1987.
Contracts.

Subtitle B—Federal Onshore Oil and Gas Leasing Reform Act of 1987

SEC. 5101. SHORT TITLE; REFERENCES.

30 USC 181 note.

(a) SHORT TITLE.—This subtitle may be cited as the "Federal Onshore Oil and Gas Leasing Reform Act of 1987".

(b) REFERENCES.—Any reference in this subtitle to the "Act of February 25, 1920", is a reference to the Act of February 25, 1920, entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" (30 U.S.C. 181 and following).

SEC. 5102. OIL AND GAS LEASING SYSTEM.

(a) COMPETITIVE BIDDING.—Section 17(b)(1) of the Act of February 25, 1920 (30 U.S.C. 226(b)(1)), is amended to read as follows:

"(b)(1)(A) All lands to be leased which are not subject to leasing under paragraph (2) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than 2,560 acres, except in Alaska, where units shall be not more than 5,760 acres. Such units shall be as nearly compact as possible. Lease sales shall be conducted by oral bidding. Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary. A lease shall be conditioned upon the payment of a royalty at a rate of not less than 12.5 percent in amount or value of the production removed or sold from the lease. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the national minimum acceptable bid, without evaluation of the value of the lands proposed for lease. Leases shall be issued within 60 days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the national minimum acceptable bid shall be rejected. Lands for which no bids are received or for which the highest bid is less than the national minimum acceptable bid shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for a period of 2 years after the competitive lease sale.

Regulations.

"(B) The national minimum acceptable bid shall be $2 per acre for a period of 2 years from the date of enactment of the Federal Onshore Oil and Gas Leasing Reform Act of 1987. Thereafter, the Secretary may establish by regulation a higher national minimum acceptable bid for all leases based upon a finding that such action is necessary: (i) to enhance financial returns to the United States; and (ii) to promote more efficient management of oil and gas resources on Federal lands. Ninety days before the Secretary makes any change in the national minimum acceptable bid, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The proposal or promulgation of any regulation to establish a national minimum acceptable bid shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.".

(b) NONCOMPETITIVE LEASING.—Section 17(c) of the Act of February 25, 1920 (30 U.S.C. 226(c)), is amended to read as follows:

"(c)(1) If the lands to be leased are not leased under subsection (b)(1) of this section or are not subject to competitive leasing under subsection (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this Act shall be entitled to a lease of such lands without competitive bidding, upon payment of a non-refundable application fee of at least $75. A lease under this subsection shall be conditioned upon the payment of a royalty at a rate of 12.5 percent in amount or value of the production removed or sold from the lease. Leases shall be issued within 60 days of the date on which the Secretary identifies the first responsible qualified applicant.

"(2)(A) Lands (i) which were posted for sale under subsection (b)(1) of this section but for which no bids were received or for which the highest bid was less than the national minimum acceptable bid and (ii) for which, at the end of the period referred to in subsection (b)(1) of this section no lease has been issued and no lease application is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with subsection (b)(1) of this section.

"(B) The land in any lease which is issued under paragraph (1) of this subsection or under subsection (b)(1) of this section which lease terminates, expires, is cancelled or is relinquished shall again be available for leasing only in accordance with subsection (b)(1) of this section.".

(c) RENTALS.—Section 17(d) of the Act of February 25, 1920 (30 U.S.C. 226(d)), is amended to read as follows:

"(d) All leases issued under this section, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, shall be conditioned upon payment by the lessee of a rental of not less than $1.50 per acre per year for the first through fifth years of the lease and not less than $2 per acre per year for each year thereafter. A minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.".

(d) NOTICE AND RECLAMATION.—(1) Section 17 of the Act of February 25, 1920 (30 U.S.C. 226), is amended by redesignating subsections (f) through (k) as subsections (i) through (n) and by adding the following new subsections (f) through (h):

Public information.

"(f) At least 45 days before offering lands for lease under this section, and at least 30 days before approving applications for permits to drill under the provisions of a lease or substantially modifying the terms of any lease issued under this section, the Secretary shall provide notice of the proposed action. Such notice shall be posted in the appropriate local office of the leasing and land management agencies. Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area. The requirements of this subsection are in addition to any public notice required by other law.

Regulations.

"(g) The Secretary of the Interior, or for National Forest lands, the Secretary of Agriculture, shall regulate all surface-disturbing activities conducted pursuant to any lease issued under this Act, and shall determine reclamation and other actions as required in the interest of conservation of surface resources. No permit to drill on an oil and gas lease issued under this Act may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area. The Secretary concerned shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary of the Interior or Secretary of Agriculture, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established under this section for any prior lease to which such requirements and standards applied. Prior to making such determination with respect to any such entity the concerned Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned an oil or gas lease may be issued to such entity under this Act.

"(h) The Secretary of the Interior may not issue any lease on National Forest System Lands reserved from the public domain over the objection of the Secretary of Agriculture.".

(2) Section 31(h) of the Act of February 25, 1920 (30 U.S.C. 188(h)), is amended by striking out "section 17(j)" and substituting "section 17(m)".

SEC. 5103. ASSIGNMENTS.

Sections 30(a) and 30(b) of the Act of February 25, 1920 (30 U.S.C. 187a, 187b), are redesignated as sections 30A and 30B, respectively, and the third sentence of section 30A, as so redesignated, is amended to read as follows: "The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: *Provided, however,* That the Secretary may, in his discretion, disapprove an assignment of any of the following, unless the assignment constitutes the entire lease or is demonstrated to further the development of oil and gas:

"(1) A separate zone or deposit under any lease.

"(2) A part of a legal subdivision.

"(3) Less than 640 acres outside Alaska or of less than 2,560 acres within Alaska.

Requests for approval of assignment or sublease shall be processed promptly by the Secretary. Except where the assignment or sublease is not in accordance with applicable law, the approval shall be given within 60 days of the date of receipt by the Secretary of a request for such approval.".

SEC. 5104. LEASE CANCELLATION.

The first sentence of section 31(b) of the Act of February 25, 1920 (30 U.S.C. 188(b)) is amended to read as follows: "Any lease issued after August 21, 1935, under the provisions of section 17 of this Act shall be subject to cancellation by the Secretary of the Interior after 30 days notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the leasehold contains a well capable of production of oil or gas in paying quantities, or the lease is committed to an approved cooperative or unit plan or communitization agreement under section 17(m) of this Act which contains a well capable of production of unitized substances in paying quantities.".

SEC. 5105. ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.

Section 1008 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3148) is amended as follows:

(1) Subsections (c) and (e) are deleted in their entirety.

(2) The second sentence of subsection 1008(d) is deleted.

SEC. 5106. PENDING APPLICATIONS, OFFERS, AND BIDS.

30 USC 226 note.

(a) Notwithstanding any other provision of this subtitle and except as provided in subsection (b) of this section, all noncompetitive oil and gas lease applications and offers and competitive oil and gas bids pending on the date of enactment of this subtitle shall be processed, and leases shall be issued under the provisions of the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law.

(b) No noncompetitive lease applications or offers pending on the date of enactment of this subtitle for lands within the Shawnee National Forest, Illinois; the Ouachita National Forest, Arkansas; Fort Chafee, Arkansas; or Eglin[78] Air Force Base, Florida; shall be processed until these lands are posted for competitive bidding in accordance with section 5102 of this subtitle. If any such tract does not receive a bid equal to or greater than the national minimum acceptable bid from a responsible qualified bidder then the noncompetitive applications or offers pending for such a tract shall be reinstated and noncompetitive leases issued under the Act of February 25, 1920, as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law. If competitive leases are issued for any such tract, then the pending noncompetitive application or offer shall be rejected.

(c) Except as provided in subsections (a) and (b) of this section, all oil and gas leasing pursuant to the Act of February 25, 1920, after the date of enactment of this subtitle shall be conducted in accordance with the provisions of this subtitle.

SEC. 5107. REGULATIONS; TEST SALE.

30 USC 226 note.

(a) REGULATIONS.—The Secretary shall issue final regulations to implement this subtitle within 180 days after the enactment of this subtitle. The regulations shall be effective when published in the Federal Register.

Effective date. Federal Register, publication.

(b) TREATMENT UNDER OTHER LAW.—The proposal or promulgation of such regulations shall not be considered a major Federal action subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969.

---

[78] Copy read "Elgin".

(c) TEST SALE.—The Secretary may hold one or more lease sales conducted in accordance with the amendments made by this subtitle before promulgation of regulations referred to in subsection (a). Sale procedures for such sale shall be established in the notice of sale.

SEC. 5108. ENFORCEMENT.

The Act of February 25, 1920, is amended by inserting after section 40 the following new section:

30 USC 195.

"SEC. 41. ENFORCEMENT.

"(a) VIOLATIONS.—It shall be unlawful for any person:

"(1) to organize or participate in any scheme, arrangement, plan, or agreement to circumvent or defeat the provisions of this Act or its implementing regulations, or

"(2) to seek to obtain or to obtain any money or property by means of false statements of material facts or by failing to state material facts concerning:

"(A) the value of any lease or portion thereof issued or to be issued under this Act;

"(B) the availability of any land for leasing under this Act;

"(C) the ability of any person to obtain leases under this Act; or

"(D) the provisions of this Act and its implementing regulations.

"(b) PENALTY.—Any person who knowingly violates the provisions of subsection (a) of this section shall be punished by a fine of not more than $500,000, imprisonment for not more than five years, or both.

"(c) CIVIL ACTIONS.—Whenever it shall appear that any person is engaged, or is about to engage, in any act which constitutes or will constitute a violation of subsection (a) of this section, the Attorney General may institute a civil action in the district court of the United States for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located, for a temporary restraining order, injunction, civil penalty of not more than $100,000 for each violation, or other appropriate remedy, including but not limited to, a prohibition from participation in exploration, leasing, or development of any Federal mineral, or any combination of the foregoing.

"(d) CORPORATIONS.—(1) Whenever a corporation or other entity is subject to civil or criminal action under this section, any officer, employee, or agent of such corporation or entity who knowingly authorized, ordered, or carried out the proscribed activity shall be subject to the same action.

"(2) Whenever any officer, employee, or agent of a corporation or other entity is subject to civil or criminal action under this section for activity conducted on behalf of the corporation or other entity, the corporation or other entity shall be subject to the same action, unless it is shown that the officer, employee, or agent was acting without the knowledge or consent of the corporation or other entity.

"(e) REMEDIES, FINES, AND IMPRISONMENT.—The remedies, penalties, fines, and imprisonment prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies, penalties, fines, and imprisonment prescribed in this section shall be in addition to any other remedies, penalties, fines, and imprisonment afforded by any other law or regulation.

"(f) STATE CIVIL ACTIONS.—(1) A State may commence a civil action under subsection (c) of this section against any person conducting activity within the State in violation of this section. Civil actions brought by a State shall only be brought in the United States district court for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order appropriate remedies and penalties as described in subsection (c) of this section.

"(2) A State shall notify the Attorney General of the United States of any civil action filed by the State under this subsection within 30 days of filing of the action. The Attorney General of the United States shall notify a State of any civil action arising from activity conducted within that State filed by the Attorney General under this subsection within 30 days of filing of the action.

"(3) Any civil penalties recovered by a State under this subsection shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate. If a civil action is jointly brought by the Attorney General and a State, by more than one State or by the Attorney General and more than one State, any civil penalties recovered as a result of the joint action shall be shared by the parties bringing the action in the manner determined by the court rendering judgment in such action.

"(4) If a State has commenced a civil action against a person conducting activity within the State in violation of this section, the Attorney General may join in such action but may not institute a separate action arising from the same activity under this section. If the Attorney General has commenced a civil action against a person conducting activity within a State in violation of this section, that State may join in such action but may not institute a separate action arising from the same activity under this section.

"(5) Nothing in this section shall deprive a State of jurisdiction to enforce its own civil and criminal laws against any person who may also be subject to civil and criminal action under this section.".

SEC. 5109. PAYMENTS TO STATES.

Section 35 of the Act of February 25, 1920 (30 U.S.C. 191) is amended by adding the following at the end thereof: "In determining the amount of payments to States under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.".

SEC. 5110. REPORT.

30 USC 226 note.

The Secretary shall submit annually for 5 years after enactment of this subtitle to the Congress a report containing appropriate information to facilitate congressional monitoring of this subtitle. Such report shall include, but not be limited to—

(1) the number of acres leased, and the number of leases issued, competitively and noncompetitively;

(2) the amount of revenue received from bonus bids, filing fees, rentals, and royalties;

(3) the amount of production from competitive and noncompetitive leases; and

(4) such other data and information as will facilitate—

(A) an assessment of the onshore oil and gas leasing system, and

(B) a comparison of the system as revised by this subtitle with the system in operation prior to the enactment of this subtitle.

30 USC 226 note.

SEC. 5111. LAND USE STUDY.

The National Academy of Sciences and the Comptroller General of the United States shall conduct a study of the manner in which oil and gas resources are considered in the land use plans developed by the Secretary of the Interior in accordance with provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) and the Secretary of Agriculture in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476), as amended by the National Forest Management Act of 1976 (90 Stat. 2949), and recommend any improvements that may be necessary to ensure that—

(1) potential oil and gas resources are adequately addressed in planning documents;

(2) the social, economic, and environmental consequences of exploration and development of oil and gas resources are determined; and

(3) any stipulations to be applied to oil and gas leases are clearly identified.

SEC. 5112. LANDS NOT SUBJECT TO OIL AND GAS LEASING.

The Act of February 25, 1920, is amended by adding the following at the end thereof:

30 USC 226-3.

"SEC. 43. LANDS NOT SUBJECT TO OIL AND GAS LEASING.

"(a) PROHIBITION.—The Secretary shall not issue any oil and gas lease under this Act on any of the following Federal lands:

"(1) Lands recommended for wilderness allocation by the surface managing agency.

"(2) Lands within Bureau of Land Management wilderness study areas.

"(3) Lands designated by Congress as wilderness study areas, except where oil and gas leasing is specifically allowed to continue by the statute designating the study area.

"(4) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or have been released to uses other than wilderness by an act of Congress.

"(b) EXPLORATION.—In the case of any area of National Forest or public lands subject to this section, nothing in this section shall affect any authority of the Secretary of the Interior (or for National Forest Lands reserved from the public domain, the Secretary of Agriculture) to issue permits for exploration for oil and gas by means not requiring construction of roads or improvement of existing roads if such activity is conducted in a manner compatible with the preservation of the wilderness environment.".

SEC. 5113. SHORT TITLE.

Mineral Leasing Act.

The Act of February 25, 1920, is amended by inserting after section 43 the following new section:

"SEC. 44. SHORT TITLE.

30 USC 181 note.

"This Act may be cited as the 'Mineral Leasing Act'.".

Subtitle C—Land and Water Conservation Fund and Tongass Timber Supply Fund

SEC. 5201. LAND AND WATER CONSERVATION FUND ACT AMENDMENTS.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)) is amended as follows:

(1) Paragraph (1) is amended by striking out "$10" and inserting in lieu thereof "$25" in the first sentence.

(2) Paragraph (1) is further amended by striking out "(1)" and inserting in lieu thereof "(1)(A)" and adding the following new subparagraph at the end thereof:

"(B) For admission into a specific designated unit of the National Park System, or into several specific units located in a particular geographic area, the Secretary is authorized to make available an annual admission permit for a reasonable fee. The fee shall not exceed $15 regardless of how many units of the park system are covered. The permit shall convey the privileges of, and shall be subject to the same terms and conditions as, the Golden Eagle Passport, except that it shall be valid only for admission into the specific unit or units of the National Park System indicated at the time of purchase.".

(3) Paragraph (2) is amended by adding the following sentences at the end thereof: "The fee for a single-visit permit at any designated area applicable to those persons entering by private, noncommercial vehicle shall be no more than $5 per vehicle. The single-visit permit shall admit the permittee and all persons accompanying him in a single vehicle. The fee for a single-visit permit at any designated area applicable to those persons entering by any means other than a private noncommercial vehicle shall be no more than $3 per person. Except as otherwise provided in this subsection, the maximum fee amounts set forth in this paragraph shall apply to all designated areas.".

(4) Paragraph (3) is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations.".

(5) Add the following new paragraphs:

Reports.

"(6)(A) No later than 60 days after the date of enactment of this paragraph, the Secretary of the Interior shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report on the entrance fees proposed to be charged at units of the National Park System. The report shall include a list of units of the

National Park System and the entrance fee proposed to be charged at each unit. The Secretary of the Interior shall include in the report an explanation of the guidelines used in applying the criteria in subsection (d).

"(B) Following submittal of the report to the respective committees, any proposed changes to matters covered in the report, including the addition or deletion of park units or the increase or decrease of fee levels at park units shall not take effect until 60 days after notice of the proposed change has been submitted to the committees.

"(7) No admission fee may be charged at any unit of the National Park System for admission of any person 16 years of age or less.

"(8) No admission fee may be charged at any unit of the National Park System for admission of organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

"(9) No admission fee may be charged at the following units of the National Park System: U.S.S. Arizona Memorial, Independence National Historical Park, any unit of the National Park System within the District of Columbia, Arlington House—Robert E. Lee National Memorial, San Juan National Historic Site, and Canaveral National Seashore.

"(10) For each unit of the National Park System where an admission fee is collected, the Director shall annually designate at least one day during periods of high visitation as a 'Fee-Free Day' when no admission fee shall be charged.

"(11) In the case of the following parks, the fee for a single-visit permit applicable to those persons entering by private, noncommercial vehicle (the permittee and all persons accompanying him in a single vehicle) shall be no more than $10 per vehicle and the fee for a single-visit permit applicable to persons entering by any means other than a private noncommercial vehicle shall be no more than $5 per person: Yellowstone National Park and Grand Teton National Park and after the end of fiscal year 1990, Grand Canyon National Park. In the case of Yellowstone and Grand Teton, a single-visit fee collected at one unit shall also admit the vehicle or person who paid such fee for a single-visit to the other unit.

"(12) Notwithstanding section 203 of the Alaska National Interest Lands Conservation Act, the Secretary may charge an admission fee under this section at Denali National Park and Preserve in Alaska.".

(b) VISITOR RESERVATION SERVICES.—Section 4(f) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(f)) is amended to read as follows:

Contracts.

"(f) The head of any Federal agency, under such terms and conditions as he deems appropriate, may contract with any public or private entity to provide visitor reservation services. Any such contract may provide that the contractor shall be permitted to deduct a commission to be fixed by the agency head from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency.".

(c) SPECIAL PROVISIONS.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a) is amended by adding the following new subsections at the end thereof:

Contracts.

"(i)(1) Except in the case of fees collected by the United States Fish and Wildlife Service or the Tennessee Valley Authority, all receipts from fees collected pursuant to this section by any Federal agency (or by any public or private entity under contract with a Federal agency) shall be covered into a special account for that agency established in the Treasury of the United States. Fees collected by the Secretary of Agriculture pursuant to this subsection shall continue to be available for the purposes of distribution to States and counties in accordance with applicable law.

"(2) Amounts covered into the special account for each agency during each fiscal year shall, after the end of such fiscal year, be available for appropriation solely for the purposes and in the manner provided in this subsection. No funds shall be transferred from fee receipts made available under this Act to each unit of the national park system: *Provided, however,* That in making appropriations, funds derived from such fees may be used for any purpose authorized therein. Funds credited to the special account shall remain available until expended.

"(3) For agencies other than the National Park Service, such funds shall be made available for resource protection, research, interpretation, and maintenance activities related to resource protection in areas managed by that agency at which outdoor recreation is available. To the extent feasible, such funds should be used for purposes (as provided for in this paragraph) which are directly related to the activities which generated the funds, including but not limited to water-based recreational activities and camping.

"(4) Amounts covered into the special account for the National Park Service shall be allocated among park system units in accordance with subsection (j) for obligation or expenditure by the Director of the National Park Service for the following purposes:

"(A) In the case of receipts from the collection of admission fees: for resource protection, research, and interpretation at units of the National Park System.

"(B) In the case of receipts from the collection of user fees: for resource protection, research, interpretation, and maintenance activities related to resource protection at units of the National Park System.

"(j)(1) 10 percent of the funds made available to the Director of the National Park Service under subsection (i) in each fiscal year shall be allocated among units of the National Park System on the basis of need in a manner to be determined by the Director.

"(2) 40 percent of the funds made available to the Director of the National Park Service under subsection (i) in each fiscal year shall be allocated among units of the National Park System in accordance with paragraph (3) of this subsection and 50 percent shall be allocated in accordance with paragraph (4) of this subsection.

"(3) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the operating expenses at that unit during the prior fiscal year by the total operating expenses at all units during the prior fiscal year.

"(4) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the user fees and admission fees collected under this section at that unit during the prior fiscal year by the total of user fees and admission fees collected under this section at all units during the prior fiscal year.

"(5) Amounts allocated under this subsection to any unit for any fiscal year and not expended in that fiscal year shall remain available for expenditure at that unit until expended.

"(k) When authorized by the head of the collecting agency, volunteers at designated areas may sell permits and collect fees authorized or established pursuant to this section. The head of such agency shall ensure that such volunteers have adequate training regarding—

"(1) the sale of permits and the collection of fees,

"(2) the purposes and resources of the areas in which they are assigned, and

"(3) the provision of assistance and information to visitors to the designated area.

The Secretary shall require a surety bond for any such volunteer performing services under this subsection. Funds available to the collecting agency may be used to cover the cost of any such surety bond. The head of the collecting agency may enter into arrangements with qualified public or private entities pursuant to which such entities may sell (without cost to the United States) annual admission permits (including Golden Eagle Passports) at any appropriate location. Such arrangements shall require each such entity to reimburse the United States for the full amount to be received from the sale of such permits at or before the agency delivers the permits to such entity for sale.

"(l)(1) Where the National Park Service provides transportation to view all or a portion of any unit of the National Park System, the Director may impose a charge for such service in lieu of an admission fee under this section. The charge imposed under this paragraph shall not exceed the maximum admission fee under subsection (a).

"(2) Notwithstanding any other provision of law, half of the charges imposed under paragraph (1) shall be retained by the unit of the National Park System at which the service was provided. The remainder shall be covered into the special account referred to in subsection (i) in the same manner as receipts from fees collected pursuant to this section. Fifty percent of the amount retained shall be expended only for maintenance of transportation systems at the unit where the charge was imposed. The remaining 50 percent of the retained amount shall be expended only for activities related to resource protection at such units.

"(m) Where the primary public access to a unit of the National Park System is provided by a concessioner, the Secretary may charge an admission fee at such units only to the extent that the total of the fee charged by the concessioner for access to the unit and the admission fee does not exceed the maximum amount of the admission fee which could otherwise be imposed under subsection (a).".

16 USC 460*l*-5a.

(d) **Repeals.**—(1) Title I of Public Law 96-514 is amended by striking out the following provisions which appear under the heading "Land and Water Conservation Fund": "Notwithstanding the provisions of Public Law 90-401, revenues from recreation fee collections by Federal agencies shall hereafter be paid into the Land and Water Conservation Fund, to be available for appropriation for any or all purposes authorized by the Land and Water Conservation

Fund Act of 1965, as amended, without regard to the source of such revenues.".

16 USC 460l-6b.

(2) Section 402 of the Act of October 12, 1979 (93 Stat. 664), is hereby repealed.

(3) The seventh paragraph of title I of the Energy and Water Development Appropriation Act, 1982, entitled "Special Recreation Use Fees" is hereby repealed.

16 USC 460l-5a note.
16 USC 460l-6a note.

(e) Study.—(1) The Secretary of the Interior shall assess the extent to which traffic congestion and overcrowding occurs at certain park system units during times of seasonally high usage and shall conduct a study of the following—

(A) the feasibility of reducing vehicular traffic within national park system units through fee reductions for visitors traveling by bus and through other means which could shift visitation from automobiles to buses; and

(B) the feasibility of encouraging more even seasonal distribution of visitation.

Reports.

(2) The study shall include a pilot project to be carried out in Yosemite National Park. For purposes of such pilot project, the Secretary may reduce the fees for admission of various classes or categories of visitors to Yosemite National Park and may reduce the admission fees imposed at the park during seasons with low visitation. A report containing the results of the study shall be transmitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within 3 years after the enactment of this Act.

16 USC 460l-5.

(f) Extension of Land and Water Conservation Fund.—(1) Section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 and following) is amended as follows:

(A) In the matter preceding subsection (a) strike "1989" and substitute "2015".

(B) In subsection (c)(1) strike "1989" and substitute "2015".

16 USC 460l-6.

(2) The last sentence of section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 and following) is amended to read as follows: "Moneys made available for obligation or expenditure from the fund or from the special account established under section 4(i)(1) may be obligated or expended only as provided in this Act.".

(g) Relationship to Fiscal Year 1988 Appropriations.—For purposes of legislation providing appropriations for the fiscal year 1988 to the Department of the Interior, the provisions of this section shall be treated as "permanent statutory language" establishing entrance fees for the National Park Service.

SEC. 5202. TONGASS TIMBER SUPPLY FUND.

16 USC 539d note.

From the period beginning on October 1, 1987, and extending until September 30, 1989, the provisions of section 705(a) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 539(d)) shall not be effective. In lieu thereof, the following provision shall apply:

"There is hereby authorized to be appropriated the sum of at least $40,000,000 annually (or such sums as the Secretary of Agriculture determines necessary) to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of 4,500,000,000 foot board measure per decade."

Subtitle D—Reclamation

43 USC 421b note.

SEC. 5301. SALE OF BUREAU OF RECLAMATION LOANS.

(a) SALE.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary"), under such terms as the Secretary shall prescribe, shall sell or otherwise dispose of loans made pursuant to the Distribution System Loans Act (43 U.S.C. 421a-421d), the Small Reclamation Projects Act (43 U.S.C. 422a-422l), and the Rehabilitation and Betterment Act (43 U.S.C. 504-505) in such amounts as to realize net proceeds to the Federal Government of not less than $130,000,000 in the fiscal year ending September 30, 1988. Contracts. In the conduct of such sales, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the borrowers under the contracts executed to provide for repayment of such loans.

(b) SAVINGS PROVISIONS.—Nothing in this section, including the prepayment or other disposition of any loan or loans, shall—

(1) except to the extent that prepayment may have been authorized heretofore, relieve the borrower from the application of the provisions of Federal Reclamation law (Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto, including the Reclamation Reform Act of 1982), including acreage limitations, to the extent such provisions would apply absent such prepayment, or

(2) authorize the transfer of title to any federally owned facilities funded by the loans specified in subsection (a) of this section without a specific Act of Congress.

(c) FEES AND EXPENSES OF PROGRAM.—Proceeds from the conduct of the program authorized by this section shall be first used to pay the fees and expenses of such program and the net proceeds shall be deposited in the Treasury of the United States as miscellaneous receipts.

(d) TERMINATION.—The authority granted by this section to sell or otherwise dispose of loans shall terminate on December 31, 1988.

SEC. 5302. RECLAMATION REFORM ACT AMENDMENTS.

43 USC 390ww.

(a) AUDIT.—Section 224 of the Reclamation Reform Act of 1982 (Public Law 97-293) is amended by adding the following new subsections after subsection (f):

"(g) In addition to any other audit or compliance activities which may otherwise be undertaken, the Secretary of the Interior, or his designee, shall conduct a thorough audit of the compliance with the reclamation law of the United States, specifically including this Act, by legal entities and individuals subject to such law. At a minimum, the Secretary shall complete audits of those legal entities and individuals whose landholdings or operations exceed 960 acres within 3 years. Reports. The Secretary shall submit an annual written report to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs. Such report shall summarize the legal entities and individuals audited, the results of such audits, and the actions taken by the Secretary to correct any instances of noncompliance with the reclamation law.

Contracts.

"(h) The provisions of section 205(c) are and have been applicable to all recordable contracts executed prior to October 12, 1982, and any decision, rule, or regulation promulgated by the Department of the Interior to the contrary is hereby revoked: *Provided*, That notwithstanding the provisions of subsection (i), the Secretary shall not seek reimbursement for any amounts due under this subsection or section 205(c) which was due prior to the date of enactment of this subsection.

"(i) When the Secretary finds that any individual or legal entity subject to reclamation law, including this Act, has not paid the required amount for irrigation water delivered to a landholding pursuant to reclamation law, including this Act, he shall collect the amount of any underpayment with interest accruing from the date the required payment was due until paid. The interest rate shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing marketable issues sold by the Treasury during the period of underpayment.".

(b) REVOCABLE TRUSTS.—Section 214 of the Reclamation Reform Act of 1982 (Public Law 97-293) is amended by inserting "(a)" after "214" and by adding the following new subsection at the end thereof: 43 USC 390nn.

"(b) Lands placed in a revocable trust shall be attributable to the grantor if—

"(1) the trust is revocable at the discretion of the grantor and revocation results in the title to such lands reverting either directly or indirectly to the grantor; or

"(2) the trust is revoked or terminated by its terms upon the expiration of a specified period of time and the revocation or termination results in the title to such lands reverting either directly or indirectly to the grantor.".

Subtitle E—Panama Canal

SEC. 5401. REFERENCE TO THE PANAMA CANAL ACT OF 1979.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Panama Canal Act of 1979 (22 U.S.C. 3601 and following).

PART 1—PANAMA CANAL REAUTHORIZATION

SEC. 5411. OPERATING EXPENSES.

There is authorized to be appropriated from the Panama Canal Commission Fund to the Panama Canal Commission (hereafter in this part referred to as the "Commission") for the fiscal year beginning October 1, 1987, not to exceed $467,050,000, for necessary expenses of the Commission incurred under the Panama Canal Act of 1979 (22 U.S.C. 3601 and following), including expenses for—

(1) the hire of passenger motor vehicles and aircraft;

(2) the purchase of passenger motor vehicles as may be necessary for fiscal year 1988, the number and price of which shall not exceed the amount provided in appropriation Acts; except that large heavy-duty passenger sedans used to transport Commission employees across the Isthmus of Panama may be purchased for fiscal year 1988 without regard to price limitations set forth in applicable regulations of any department or agency of the United States;

(3) official receptions and representation expenses, except that not more than $43,000 may be made available for such expenses, of which (A) not more than $10,000 may be made available for such expenses of the Supervisory Board of the Commission, (B) not more than $5,000 may be made available for such expenses of the Secretary of the Commission, and (C) not more than $28,000 may be made available for such expenses of the Administrator of the Commission;

(4) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code;

(5) a residence for the Administrator of the Commission;

(6) uniforms, or allowances therefor, as authorized by section 5901 and 5902 of title 5, United States Code;

(7) disbursements by the Administrator of the Commission for employee recreation and community projects; and

(8) the operation of guide services.

SEC. 5412. CAPITAL OUTLAY.

Of any funds appropriated pursuant to section 5411, not more than $37,000,000 (which is authorized to remain available until expended) may be made available for the acquisition, construction, replacement and improvements of facilities, structures, and equipment required by the Commission.

SEC. 5413. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to the amount authorized to be appropriated by section 5411, there are authorized to be appropriated to the Commission for the fiscal year 1988 such amounts as may be necessary for—

(1) increases in salary, pay, retirement, and other employee benefits provided by law;

(2) covering payments to Panama under paragraph 4(a) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 1341(a) of the Panama Canal Act of 1979 (22 U.S.C. 3751(a)); and

(3) increased costs for fuel.

SEC. 5414. INSURANCE.

Section 1419 (22 U.S.C. 3779) is amended by inserting "or other unpredictable events" after "marine accidents".

Contracts.
22 USC 3712a.

SEC. 5415. AUTHORITY TO LEASE OFFICE SPACE.

Notwithstanding section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490), the Commission is authorized to negotiate directly and enter into contracts for the lease of, and for improvements to, real property in the United States for use by the Commission as office space, on such terms as the Commission considers to be in the interest of the United States, and to make direct payments therefor.

SEC. 5416. COMPENSATION OF BOARD MEMBERS.

Section 1102(b) (22 U.S.C. 3612(b)) is amended by inserting before the period at the end thereof the following: "or, as authorized by the Chairman of the Board, while on[79] official Panama Canal Commission business".

---

[79] Copy read "an".

SEC. 5417. SETTLEMENT OF CLAIMS.

(a) SETTLEMENT OF CLAIMS.—Section 1401(b) (22 U.S.C. 3761(b)) is amended to read as follows:

"(b) The Commission may pay not more than $50,000 on any claim described in subsection (a).".

(b) INJURIES TO VESSELS WITHOUT PILOTS.—Section 1411(b)(1) (22 U.S.C. 3771(b)(1)) is amended by striking out "adjust and pay" and all that follows through "$50,000" and inserting in lieu thereof "pay not more than $50,000 on the claim".

SEC. 5418. REPORT TO CONGRESS.

22 USC 3871 note.

Out of the funds authorized to be appropriated by this part, the Commission shall prepare and submit to the Congress a report on—

(1) the condition of the Panama Canal and potential adverse effects on United States shipping and commerce;

(2) the effect on canal operations of the military forces under General Noriega; and

Manuel Noriega.

(3) the Commission's evaluation of the effect on canal operations if the Panamanian Government continues to withhold its consent to major factors in the United States Senate's ratification of the Panama Canal Treaties.

PART 2—PANAMA CANAL REVOLVING FUND

Panama Canal Revolving Fund Act.
22 USC 3601 note.

SEC. 5421. SHORT TITLE.

This part may be referred to as the "Panama Canal Revolving Fund Act".

SEC. 5422. ESTABLISHMENT OF REVOLVING FUND.

(a) ESTABLISHMENT.—Section 1302 (22 U.S.C. 3712) is amended by striking out subsections (a) through (d) and inserting in lieu thereof the following:

"SEC. 1302. (a)(1) There is established in the Treasury of the United States a revolving fund to be known as the 'Panama Canal Revolving Fund'. The Panama Canal Revolving Fund shall, subject to subsection (c), be available to the Commission to carry out the purposes, functions, and powers authorized by this Act, including for—

"(A) the hire of passenger motor vehicles and aircraft;

"(B) uniforms or allowances therefor, as authorized by sections 5901 and 5902 of title 5, United States Code;

"(C) official receptions and representation expenses of the Board, the Secretary of the Commission, and the Administrator;

"(D) the operation of guide services;

"(E) a residence for the Administrator;

"(F) disbursements by the Administrator for employee and community projects; and

"(G) the procurement of expert and consultant services as provided in section 3109 of title 5, United States Code.

"(2) On the effective date of the Panama Canal Revolving Fund Act—

"(A) the Panama Canal Commission Fund shall be terminated and the unappropriated balance, including undeposited receipts as of the close of business on the day before the effective date of the Panama Canal Revolving Fund Act, shall be transferred to the Panama Canal Revolving Fund;

"(B) the unexpended balance of appropriations to the Commission, as of the close of business on the day before the effective date of the Panama Canal Revolving Fund Act, shall be transferred to the Panama Canal Revolving Fund, and such amounts, including amounts appropriated for capital expenditures, shall remain available until expended;

"(C) the assets and liabilities recorded before such effective date under the 'Panama Canal Commission Fund' shall be recorded under the Panama Canal Revolving Fund; and

"(D) the Panama Canal Emergency Fund shall be terminated and the remaining balance shall be transferred to the Panama Canal Revolving Fund.

"(b) Upon completion of the transfers of funds under subsection (a)—

"(1) amounts attributable to interest on the investment of the United States in the Panama Canal which accrued before January 1, 1986, shall be transferred from the Panama Canal Revolving Fund to the general fund of the Treasury; and

"(2) such amounts as were appropriated to the Commission in the fiscal year which ended September 30, 1980, and for which the Commission has not reimbursed the general fund of the Treasury, shall be transferred to the general fund of the Treasury.

"(c)(1) There shall be deposited in the Panama Canal Revolving Fund, on a continuing basis, toll receipts and all other receipts of the Commission. Except as provided in section 1303 and subject to paragraph (2), no funds may be obligated or expended by the Commission in any fiscal year unless such obligation or expenditure has been specifically authorized by law.

"(2) No funds may be obligated or expended by the Commission in any fiscal year for administrative expenses except to the extent or in such amounts as are provided in appropriations Acts.

"(3) No funds may be authorized for the use of the Commission, or obligated or expended by the Commission in any fiscal year in excess of—

"(A) the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year, plus

"(B) the amount of revenues deposited in the Panama Canal Revolving Fund before such fiscal year and remaining unexpended at the beginning of such fiscal year.

Reports.

Not later than 30 days after the end of each fiscal year, the Secretary of the Treasury shall report to the Congress the amount of revenues deposited in the Panama Canal Revolving Fund during such fiscal year.

"(d) With the approval of the Secretary of the Treasury, the Commission may deposit amounts in the Panama Canal Revolving Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Commission and the Secretary may agree.

"(e) The Committee on Appropriations of each House of Congress shall review the annual budget of the Commission, including operations and capital expenditures.".

22 USC 3712.

(b) CONFORMING AMENDMENTS.—(1) The section heading for section 1302 is amended to read as follows:

"PANAMA CANAL REVOLVING FUND".

(2) The item relating to section 1302 in the table of contents of the Panama Canal Act of 1979 is amended to read as follows:

"1302. Panama Canal Revolving Fund.".

SEC. 5423. EMERGENCY AUTHORITY.

(a) GRANT OF AUTHORITY.—Section 1303 (22 U.S.C. 3713) is amended to read as follows:

"SEC. 1303. If authorizing legislation described in section 1302(c)(1) has not been enacted for a fiscal year, then the Commission may withdraw funds from the Panama Canal Revolving Fund in order to defray emergency expenses and to ensure the continuous, efficient, and safe operation of the Panama Canal, including expenses for capital projects. The authority of this section may not be used for administrative expenses. The authority of this section may be exercised only until authorizing legislation described in section 1302(c)(1) is enacted, or for a period of 24 months after the end of the fiscal year for which such authorizing legislation was last enacted, whichever occurs first. Within 60 days after the end of any calendar quarter in which expenditures are made under this section, the Commission shall report such expenditures to the appropriate committees of the Congress.". Reports.

(b) CONFORMING AMENDMENTS.—(1) The section heading for section 1303 is amended by striking out "FUND" and inserting in lieu thereof "AUTHORITY". 22 USC 3713.

(2) The item relating to section 1303 in the table of contents of the Panama Canal Act of 1979 is amended by striking out "fund" and inserting in lieu thereof "authority".

SEC. 5424. BORROWING AUTHORITY.

(a) GRANT OF AUTHORITY.—Subchapter I of chapter 3 of title I (22 U.S.C. 3711 and following) is amended by adding at the end thereof the following new section:

"BORROWING AUTHORITY

"SEC. 1304. (a) The Panama Canal Commission may borrow from the Treasury, for any of the purposes of the Commission, not more than $100,000,000 outstanding at any time. For this purpose, the Commission may issue to the Secretary of the Treasury its notes or other obligations— 22 USC 3714.

"(1) which shall have maturities (of not later than December 31, 1999) agreed upon by the Commission and the Secretary of the Treasury, and

"(2) which may be redeemable at the option of the Commission before maturity.

"(b) Amounts borrowed under this section shall not be available for payments to Panama under Article XIII of the Panama Canal Treaty of 1977.

"(c) Amounts borrowed under this section shall increase the investment of the United States in the Panama Canal, and repayment of such amounts shall decrease such investment.

"(d) The Commission shall report to the Congress and to the Office of Management and Budget on each exercise of borrowing authority under this section.". Reports.

(b) CONFORMING AMENDMENT.—The table of contents of the Panama Canal Act of 1979 is amended by inserting after the item relating to section 1303 the following:

"1304. Borrowing authority.".

SEC. 5425. CALCULATION OF INTEREST.

(a) CALCULATION OF INTEREST.—Section 1603 (22 U.S.C. 3793) is amended—

(1) in subsection (b)(1)(A), by striking out "appropriations to the Commission made on or after the effective date of this Act" and inserting in lieu thereof "the Panama Canal Revolving Fund,";

(2) in subsection (b)(2)(A), by striking out "covered into the Panama Canal Commission Fund pursuant to section 1302 of this Act" and inserting in lieu thereof "deposited in the Panama Canal Revolving Fund"; and

(3) by adding at the end thereof the following new subsection:

"(d) The Panama Canal Commission shall pay to the Treasury of the United States interest on the investment of the United States, as determined under this section. Such interest shall be deposited in the general fund of the Treasury.".

SEC. 5426. PAYMENTS TO THE REPUBLIC OF PANAMA.

The second sentence of section 1341(e) (22 U.S.C. 3751(e)) is amended—

(1) by striking out "and" before "(6)"; and

(2) by inserting before the period ", and (7) amounts programmed to meet working capital requirements".

SEC. 5427. BASES OF TOLLS.

Section 1602(b) (22 U.S.C 3792(b)) is amended by inserting "working capital," after "depreciation,".

SEC. 5428. TECHNICAL AND CONFORMING AMENDMENTS.

(a) APPLIANCES FOR EMPLOYEES INJURED BEFORE SEPTEMBER 7, 1916.—Section 1246 (22 U.S.C. 3683) is amended by striking out "appropriated" and inserting in lieu thereof "available".

(b) DISASTER RELIEF.—Section 1343 (22 U.S.C. 3753) is amended by striking out "available funds appropriated" and inserting in lieu thereof "funds available".

(c) CONGRESSIONAL RESTRAINTS ON PROPERTY TRANSFERS AND TAX EXPENDITURES.—Section 1344(b)(4) (22 U.S.C. 3754(b)(4)) is amended—

(1) by striking out "appropriated to or" and inserting in lieu thereof "available"; and

(2) by striking out "Panama Canal Commission Fund" and inserting in lieu thereof "Panama Canal Revolving Fund".

(d) CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—Section 8348(i)(2) of title 5, United States Code, is amended by striking out "The Secretary of the Treasury shall pay to the Fund from appropriations" and inserting in lieu thereof "The Panama Canal Commission shall pay to the Fund from funds available to it".

(e) CANAL ZONE GOVERNMENT FUNDS.—Section 1301 (22 U.S.C. 3711) is amended—

(1) by amending the second sentence to read as follows: "The Commission may, to the extent of funds available to it, pay

claims or make payments chargeable to such accounts, upon proper audit of such claims or payments."; and

(2) by striking out the third sentence.

SEC. 5429. EFFECTIVE DATE.

22 USC 3683 note.

This part and the amendments made by this part take effect on January 1, 1988.

Subtitle F—Abandoned Mine Funds in Wyoming

SEC. 5501. ALLOCATION OF ABANDONED MINE RECLAMATION FUNDS IN WYOMING.

Notwithstanding any other provision of law, the State of Wyoming may, subject to a plan approved by the Governor, expend not more than $2,000,000 from its allocation of fiscal year 1987 appropriated funds under section 402(g) of Public Law 95-87 for direct assistance to citizens evacuated from their homes in the Rawhide and Horizon Subdivisions in Campbell County, Wyoming, due to hazards from methane and hydrogen sulfide gases.

Subtitle G—Nuclear Regulatory Commission User Fees

SEC. 5601. USER FEES.

Section 7601(b)(1)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272; 100 Stat. 147) is amended by inserting "; except that for fiscal years 1988 and 1989, such percentage shall be increased an additional 6 percent of such costs plus all other assessments made by the Nuclear Regulatory Commission pursuant to House Joint Resolution 395, 100th Congress, 1st Session, as enacted; but in no event shall such percentage be less than a total of 45 percent of such costs in each such fiscal year" after "with respect to such fiscal year". 42 USC 2213.

TITLE VI—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

SEC. 6001. PARTIAL DEFERRED PAYMENT OF LUMP-SUM CREDIT FOR CERTAIN INDIVIDUALS ELECTING ALTERNATIVE FORMS OF ANNUITIES.

5 USC 8343a note.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (c), any lump-sum credit payable to an employee or Member pursuant to the election of an alternative form of annuity by such employee or Member under section 8343a or section 8420a of title 5, United States Code, shall be paid in accordance with the schedule under subsection (b) (instead of the schedule which would otherwise apply), if the commencement date of the annuity payable to such employee or Member occurs after January 3, 1988, and before October 1, 1989.

(b) SCHEDULE OF PAYMENTS.—The schedule of payment of any lump-sum credit subject to this section is as follows:

(1) 60 percent of the lump-sum credit shall be payable on the date on which, but for the enactment of this section, the full amount of the lump-sum credit would otherwise be payable.

(2) The remainder of the lump-sum credit shall be payable on the date which occurs 12 months after the date described in paragraph (1).

An amount payable in accordance with paragraph (2) shall be payable with interest, computed using the rate under section 8334(e)(3) of title 5, United States Code.

Regulations.

(c) Exceptions.—The Office of Personnel Management shall prescribe regulations under which this section shall not apply—

(1) in the case of any individual who is separated from Government service involuntarily, other than for cause on charges of misconduct or delinquency; and

(2) in the case of any individual as to whom the application of this section would be against equity and good conscience, due to a life-threatening affliction or other critical medical condition affecting such individual.

(d) Annuity Benefits Not Affected.—Nothing in this section shall affect the commencement date, the amount, or any other aspect of any annuity benefits payable under section 8343a or section 8420a of title 5, United States Code.

(e) Definitions.—For purposes of this section, the terms "lump-sum credit", "employee", and "Member" each has the meaning given such term by section 8331 or section 8401 of title 5, United States Code, as appropriate.

39 USC 2003 note.

SEC. 6002. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE TO THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND.

(a) Establishment of Postal Service Escrow Fund.—There is established as a separate account in the United States Treasury, the "Postal Service Escrow Fund".[79a] Such Fund shall—

(1) have such amounts described under subsection (b)(2) deposited no later than October 31, 1988;

(2) not be available for expenditures of any amounts therein during the existence of such Fund; and

(3) cease to exist on October 1, 1989, and on such date all amounts deposited in such Fund under subsection (b)(2) shall be deposited in the Postal Service Fund established under section 2003 of title 39, United States Code.

(b) Deposit of Certain Savings in Certain Funds.—

(1) Fiscal year 1988.—From all funds available to the United States Postal Service in fiscal year 1988, the Postal Service shall deposit into the Civil Service Retirement and Disability Fund established under section 8348 of title 5, United States Code, an amount of $350,000,000 in fiscal year 1988, in addition to any amount deposited pursuant to subsection (h) of such section.

(2) Fiscal year 1989.—From all funds available to the United States Postal Service in fiscal year 1989, the Postal Service shall deposit into the Postal Service Escrow Fund an amount of $465,000,000 no later than October 31, 1988.

(c) Capital Limitations for Fiscal Years 1988 and 1989.—

(1) The United States Postal Service may not make any commitment or obligation to expend any monies deposited in the Postal Service Fund established under section 2003 of title 39, United States Code, for the capital investment program—

(A) in excess of $625,000,000 in fiscal year 1988; and

[79a] Copy read "Fund." ".

(B) in excess of $1,995,000,000 in fiscal year 1989.

(2) CAPITAL INVESTMENT PROGRAMS.—For the purposes of paragraph (1) the term "capital investment program" shall include all investments in long-term assets and capital investment expenditures (including direct and indirect costs associated with such investments and expenditures, such as obligations through contracts).

SEC. 6003. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE TO THE EMPLOYEES HEALTH BENEFITS FUND.

5 USC 8906 note.

(a) CONTRIBUTIONS FOR CERTAIN ANNUITANTS OF THE UNITED STATES POSTAL SERVICE.—As partial payment to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, for benefits of certain annuitants and survivor annuitants (no portion of the cost of which was paid by the Postal Service before the date of enactment of this section) the Postal Service shall pay into the Employee Health Benefits Fund $160,000,000 in fiscal year 1988, and $270,000,000 in fiscal year 1989 in addition to any amount deposited into such Fund pursuant to section 8906 of such title 5 in each such fiscal year.

(b) PAYMENT LIMITATIONS IN FISCAL YEARS 1988 AND 1989.—The partial payment required by subsection (a) of this section shall—

(1) be from all funds available to the United States Postal Service in each such fiscal year;

(2) be from funds representing savings to the United States Postal Service resulting from savings from the operating budget of the United States Postal Service in each such fiscal year; and

(3) be paid into such Fund in each such fiscal year, without—

(A) increasing borrowing under section 2005 of title 39, United States Code;

(B) using any budgetary resources other than budgetary resources derived from the operating budget of the United States Postal Service; or

(C) increasing postal rates under chapter 36 of title 39, United States Code,

for the purposes of financing such payment.

(c) IMPLEMENTATION PLANS, PROGRESS REPORTS, AND COMPLIANCE FOR FISCAL YEARS 1988 AND 1989.—

(1) IMPLEMENTATION.—No later than March 1, 1988 for fiscal year 1988, and October 1, 1988 for fiscal year 1989, the United States Postal Service shall—

(A) formulate an implementation plan specifically enumerating the methods by which the Postal Service shall make the payments required under subsection (b) and fulfill the conditions required under paragraphs (1), (2), and (3) of such subsection; and

(B) submit such plan to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

(2) INTERIM REPORT.—No later than July 15, 1988 for fiscal year 1988, and March 1, 1989 for fiscal year 1989, the United States Postal Service shall submit an interim report to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives on the status of meeting the guidelines and goals of the plans submitted under paragraph (1)(B), and any adjustments necessary to meet the requirements under the

provisions of subsection (b) of this section for each such fiscal year.

(3) PRELIMINARY AUDIT AND REPORT BY THE GENERAL ACCOUNTING OFFICE.—No later than September 1, 1988 for fiscal year 1988, and September 1, 1989 for fiscal year 1989, the General Accounting Office shall—

(A) conduct an audit of the plans and adjustments to the plans submitted by the United States Postal Service under paragraphs (1) and (2) of this subsection and determine the extent of compliance of the Postal Service with such plans and the requirements of subsection (b) of this section; and

(B) submit a report of such audit and determinations to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

[80] (4) DETERMINATION OF COMPLIANCE.—On October 31, 1988 for fiscal year 1988, and on October 31, 1989 for fiscal year 1989, the General Accounting Office shall—

(A) make a final audit and determination of whether the United States Postal Service is in compliance with the requirements of subsection (b) of this section;

(B) submit a final report for each such fiscal year on such compliance to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives; and

(C) include in each final report submitted under subparagraph (B), such recommendations (if applicable) for any actions to enforce compliance with the provisions of subsection (b) of this section.

(5) COMPLIANCE IN FISCAL YEARS 1988 AND 1989.—Based on the determination of compliance required by subsection (c)(4) of this section for fiscal years 1988 and 1989, the Congress shall (after receiving the recommendation of the General Accounting Office under paragraph (4)(C)) determine appropriate action, if necessary, to enforce compliance with any payment limitation under subsection (b) of this section.

SEC. 6004. TECHNICAL CLARIFICATION.

For purposes of section 202 of the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987, the amendments made by this title shall be considered an exception under subsection (b) of such section.

TITLE VII—VETERANS' PROGRAMS

SEC. 7001. SALES OF VENDEE LOANS WITH OR WITHOUT RECOURSE.

Section 1816(d) of title 38, United States Code, is amended—

(1) by redesignating paragraph (3) as subparagraph (C);

(2) by inserting after paragraph (2) the following:

"(3)(A) Before October 1, 1989, notes evidencing such loans may be sold with or without recourse as determined by the Administrator, with respect to specific proposed sales of such notes, to be in the best interest of the effective functioning of the loan guaranty program under this chapter, taking into consideration the comparative cost-effectiveness of each type of sale. In comparing the cost-effectiveness of conducting a proposed sale of such notes with recourse or without recourse, the Administrator shall, based on available estimates regarding likely market conditions and other pertinent factors as of the time of the sale, determine and consider—

---

[80] Paragraphs "(4)", "(A)", "(B)", and "(C)", indented wrong.

"(i) the average amount by which the selling price for such notes sold with recourse would exceed the selling price for such notes if sold without recourse; and

"(ii) the total cost of selling such notes with recourse, including—

"(I) any estimated discount or premium;

"(II) the projected cost, based on Veterans' Administration experience with the sale of notes evidencing vendee loans with recourse and the quality of the loans evidenced by the notes to be sold, of repurchasing defaulted notes;

"(III) the total servicing cost with respect to repurchased notes, including the costs of taxes and insurance, collecting monthly payments, servicing delinquent accounts, and terminating insoluble loans;

"(IV) the costs of managing and disposing of properties acquired as the result of defaults on such notes;

"(V) the loss or gain on resale of such properties; and

"(VI) any other cost determined appropriate by the Administrator.

Reports.

"(B) Not later than 60 days after making any sale described in subparagraph (A) of this paragraph occurring before October 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report describing—

"(i) the application of the provisions of such subparagraph, and each of the determinations required thereunder, in the case of such sale;

"(ii) the results of the sale in comparison to the anticipated results; and

"(iii) actions taken by the Administrator to facilitate the marketing of the notes involved."; and

(3) in subparagraph (C), as redesignated by clause (1) of this section—

(A) by striking out "The Administrator may sell any note securing" and inserting in lieu thereof "Beginning on October 1, 1989, the Administrator may sell any note evidencing"; and

(B) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively.

SEC. 7002. LOAN FEE EXTENSION.

Section 1829(c) of title 38, United States Code, is amended by striking out "1987" and inserting in lieu thereof "1989".

SEC. 7003. CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES.

(a) In General.—Section 1816(d)(1) of title 38, United States Code, is amended by striking out "not more than 75 percent, nor less than 60 percent," in the first sentence and inserting in lieu thereof "not more than 65 percent, nor less than 50 percent,".

38 USC 1816 note.

(b) Effective Date.—The amendment made by subsection (a) shall take effect as of October 1, 1987.

SEC. 7004. STATUTORY CONSTRUCTION.

(a) STATUTORY CONSTRUCTION FOR PURPOSES OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL REAFFIRMATION ACT OF 1987.—For the purposes of subsections (a) and (b) of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the amendments made by section 7003 achieve savings made possible by changes in program requirements.

38 USC 1816 note.

(b) RULE FOR CONSTRUCTION OF DUPLICATE PROVISIONS.—In applying the provisions of this title and the provisions of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987 which make the same amendments as the provisions of this title—

(1) the identical provisions of title 38, United States Code, amended by the provisions of this title and the provisions of such Act shall be treated as having been amended only once; and

(2) in executing to title 38, United States Code, the amendments made by this title and by such Act, such amendments shall be executed so as to appear only once in the law.

TITLE VIII—BUDGET POLICY AND FISCAL PROCEDURES

SEC. 8001. DEFENSE AND DOMESTIC DISCRETIONARY SPENDING LIMITS.

(a) AGGREGATE ALLOCATIONS FOR DEFENSE.—The levels of budget authority and budget outlays for fiscal years 1988 and 1989 for major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:
  (A) New budget authority, $292,000,000,000.
  (B) Outlays, $285,400,000,000.
(2) Fiscal year 1989:
  (A) New budget authority, $299,500,000,000.
  (B) Outlays, $294,000,000,000.

(b) AGGREGATE ALLOCATIONS FOR DOMESTIC DISCRETIONARY SPENDING.—The levels of total budget authority and total budget outlays for fiscal years 1988 and 1989 for all discretionary spending in categories other than major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:
  (A) New budget authority, $162,900,000,000.
  (B) Outlays, $176,800,000,000.
(2) Fiscal year 1989:
  (A) New budget authority, $166,200,000,000.
  (B) Outlays, $185,300,000,000.

(c) FISCAL YEAR 1989 BUDGET RESOLUTION.—

(1) HOUSE OF REPRESENTATIVES.—The Committee on the Budget of the House of Representatives[81] shall report a concurrent resolution on the budget for fiscal year 1989, pursuant to section 301 of the Congressional Budget Act of 1974, in accordance with the appropriate levels of budget authority and budget outlays for major functional category 050 (National Defense) and for all discretionary spending in categories other than

---

[81] Copy read "Representative".

major functional category 050 as set forth in subsections (a)(2) and (b)(2).

(2) POINT OF ORDER IN THE SENATE ON AGGREGATE ALLOCATIONS FOR DEFENSE AND DOMESTIC DISCRETIONARY SPENDING FOR FISCAL YEAR 1989.—

(A) Except as provided in subparagraph (E), it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1989 (including a conference report thereon), or any amendment to such a resolution, that would fail to be consistent with the allocations in subsections (a) and (b) for such fiscal year.

(B) Subparagraph (A) may be waived or suspended by a vote of three-fifths of the Members of the Senate, duly chosen and sworn.

(C) If the ruling of the presiding officer of the Senate sustains a point of order raised pursuant to subparagraph (A), a vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of such ruling. Debate on any such appeal shall be limited to two hours, to be equally divided between, and controlled by, the Majority and Minority Leaders, or their designees.

(D) For purposes of this paragraph, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays, and new credit authority for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(E) This paragraph shall not apply if a declaration of war by the Congress is in effect or if a resolution pursuant to section 254(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

(d) ALLOCATIONS PURSUANT TO FISCAL YEAR 1989 BUDGET RESOLUTION.—(1) The allocations required to be included in the joint explanatory statement accompanying the conference report on the concurrent resolution on the budget for fiscal year 1989, pursuant to section 302(a) of the Congressional Budget Act of 1974, shall be based upon the levels set forth in subsections (a)(2) and (b)(2) of this section.

(2) The Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, make the subdivisions required under section 302(b)(1) of the Congressional Budget Act of 1974 consistent with the allocations in subsections (a)(2) and (b)(2) for fiscal year 1989.

SEC. 8002. RESTORATION OF FUNDS SEQUESTERED.

2 USC 902 note.

(a) ORDER RESCINDED.—Upon the enactment of this Act and House Joint Resolution 395, 100th Congress,[82] 1st session, the orders issued by the President on October 20, 1987, and November 20, 1987, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are hereby rescinded.

3 CFR, 1987 Comp., pp. 311, 315.

(b) AMOUNTS RESTORED.—Except as otherwise provided in sections 4001, 4041(b), and 4061, any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequesterable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

---

[82] Copy read "Congres".

SEC. 8003. TECHNICAL AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

(a) REFERENCES IN SECTION.—Except as otherwise specifically provided, whenever in this section an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Congressional Budget and Impoundment Control Act of 1974.

88 Stat. 297.

(b) REVISION OF TABLE OF CONTENTS.—Section 1(b) is amended by striking "Disapproval of proposed deferrals" and inserting "Proposed deferrals".

(c) REDESIGNATION OF SUBPARAGRAPH HEADINGS.—Section 3(7) (as amended by section 106(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by— 2 USC 622.

(1) striking section 3(7)(C);
(2) redesignating section 3(7)(D) as 3(7)(C);
(3) redesignating section 3(7)(E) as 3(7)(D);
(4) redesignating section 3(7)(F) as 3(7)(E);
(5) redesignating section 3(7)(G) as 3(7)(F);
(6) redesignating section 3(7)(H) as 3(7)(G); and
(7) redesignating section 3(7)(I) as 3(7)(H).

(d) GRAMMATICAL CLARIFICATION OF SECTION 305(c).—Section 305(c) (as amended by section 209 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by inserting a comma after "therewith". 2 USC 636.

(e) SUBSTITUTION OF "PROPOSED" FOR "MADE" WITH REGARD TO AMENDMENTS IN COMMITTEE.—Section 252(c)(2)(F)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by striking "made" and inserting "proposed". 2 USC 902.

(f) CLARIFICATION OF BUDGET BASELINE.—Section 251(a)(6)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by striking out "and" before "contract authority" and by inserting before the semicolon at the end thereof the following: ", and that authority to provide insurance through the Federal Housing Administration Fund is continued". 2 USC 901.

1 USC 106 note.

SEC. 8004. PREPARATION OF PRINTED ENROLLED BILL.

(a) PREPARATION OF PRINTED ENROLLMENT.—(1) Upon the enactment of this Act enrolled as a hand enrollment, the Clerk of the House of Representatives shall prepare a printed enrollment of this Act as in the case of a bill or joint resolution to which sections 106 and 107 of title 1, United States Code, apply. Such enrollment shall be a correct enrollment of this Act as enrolled in the hand enrollment.

(2) A printed enrollment prepared pursuant to paragraph (1) may, in order to conform to customary style for printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. Such a printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(b) TRANSMITTAL TO PRESIDENT.—A printed enrollment prepared pursuant to subsection (a) shall be signed by the presiding officers of both Houses of Congress as a correct printing of the hand enrollment of this Act and shall be transmitted to the President.

(c) CERTIFICATION BY PRESIDENT; LEGAL EFFECT.—Upon certification by the President that a printed enrollment transmitted pursuant to subsection (b) is a correct printing of the hand enrollment of this Act, such printed enrollment shall be considered for all purposes as the original enrollment of this Act and as valid evidence of the enactment of this Act.

(d) ARCHIVES.—A printed enrollment certified by the President under subsection (c) shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment. In preparing this Act for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (c) in lieu of the hand enrollment.

(e) HAND ENROLLMENT DEFINED.—As used in this section, the term "hand enrollment" means enrollment in a form other than the printed form required by sections 106 and 107 of title 1, United States Code, as authorized by the joint resolution entitled "Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988", approved December 1987 (H.J. Res. 426 of the 100th Congress).

SEC. 8005. ASSET SALES.

In the fiscal year 1989 budget process, Congress commits to pass legislation sufficient to achieve the budget summit agreement of $3,500,000,000 of asset sales in fiscal year 1989.

TITLE IX—INCOME SECURITY AND RELATED PROGRAMS

TABLE OF CONTENTS

Subtitle A—OASDI Provisions

PART 1—COVERAGE AND BENEFITS

Sec. 9001. Coverage of inactive duty military training.
Sec. 9002. Coverage of all cash pay of agricultural employees whose employers spend $2,500 or more a year for agricultural labor.
Sec. 9003. Coverage of the employer cost of group-term life insurance.
Sec. 9004. Coverage of services performed by one spouse in the employ of the other.
Sec. 9005. Treatment of service performed by an individual in the employ of a parent.
Sec. 9006. Application of employer taxes to employees' cash tips.
Sec. 9007. Applicability of Government pension offset to certain Federal employees.
Sec. 9008. Modification of agreement with Iowa to provide coverage for certain policemen and firemen.
Sec. 9009. Continuation of disability benefits during appeal.
Sec. 9010. Extension of disability re-entitlement period from 15 months to 36 months.

PART 2—OTHER SOCIAL SECURITY PROVISIONS

Sec. 9021. Moratorium on reductions in attorneys' fees; studies of attorneys' fee payment system.
Sec. 9022. Corporate directors.
Sec. 9023. Technical corrections.

PART 3—RAILROAD RETIREMENT PROGRAM

Sec. 9031. Increase in rates of tier 2 Railroad Retirement Tax on employees for 1988 and thereafter.
Sec. 9032. Increase in rates of tier 2 Railroad Retirement Tax on employers for 1988 and thereafter.
Sec. 9033. Commission on Railroad Retirement Reform.
Sec. 9034. Transfer to railroad retirement account.

Subtitle B—Provisions Relating to Public Assistance and Unemployment Compensation

PART 1—AFDC AND SSI AMENDMENTS

Sec. 9101. Permanent extension of disregard of nonprofit organizations' in-kind assistance to SSI and AFDC recipients.
Sec. 9102. Fraud control under AFDC program.
Sec. 9103. Exclusion of real property when it cannot be sold.
Sec. 9104. Adjustment of penalty where asset is transferred for less than fair market value.
Sec. 9105. Exclusion of interest on burial accounts.
Sec. 9106. Exception from SSI retrospective accounting for AFDC and certain other assistance payments.
Sec. 9107. Technical amendment relating to 1986 amendment concerning the treatment of certain couples in medical institutions.
Sec. 9108. Extension of deadline for disabled widows to apply for Medicaid protection under 1984 amendments.
Sec. 9109. Increase in SSI emergency advance payments.
Sec. 9110. Modification of interim assistance reimbursement program.
Sec. 9111. Special notice to blind recipients.
Sec. 9112. Rehabilitation services for blind SSI recipients.
Sec. 9113. Extending the number of months that an individual in a public emergency shelter can be eligible for SSI.
Sec. 9114. Exclusion of underpayments from resources.
Sec. 9115. Continuation of full benefit standard for individuals temporarily institutionalized.
Sec. 9116. Retention of Medicaid when SSI benefits are lost upon entitlement to early widow's or widower's insurance benefits.
Sec. 9117. Demonstration program to assist homeless individuals.
Sec. 9118. Assistance to homeless AFDC families.
Sec. 9119. Increase in personal needs allowance for SSI recipients.
Sec. 9120. Exclusion of death benefits to the extent spent on last illness and burial.
Sec. 9121. Demonstration of Family Independence Program.[83]
Sec. 9122. Child support demonstration program in New York State.[84]
Sec. 9123. Technical correction.

PART 2—SOCIAL SERVICES, CHILD WELFARE SERVICES, AND OTHER PROVISIONS RELATING TO CHILDREN

Sec. 9131. Permanent extension of authority for voluntary foster care placements.
Sec. 9132. 2-year extension of foster care ceiling and of authority to transfer foster care funds to child welfare services.
Sec. 9133. Mother/infant foster care.
Sec. 9134. Increased funding for social services block grants.
Sec. 9135. Extension of social services block grant and child welfare services programs to American Samoa.
Sec. 9136. National Commission on Children.[85]
Sec. 9137. Boarder babies demonstration project.
Sec. 9138. Study of infants and children with AIDS in foster care.
Sec. 9139. Technical corrections.

PART 3—CHILD SUPPORT ENFORCEMENT AMENDMENTS

Sec. 9141. Continuation of child support enforcement services to families no longer receiving AFDC.
Sec. 9142. Child support enforcement services required for certain families receiving Medicaid.
Sec. 9143. Repeal of unnecessary child support revolving fund.

---

[83] Copy read "family independence program.".
[84] Copy read "state.".
[85] Copy read "commission on children.".

Part 4—Unemployment Compensation

Sec. 9151. Determination of amount of Federal share with respect to certain extended benefits payments.
Sec. 9152. Demonstration program to provide self-employment allowances for eligible individuals.
Sec. 9153. Extension of FUTA tax.
Sec. 9154. Transfer of funds into the Federal Unemployment Account and the Extended Unemployment Compensation Account.
Sec. 9155. Interest on advances to the Federal Unemployment Account and the Extended Unemployment Compensation Account.
Sec. 9156. Crediting to the Federal Unemployment Account of interest earned on advances by the States.

Subtitle C—Manufacturers Excise Tax on Certain Vaccines

Sec. 9201. Manufacturers excise tax on certain vaccines.
Sec. 9202. Vaccine Injury Compensation Trust Fund.

Subtitle D—Pension Provisions

Part I—Full-Funding Limitations

Sec. 9301. Full-funding limitation for deductions to qualified plans.

Part II—Pension Funding and Termination Requirements

Sec. 9302. Short title; definitions.

Subpart A—Additional Funding Requirements

Sec. 9303. Additional funding requirements.
Sec. 9304. Time for making contributions.
Sec. 9305. Liability of members of controlled group for taxes on failure to meet minimum funding standards and to make minimum funding contributions.
Sec. 9307. Other funding changes.

Subpart B—Plant Terminations

Sec. 9311. Limitations on employer reversions upon plan termination.
Sec. 9312. Elimination of section 4049 trust: increase in liability to pension benefit guaranty corporation and in payments by corporation to participants and beneficiaries.
Sec. 9313. Standards for termination.
Sec. 9314. Additional amendments relating to plan termination.

Subpart C—Increase in Premium Rates

Sec. 9331. Increase in premium rates.

Subpart D—Miscellaneous Provisions

Sec. 9341. Security required upon adoption of plan amendment resulting in significant underfunding.
Sec. 9342. Reporting requirements.
Sec. 9343. Coordination of provisions of the Internal Revenue Code of 1986 with provisions of the Employee Retirement Income Security Act of 1974.
Sec. 9344. Clarification regarding the imposition of an annual sanction for prohibited transactions which are continuing in nature.
Sec. 9345. Additional limitations on investment by an individual account plan forming part of a floor-offset arrangement and on investment by an individual account plan in employer stock.
Sec. 9346. Interest rate on accumulated contributions.

Subtitle E—Miscellaneous Provisions

Sec. 9401. Restoration of trust funds for 1987.
Sec. 9402. 6-month extension of provisions relating to collection of non-tax debts owed to Federal agencies.
Sec. 9403. Increase in limit on long-term bonds.

Subtitle F—Customs User Fees; Trade and Customs Authorizations

Sec. 9501. Customs user fees.
Sec. 9502. United States International Trade Commission authorizations.
Sec. 9503. United States Customs Service[86] authorizations.
Sec. 9504. Office of the United States Trade Representative authorizations.

---

[86] Copy read "service".

Subtitle A—OASDI Provisions

PART 1—COVERAGE AND BENEFITS

SEC. 9001. COVERAGE OF INACTIVE DUTY MILITARY TRAINING.

42 USC 410. (a) SOCIAL SECURITY ACT AMENDMENTS.—(1) Paragraph (1) of section 210(l) of the Social Security Act is amended to read as follows:

"(l)(1) Except as provided in paragraph (4), the term 'employment' shall, notwithstanding the provisions of subsection (a) of this section, include—

"(A) service performed after December 1956 by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed after December 1987 by an individual as a member of a uniformed service on inactive duty training.".

42 USC 409. (2) The second indented paragraph following subsection (s) in section 209 of such Act (relating to service in the uniformed services) is amended by striking "only his basic pay" and all that follows and inserting "only (1) his basic pay as described in chapter 3 and section 1009 of title 37, United States Code, in the case of an individual performing service to which subparagraph (A) of such section 210(l)(1) applies, or (2) his compensation for such service as determined under section 206(a) of title 37, United States Code, in the case of an individual performing service to which subparagraph (B) of such section 210(l)(1) applies.".

26 USC 3121. (b) FICA AMENDMENTS.—(1) Paragraph (1) of section 3121(m) of the Internal Revenue Code of 1986 (relating to inclusion of service in the uniformed services) is amended to read as follows:

"(1) INCLUSION OF SERVICE.—The term 'employment' shall, notwithstanding the provisions of subsection (b) of this section, include—

"(A) service performed by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed by an individual as a member of a uniformed service on inactive duty training.".

(2) Paragraph (2) of section 3121(i) of such Code (relating to computation of wages for individuals performing service in the uniformed services) is amended by striking "only his basic pay" and all that follows and inserting "only (A) his basic pay as described in chapter 3 and section 1009 of title 37, United States Code, in the case of an individual performing service to which subparagraph (A) of such subsection (m)(1) applies, or (B) his compensation for such service as determined under section 206(a) of title 37, United States Code, in the case of an individual performing service to which subparagraph (B) of such subsection (m)(1) applies.".

42 USC 429. (c) CONFORMING AMENDMENT.—Section 229(a) of the Social Security Act is amended by striking "section 210(l)" and inserting "210(l)(1)(A)".

26 USC 3121 note. (d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 9002. COVERAGE OF ALL CASH PAY OF AGRICULTURAL EMPLOYEES WHOSE EMPLOYERS SPEND $2,500 OR MORE A YEAR FOR AGRICULTURAL LABOR.

(a) SOCIAL SECURITY ACT AMENDMENT.—Paragraph (2) of section 209(h) of the Social Security Act is amended by striking clause (B) and inserting "(B) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;". 42 USC 409.

(b) FICA AMENDMENT.—Subparagraph (B) of section 3121(a)(8) of the Internal Revenue Code of 1986 (relating to wages) is amended by striking clause (ii) and inserting "(ii) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;". 26 USC 3121.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration for agricultural labor paid after December 31, 1987. 26 USC 3121 note.

SEC. 9003. COVERAGE OF THE EMPLOYER COST OF GROUP-TERM LIFE INSURANCE.

(a) COVERAGE UNDER OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.—

(1) SOCIAL SECURITY ACT AMENDMENT.—Clause (3) of section 209(b) of the Social Security Act is amended by striking "death" and inserting "death, except that this subsection does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee under the Internal Revenue Code of 1986". 42 USC 409.

(2) FICA AMENDMENT.—Subparagraph (C) of section 3121(a)(2) of the Internal Revenue Code of 1986 (relating to wages) is amended by striking "death" and inserting "death, except that this paragraph does not apply to a payment for group-term life insurance to the extent that such payment is includible in the gross income of the employee". 26 USC 3121.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to group-term life insurance coverage in effect after December 31, 1987. 26 USC 3121 note.

SEC. 9004. COVERAGE OF SERVICES PERFORMED BY ONE SPOUSE IN THE EMPLOY OF THE OTHER.

(a) SOCIAL SECURITY ACT AMENDMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 210(a)(3) of the Social Security Act is amended by striking "performed by an individual in the employ of his spouse, and service". 42 USC 410.

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF A SPOUSE.—Paragraph (3) of section 210(a) of such Act is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following:

"(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—".

(b) FICA AMENDMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 3121(b)(3) of the Internal Revenue Code of 1986 (relating to employment) is amended by striking "performed by an individual in the employ of his spouse, and service". 26 USC 3121.

26 USC 3121.

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF A SPOUSE.—Paragraph (3) of section 3121(b) of such Code (relating to employment) is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following:

"(B) service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—".

26 USC 3121 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 9005. TREATMENT OF SERVICE PERFORMED BY AN INDIVIDUAL IN THE EMPLOY OF A PARENT.

42 USC 410.

(a) SOCIAL SECURITY ACT AMENDMENTS.—

(1) AGE BELOW WHICH SERVICE FOR PARENT IS EXCLUDED FROM COVERED EMPLOYMENT REDUCED TO AGE 18.—Subparagraph (A) of section 210(a)(3) of the Social Security Act (as amended by section 9004(a)(1) of this Act) is further amended by striking "twenty-one" and inserting "18".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF PARENT.—Subparagraph (B) of section 210(a)(3) of such Act (as amended by section 9004(a)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

(b) FICA AMENDMENTS.—

(1) AGE BELOW WHICH SERVICE FOR PARENT IS EXCLUDED FROM COVERED EMPLOYMENT REDUCED TO AGE 18.—Subparagraph (A) of section 3121(b)(3) of the Internal Revenue Code of 1986 (as amended by section 9004(b)(1) of this Act) is further amended by striking "21" and inserting "18".

(2) EXCEPTION FOR CERTAIN DOMESTIC SERVICE IN THE PRIVATE HOME OF PARENT.—Subparagraph (B) of section 3121(b)(3) of such Code (as amended by section 9004(b)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

26 USC 3121 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 9006. APPLICATION OF EMPLOYER TAXES TO EMPLOYEES' CASH TIPS.

26 USC 3121.

(a) APPLICATION OF TAX TO TIPS.—Section 3121(q) of the Internal Revenue Code of 1986 (relating to inclusion of tips for employee taxes) is amended—

(1) by striking "EMPLOYEE TAXES" in the heading and inserting "BOTH EMPLOYEE AND EMPLOYER TAXES";

(2) by striking "other than for purposes of the taxes imposed by section 3111";

(3) by striking "remuneration for employment" and inserting "remuneration for such employment (and deemed to have been paid by the employer for purposes of subsections (a) and (b) of section 3111)"; and

(4) by inserting after "at the time received" the following: "; except that, in determining the employer's liability in connection with the taxes imposed by section 3111 with respect to such tips in any case where no statement including such tips was so furnished (or to the extent that the statement so furnished was inaccurate or incomplete), such remuneration shall be deemed for purposes of subtitle F to be paid on the date on which notice and demand for such taxes is made to the employer by the Secretary".

(b) CONFORMING AMENDMENTS.—(1) Subsections (a) and (b) of section 3111(a) of such Code (relating to rate of tax on employers) are each amended by striking "and (t)". 26 USC 3111.

(2) Section 3121(t) of such Code (relating to special rule) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tips received (and wages paid) on and after January 1, 1988. 26 USC 3111 note.

SEC. 9007. APPLICABILITY OF GOVERNMENT PENSION OFFSET TO CERTAIN FEDERAL EMPLOYEES.

(a) WIFE'S INSURANCE BENEFITS.—Paragraph (4) of section 202(b) of the Social Security Act is amended— 42 USC 402.

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a wife's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the wife (or divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the wife (or divorced wife) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(b) HUSBAND'S INSURANCE BENEFITS.—Paragraph (2) of section 202(c) of such Act is amended— 42 USC 402.

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a husband's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the husband (or divorced husband) for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the husband (or divorced husband) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(c) WIDOW'S INSURANCE BENEFITS.—Paragraph (7) of section 202(e) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a widow's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k), paragraph (2)(D), and paragraph (3)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widow (or surviving divorced wife) for such month which is based upon her earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day she was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or "(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the widow (or surviving divorced wife) is eligible for benefits under this subsection and has made a valid application for such benefits.".

(d) WIDOWER'S INSURANCE BENEFITS.—Paragraph (2) of section 202(f) of such Act is amended— 42 USC 402.

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a widower's insurance benefit for each month (as determined after application of the provisions of subsections (q) and (k), paragraph (3)(D), and paragraph (4)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the widower (or surviving divorced husband) for such month which is based upon his earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day he was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the widower (or surviving divorced husband) is eligible for benefits under this subsection and has made a valid application for such benefits.".

42 USC 202. (e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Paragraph (4) of section 202(g) of such Act is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by striking subparagraph (A) and inserting the following:

"(A) The amount of a mother's or father's insurance benefit for each month (as determined after application of the provisions of subsection (k)) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to the individual for such month which is based upon the individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, on the last day the individual was employed by such entity—

"(i) such service did not constitute 'employment' as defined in section 210, or

"(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

"(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

"(II) an election to become subject to chapter 84 of title 5, United States Code, made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

"(B) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which the individual is eligible for benefits under this subsection and has made a valid application for such benefits.".

42 USC 402 note. (f) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to benefits for months after December 1987; except that nothing in such amendments shall affect any exemption (from the application of the pension offset provisions contained in subsection (b)(4), (c)(2), (e)(7), (f)(2), or (g)(4) of section 202 of the Social Security Act) which any individual may have by reason of subsection (g) or (h) of section 334 of the Social Security Amendments of 1977.

42 USC 418 note.

SEC. 9008. MODIFICATION OF AGREEMENT WITH IOWA TO PROVIDE COVERAGE FOR CERTAIN POLICEMEN AND FIREMEN.

(a) IN GENERAL.—Notwithstanding subsection (d)(5)(A) of section 218 of the Social Security Act and the references thereto in subsections (d)(1) and (d)(3) of such section 218, the agreement with the State of Iowa heretofore entered into pursuant to such section 218 may, at any time prior to January 1, 1989, be modified pursuant to subsection (c)(4) of such section 218 so as to apply to services performed in policemen's or firemen's positions required to be covered by a retirement system pursuant to section 410.1 of the Iowa Code as in effect on July 1, 1953, if the State of Iowa has at any time prior to the date of the enactment of this Act paid to the Secretary of the Treasury, with respect to any of the services performed in such positions, the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date).

(b) SERVICE TO BE COVERED.—Notwithstanding the provisions of subsection (e) of section 218 of the Social Security Act (as so redesignated by section 9002(c)(1) of the Omnibus Budget Reconciliation Act of 1986)), any modification in the agreement with the State of Iowa under subsection (a) shall be made effective with respect to—

(1) all services performed in any policemen's or firemen's position to which the modification relates on or after January 1, 1987, and

(2) all services performed in such a position before January 1, 1987, with respect to which the State of Iowa has paid to the Secretary of the Treasury the sums prescribed pursuant to subsection (e)(1) of such section 218 (as in effect on December 31, 1986, with respect to payments due with respect to wages paid on or before such date) at the time or times established pursuant to such subsection (e)(1), if and to the extent that—

(A) no refund of the sums so paid has been obtained, or

(B) a refund of part or all of the sums so paid has been obtained but the State of Iowa repays to the Secretary of the Treasury the amount of such refund within 90 days after the date on which the modification is agreed to by the State and the Secretary of Health and Human Services.

SEC. 9009. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

42 USC 423.

Subsection (g) of section 223 of the Social Security Act is amended—

(1) in paragraph (1)(iii), by striking "June 1988" and inserting "June 1989"; and

(2) in paragraph (3)(B), by striking "January 1, 1988" and inserting "January 1, 1989".

SEC. 9010. EXTENSION OF DISABILITY RE-ENTITLEMENT PERIOD FROM 15 MONTHS TO 36 MONTHS.

(a) DISABILITY INSURANCE BENEFITS.—Paragraph (1) of section 223(a) of the Social Security Act is amended by striking "15 months" and inserting "36 months".

42 USC 402.

(b) CHILD'S INSURANCE BENEFITS BASED ON DISABILITY.—Clause (i) of section 202(d)(1)(G) of such Act is amended by striking "15 months" and inserting "36 months".

(c) WIDOW'S INSURANCE BENEFITS BASED ON DISABILITY.—Paragraph (1) of section 202(e) of such Act is amended, in subclause (II) of the last sentence, by striking "15 months" and inserting "36 months".

(d) WIDOWER'S INSURANCE BENEFITS BASED ON DISABILITY.—Paragraph (1) of section 202(f) of such Act is amended, in subclause (II) of the last sentence, by striking "15 months" and inserting "36 months".

(e) CONFORMING AMENDMENTS.—

42 USC 416. (1) TERMINATION OF PERIOD OF DISABILITY.—Subparagraph (D) of section 216(i)(2) of such Act is amended by striking "15-month" and inserting "36-month".

42 USC 423. (2) TERMINATION OF BENEFITS DURING RE-ENTITLEMENT PERIOD.—Subsection (e) of section 223 of such Act is amended by striking "15-month" and inserting "36-month".

42 USC 426. (3) SPECIAL RULE FOR [87] DETERMINATION OF CONTINUED MEDICARE ELIGIBILITY BASED ON ENTITLEMENT TO DISABILITY BENEFITS.—Section 226(b) of such Act is amended by adding at the end the following new sentence: "In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the second sentence of section 223(a) shall be applied as though the term '36 months' (in such second sentence) read '15 months'.".

42 USC 402 note. (f) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1988, and shall apply with respect to—

(1) individuals who are entitled to benefits which are payable under subsection (d)(1)(B)(ii), (d)(6)(A)(ii), (d)(6)(B), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 of the Social Security Act or subsection (a)(1) of section 223 of such Act for any month after December 1987, and

(2) individuals who are entitled to benefits which are payable under any provision referred to in paragraph (1) for any month before January 1988 and with respect to whom the 15-month period described in the applicable provision amended by this section has not elapsed as of January 1, 1988.

PART 2—OTHER SOCIAL SECURITY PROVISIONS

SEC. 9021. MORATORIUM ON REDUCTIONS IN ATTORNEYS' FEES; STUDIES OF ATTORNEYS' FEE PAYMENT SYSTEM.

(a) MORATORIUM.—(1) The provisions of the memorandum of the Associate Commissioner of Social Security dated March 31, 1987 (relating to revised delegations of authority for administrative law judges to determine fees of representatives) which amend sections 1-220 through 1-226 of the Office of Hearings and Appeals Staff Guides and Programs Digest (commonly referred to as the OHA Handbook), and Interim Circular No. 122 (relating to the determination authority regarding fees for representation of claimants), are hereby declared to be null and void. The preceding sentence shall apply with respect to all attorneys' fees finally authorized in connection with claims for benefits under title II of the Social Security Act on and after the date of the enactment of this Act, regardless of when the legal services involved were performed; and no reconsideration of any such fee finally authorized prior to that date shall be required.

(2) Until July 1, 1989, neither the Secretary nor the Social Security Administration may modify any of the rules and regulations relating to attorneys' fees in connection with claims for benefits under title II of the Social Security Act.

---

[87] Copy read "FOR".

(b) STUDIES.—(1) The Secretary of Health and Human Services shall conduct a study of the attorneys' fee payment process under title II of the Social Security Act. Such study shall—

(A) assess the levels of reimbursement to attorneys, giving consideration to the contingent nature of most arrangements between claimants and their legal representatives, and propose alternative methods for establishing fees which take the nature of these arrangements into account, and

(B) suggest changes aimed at eliminating unnecessary delays in the approval and payment of attorneys' fees and thereby streamlining the payment process.

In conducting this study, the Secretary shall consult with individuals who represent the views of attorneys and with others who represent the views of claimants.

(2) At the same time, the Comptroller General shall conduct a study of the fee approval system, including at a minimum—

(A) a study of the impact of the current system on claimants and attorneys,

(B) an identification of obstacles to the timely payment of attorneys' fees under present law, and

(C) an assessment of the effect, if any, which the reduced limit on attorneys' fees in effect immediately prior to the enactment of this Act has had on access to legal representation by applicants for disability insurance benefits.

(3) The studies required by paragraphs (1) and (2), along with any recommendations resulting therefrom, shall be submitted to the Congress no later than July 1, 1988.

SEC. 9022. CORPORATE DIRECTORS.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph: 42 USC 411.

"Any income of an individual which results from or is attributable to the performance of services by such individual as a director of a corporation during any taxable year shall be deemed to have been derived (and received) by such individual in that year, at the time the services were performed, regardless of when the income is actually paid to or received by such individual (unless it was actually paid and received prior to that year).".

(b) SECA AMENDMENT.—Section 1402(a) of the Internal Revenue Code of 1986 (relating to definition of net earnings from self-employment) is amended by adding at the end thereof the following new paragraph: 26 USC 1402.

"Any income of an individual which results from or is attributable to the performance of services by such individual as a director of a corporation during any taxable year shall be deemed to have been derived (and received) by such individual in that year, at the time the services were performed, regardless of when the income is actually paid to or received by such individual (unless it was actually paid and received prior to that year).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services performed in taxable years beginning on or after January 1, 1988.

SEC. 9023. TECHNICAL CORRECTIONS.

(a) The heading of section 210(p) of the Social Security Act is amended to read as follows: 42 USC 410.

"Medicare Qualified Government Employment".

42 USC 411.

(b)(1) Section 211(a)(7) of such Act is amended—

(A) by inserting "and" before "section 911"; and

(B) by striking "and section 931 (relating to income from sources within possessions of the United States) of the Internal Revenue Code of 1954".

(2) Section 211(a)(8) of such Act is amended to read as follows:

"(8) The exclusion from gross income provided by section 931 of the Internal Revenue Code of 1986 shall not apply;".

42 USC 418.

(c) Section 218(v) of such Act is amended—

(1) by striking "(v)" and inserting "(n)";

(2) by striking paragraph (3); and

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

26 USC 3121.

(d) Section 3121(a)(5) of the Internal Revenue Code of 1986 is amended—

(1) by striking "; or" at the end of subparagraph (F) and inserting ", or"; and

(2) by striking the comma at the end of subparagraph (G) and inserting a semicolon.

PART 3—RAILROAD RETIREMENT PROGRAM

SEC. 9031. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYEES FOR 1988 AND THEREAFTER.

(a) In General.—Subsection (b) of section 3201 of the Internal Revenue Code of 1986 (relating to tier 2 employee tax) is amended to read as follows:

"(b) Tier 2 Tax.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to 4.90 percent of the compensation received during any calendar year by such employee for services rendered by such employee.".

26 USC 3201 note.

(b) Effective Date.—The amendment made by this section shall apply with respect to compensation received after December 31, 1987.

SEC. 9032. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYERS FOR 1988 AND THEREAFTER.

(a) In General.—Subsection (b) of section 3221 of the Internal Revenue Code of 1986 (relating to tier 2 employer tax) is amended to read as follows:

"(b) Tier 2 Tax.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 16.10 percent of the compensation paid during any calendar year by such employer for services rendered to such employer.".

26 USC 3221 note.

(b) Effective Date.—The amendments made by this section shall apply with respect to compensation paid after December 31, 1987.

45 USC 231n note.

SEC. 9033. COMMISSION ON RAILROAD RETIREMENT REFORM.

(a) Commission on Railroad Retirement Reform.—There is established a commission to be known as the Commission on Railroad Retirement Reform (in this section referred to as the "Commission").

(b) Study.—The Commission shall conduct a comprehensive study of the issues pertaining to the long-term financing of the railroad retirement system (in this section referred to as the "system") and the system's short-term and long-term solvency. The Commission shall submit a report containing a detailed statement of its findings and conclusions together with recommendations to the Congress for revisions in, or alternatives to, the current system to assure the provision of retirement benefits to former, present, and future railroad employees on an actuarially sound basis. The study will take into account—

Reports.

(1) the possibility of restructuring the financing of railroad retirement benefits through increases in the tier 2 tax rate, increases in the tier 2 tax wage base, the imposition of a tax on operating revenues, revisions in the investment policy of the railroad retirement pension fund, and establishing a privately funded and administered railroad industry pension plan;

(2) the economic outlook for the railroad industry, and the nature of the relationships between the railroad retirement system, levels of railroad employment and compensation, and the performance of the rail sector;

(3) the ability of the system under current law to pay benefits to current and future retirees and other beneficiaries;

(4) the financial relationship of the system to the railroad unemployment insurance system, the social security system, and the General Fund; and

(5) any other matters which the Commission considers would be necessary, appropriate, or useful to the Congress in developing legislation to reform the system.

(c) MEMBERSHIP OF THE COMMISSION.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of seven members, as follows:

President of U.S.

(A) four individuals appointed by the President—

(i) one of whom shall be appointed on the basis of recommendations made by representatives of employers (as defined in section 1(a) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employers concerned,

(ii) one of whom shall be appointed on the basis of recommendations made by representatives of employees (as defined in section 1(b) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employees concerned,

(iii) one of whom shall be appointed on the basis of recommendations made by representatives of commuter railroads, and

(iv) one of whom shall be appointed from members of the public;

(B) one individual appointed by the Speaker of the House of Representatives from among members of the public;

(C) one individual appointed by the President pro tempore of the Senate from among members of the public; and

(D) one individual appointed by the Comptroller General from among members of the public with expertise in the fields of retirement systems and pension plans.

All public members of the Commission shall be appointed from among individuals who are not in the employment of and are not pecuniarily or otherwise interested in any employer (as so

President of U.S.

defined) or organization of employees (as so defined). In making appointments under this section, the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that the members of the Commission, collectively, possess special knowledge of retirement income policy, social insurance, private pensions, taxation, and the structure of the transportation industry. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(2) PAY.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(3) QUORUM.—Five members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(4) CHAIRMAN.—The members of the Commission shall elect a Chairman [87a] from among the membership.

(d) STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.—

(1) STAFF.—Subject to such rules as may be prescribed by the Commission, the Chairman may appoint and fix the pay of such personnel as the Chairman considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(3) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the Railroad Retirement Board and any other Federal agency may detail, on a reimbursable basis, any of the personnel thereof to the Commission to assist the Commission in carrying out its duties under this section.

(e) ACCESS TO OFFICIAL DATA AND SERVICES.—

(1) OFFICIAL DATA.—The Commission may, as appropriate, secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall, as appropriate, furnish such information to the Commission.

(2) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(3) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) REPORT.—The Commission shall transmit a report to the President and to each House of the Congress not later than October 1,

---

[87a] Copy read "chairman".

1989. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its legislative recommendations.

(g) TERMINATION.—The Commission shall cease to exist 60 days after submitting its report pursuant to subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated the sum of $1,000,000 for purposes of this section, to remain available until expended but in no event beyond the date of termination provided in subsection (g).

SEC. 9034. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended— 45 USC 231n note.

(1) by inserting "(other than amounts described in subparagraph (B))" after "amounts";

(2) by striking "1988" and inserting "1989"; and

(3) by striking the last sentence.

Subtitle B—Provisions Relating to Public Assistance and Unemployment Compensation

PART 1—AFDC AND SSI AMENDMENTS

SEC. 9101. PERMANENT EXTENSION OF DISREGARD OF NONPROFIT ORGANIZATIONS' IN-KIND ASSISTANCE TO SSI AND AFDC RECIPIENTS.

Effective as of October 1, 1987, section 2639(d) of the Deficit Reduction Act of 1984 is amended by striking "; but" and all that follows and inserting a period. Effective date. 42 USC 602 note.

SEC. 9102. FRAUD CONTROL UNDER AFDC PROGRAM.

(a) IN GENERAL.—Part A of title IV of the Social Security Act is amended by adding at the end the following new section:

"FRAUD CONTROL

"SEC. 416. (a) Any State, in the administration of its State plan approved under section 402, may elect to establish and operate a fraud control program in accordance with this section. 42 USC 616.

"(b) Under any such program, if an individual who is a member of a family applying for or receiving aid under the State plan approved under section 402 is found by a Federal or State court or pursuant to an administrative hearing meeting requirements determined in regulations of the Secretary, on the basis of a plea of guilty or nolo contendere or otherwise, to have intentionally—

"(1) made a false or misleading statement or misrepresented, concealed, or withheld facts, or

"(2) committed any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity,

for the purpose of establishing or maintaining the family's eligibility for aid under such State plan or of increasing (or preventing a reduction in) the amount of such aid, then the needs of such individual shall not be taken into account in making the determination under section 402(a)(7) with respect to his or her family (A) for a period of 6 months upon the first occasion of any such offense, (B) for a period of 12 months upon the second occasion of any such offense, and (C) permanently upon the third or a subsequent occasion of any such offense.

"(c) The State agency involved shall proceed against any individual alleged to have committed an offense described in subsection (b) either by way of administrative hearing or by referring the matter to the appropriate authorities for civil or criminal action in a court of law. The State agency shall coordinate its actions under this section with any corresponding actions being taken under the food stamp program in any case where the factual issues involved arise from the same or related circumstances.

"(d) Any period for which sanctions are imposed under subsection (b) shall remain in effect, without possibility of administrative stay, unless and until the finding upon which the sanctions were imposed is subsequently reversed by a court of appropriate jurisdiction; but in no event shall the duration of the period for which such sanctions are imposed be subject to review.

"(e) The sanctions provided under subsection (b) shall be in addition to, and not in substitution for, any other sanctions which may be provided for by law with respect to the offenses involved.

"(f) Each State which has elected to establish and operate a fraud control program under this section must provide all applicants for aid to families with dependent children under its approved State plan, at the time of their application for such aid, with a written notice of the penalties for fraud which are provided for under this section.".

42 USC 602.

(b) STATE PLAN REQUIREMENT.—Section 402(a) of such Act is amended—

(1) by striking "and" after the semicolon at the end of paragraph (38);

(2) by striking the period at the end of paragraph (39) and inserting "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) provide, if the State has elected to establish and operate a fraud control program under section 416, that the State will submit to the Secretary (with such revisions as may from time to time be necessary) a description of and budget for such program, and will operate such program in full compliance with that section.".

42 USC 603.

(c) FEDERAL MATCHING.—Section 403(a)(3) of such Act is amended—

(1) by striking "and" after the final comma in subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) 75 percent of so much of such expenditures as are for the costs of carrying out a fraud control program under section 416, including costs related to the investigation, prosecution, and administrative hearing of fraudulent cases and the making of any resultant collections, and"; and

(4) by striking "(C)" in the matter following subparagraph (D) (as redesignated by paragraph (2) of this subsection) and inserting "(D)".

[88] (d) EFFECTIVE DATE.—The amendments made by this section shall become effective April 1, 1988. 42 USC 602 note.

SEC. 9103. EXCLUSION OF REAL PROPERTY WHEN IT CANNOT BE SOLD.

(a) IN GENERAL.—Section 1613(b) of the Social Security Act is amended— 42 USC 1382b.

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1), the Secretary shall not require the disposition of any real property for so long as it cannot be sold because (A) it is jointly owned (and its sale would cause undue hardship, due to loss of housing, for the other owner or owners), (B) its sale is barred by a legal impediment, or (C) as determined under regulations issued by the Secretary, the owner's reasonable efforts to sell it have been unsuccessful.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective April 1, 1988. 42 USC 1382b note.

SEC. 9104. ADJUSTMENT OF PENALTY WHERE ASSET IS TRANSFERRED FOR LESS THAN FAIR MARKET VALUE.

[89] (a) IN GENERAL.—Section 1613(c) of the Social Security Act is amended—

(1) by inserting immediately after "the exclusions under subsection (a)" in paragraph (1) the following: ", and subject to paragraph (4) of this subsection"; and

(2) by adding at the end the following new paragraph:

"(4) The Secretary shall by regulation provide for suspending the application of paragraph (1) to the extent (in any instance) that the Secretary determines that such suspension is necessary to avoid undue hardship.". Regulations.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective April 1, 1988. 42 USC 1382b note.

SEC. 9105. EXCLUSION OF INTEREST ON BURIAL ACCOUNTS.

(a) IN GENERAL.—Section 1613(d) of the Social Security Act is amended—

(1) in paragraph (1), by striking "if the inclusion" and all that follows and inserting a period; and

(2) in paragraph (3), by striking "aside" and inserting "aside in cases where the inclusion of any portion of the amount would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1611(a)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective April 1, 1988. 42 USC 1382b note.

SEC. 9106. EXCEPTION FROM SSI RETROSPECTIVE ACCOUNTING FOR AFDC AND CERTAIN OTHER ASSISTANCE PAYMENTS.

(a) IN GENERAL.—Section 1611(c) of the Social Security Act is amended— 42 USC 1382.

(1) by striking "paragraphs (2), (3), and (4)" in paragraph (1) and inserting "paragraphs (2), (3), (4), and (5)";

(2) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

---

[88] Copy read "EFFECTIVE DATE.—".

[89] Copy read "IN GENERAL.—".

1

(3) by inserting after paragraph (4) the following new paragraph:

"(5) Notwithstanding paragraphs (1) and (2), any income which is paid to or on behalf of an individual in any month pursuant to (A) a State plan approved under part A of title IV of this Act (relating to aid to families with dependent children), (B) section 472 of this Act (relating to foster care assistance), (C) section 412(e) of the Immigration and Nationality Act (relating to assistance for refugees), (D) section 501(a) of Public Law 96-422 (relating to assistance for Cuban and Haitian entrants), or (E) the Act of November 2, 1921 (42 Stat. 208), as amended (relating to assistance furnished by the Bureau of Indian Affairs), shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.".

42 USC 1382 note.

(b) Effective Date.—The amendments made by subsection (a) shall become effective April 1, 1988.

SEC. 9107. TECHNICAL AMENDMENT RELATING TO 1986 AMENDMENT CONCERNING THE TREATMENT OF CERTAIN COUPLES IN MEDICAL INSTITUTIONS.

Effective date. 42 USC 1382.

Effective November 10, 1986, section 1611(e)(5) of the Social Security Act is amended—

(1) by striking "sharing a room or comparable accommodation in a hospital, home, or facility" and inserting "living in the same hospital, home, or facility"; and

(2) by striking "shared such a room or accommodation" and inserting "lived in the same such hospital, home, or facility".

SEC. 9108. EXTENSION OF DEADLINE FOR DISABLED WIDOWS TO APPLY FOR MEDICAID PROTECTION UNDER 1984 AMENDMENTS.

Effective date. 42 USC 1383c.

Effective July 1, 1987, section 1634(b)(3) of the Social Security Act is amended by striking "during the 15-month period beginning with the month in which this subsection is enacted" and inserting "no later than July 1, 1988".

SEC. 9109. INCREASE IN SSI EMERGENCY ADVANCE PAYMENTS.

42 USC 1383.

(a) In General.—Section 1631(a)(4)(A) of the Social Security Act is amended by striking "a cash advance against such benefits in an amount not exceeding $100" and inserting "a cash advance against such benefits, including any federally-administered State supplementary payments, in an amount not exceeding the monthly amount that would be payable to an eligible individual with no other income for the first month of such presumptive eligibility".

42 USC 1383 note.

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

SEC. 9110. MODIFICATION OF INTERIM ASSISTANCE REIMBURSEMENT PROGRAM.

(a) In General.—The first sentence of section 1631(g)(2) of the Social Security Act is amended by striking "at the time the Secretary makes the first payment of benefits" and inserting "at the time the Secretary makes the first payment of benefits with respect to the period described in clause (A) or (B) of paragraph (3)".

(b) Definition of Interim Assistance.—Section 1631(g)(3) of such Act is amended—

(1) by inserting "(A)" after "basic needs"; and

(2) by inserting before the period at the end the following: ", or (B) during the period beginning with the first month for which the individual's benefits (as defined in paragraph (2)) have been terminated or suspended if the individual was subsequently found to have been eligible for such benefits".

(c) Effective Date.—The amendments made by this section shall become effective with the 13th month following the month in which this Act is enacted, or, if sooner, with the first month for which the Secretary of Health and Human Services determines that it is administratively feasible.

42 USC 1383 note.

SEC. 9111. SPECIAL NOTICE TO BLIND RECIPIENTS.

(a) In General.—(1) Section 1631 of the Social Security Act is amended by adding at the end the following new subsection:

42 USC 1383.

"Special Notice to Blind Individuals with Respect to Hearings and Other Official Actions

"(l)(1) In any case where an individual who is applying for or receiving benefits under this title on the basis of blindness is entitled (under subsection (c) or otherwise) to receive notice from the Secretary of any decision or determination made or other action taken or proposed to be taken with respect to his or her rights under this title, such individual shall at his or her election be entitled either (A) to receive a supplementary notice of such decision, determination, or action, by telephone, within 5 working days after the initial notice is mailed, (B) to receive the initial notice in the form of a certified letter, or (C) to receive notification by some alternative procedure established by the Secretary and agreed to by the individual.

"(2) The election under paragraph (1) may be made at any time; but an opportunity to make such an election shall in any event be given (A) to every individual who is an applicant for benefits under this title on the basis of blindness, at the time of his or her application, and (B) to every individual who is a recipient of such benefits on the basis of blindness, at the time of each redetermination of his or her eligibility. Such an election, once made by an individual, shall apply with respect to all notices of decisions, determinations, and actions which such individual may thereafter be entitled to receive under this title until such time as it is revoked or changed.".

(2) Not later than one year after the date on which the amendment made by paragraph (1) becomes effective, the Secretary of Health and Human Services shall provide every individual receiving benefits under title XVI of the Social Security Act on the basis of blindness an opportunity to make an election under section 1631(l)(1) of such Act (as added by such amendment).

42 USC 1383 note.

(b) Study.—The Secretary of Health and Human Services shall study the desirability and feasibility of extending special or supplementary notices of the type provided to blind individuals by section 1631(l) of the Social Security Act (as added by subsection (a) of this section) to other individuals who may lack the ability to read and comprehend regular written notices, and shall report the results of such study to the Congress, along with such recommendations as may be appropriate, within 12 months after the date of the enactment of this Act.

Reports.
42 USC 1383 note.

42 USC 1383 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective July 1, 1988.

SEC. 9112. REHABILITATION SERVICES FOR BLIND SSI RECIPIENTS.

42 USC 1383.

(a) IN GENERAL.—Section 1631(a)(6) of the Social Security Act is amended—

(1) by inserting "blindness (as determined under section 1614(a)(2)) or" before "disability (as determined under section 1614(a)(3))";

(2) by inserting "blindness or other" before "physical or mental impairment"; and

(3) by inserting "blindness and" before "disability benefit rolls" in subparagraph (B).

42 USC 1383 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective April 1, 1988.

SEC. 9113. EXTENDING THE NUMBER OF MONTHS THAT AN INDIVIDUAL IN A PUBLIC EMERGENCY SHELTER CAN BE ELIGIBLE FOR SSI.

42 USC 1382.

(a) IN GENERAL.—Section 1611(e)(1)(D) of the Social Security Act is amended by striking "three months in any 12-month period" and inserting "6 months in any 9-month period".

42 USC 1382 note.

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall become effective January 1, 1988.

(2) In the application of section 1611(e)(1)(D) of the Social Security Act on and after the effective date of such amendment, months before January 1988 in which a person was an eligible individual or eligible spouse by reason of such section shall not be taken into account.

SEC. 9114. EXCLUSION OF UNDERPAYMENTS FROM RESOURCES.

42 USC 1382b.

(a) IN GENERAL.—Section 1613(a)(7) of the Social Security Act is amended by inserting after "shall be limited to the first 6 months following the month in which such amount is received" the following: "(or to the first 9 months following such month with respect to any amount so received during the period beginning October 1, 1987, and ending September 30, 1989)".

42 USC 1382b note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective January 1, 1988.

SEC. 9115. CONTINUATION OF FULL BENEFIT STANDARD FOR INDIVIDUALS TEMPORARILY INSTITUTIONALIZED.

(a) IN GENERAL.—Section 1611(e)(1) of the Social Security Act is amended—

(1) in subparagraph (A), by striking "and (E)" and inserting "(E), and (G)";

(2) in subparagraph (B), by inserting "(subject to subparagraph (G))" after "throughout any month"; and

(3) by adding at the end the following new subparagraphs:

"(G) A person may be an eligible individual or eligible spouse for purposes of this title, and subparagraphs (A) and (B) shall not apply, with respect to any particular month throughout which he or she is an inmate of a public institution the primary purpose of which is the provision of medical or psychiatric care, or which is a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, if it is determined in accordance with subparagraph (H) that—

"(i) such person's stay in that institution or facility (or in that institution or facility and one or more other such institutions or facilities during a continuous period of institutionalization) is likely (as certified by a physician) not to exceed 3 months, and the particular month involved is one of the first 3 months throughout which such person is in such an institution or facility during a continuous period of institutionalization; and

"(ii) such person needs to continue to maintain and provide for the expenses of the home or living arrangement to which he or she may return upon leaving the institution or facility.

The benefit of any person under this title (including State supplementation if any) for each month to which this subparagraph applies shall be payable, without interruption of benefit payments and on the date the benefit involved is regularly due, at the rate that was applicable to such person in the month prior to the first month throughout which he or she is in the institution or facility.

Contracts.

"(H) The Secretary shall establish procedures for the determinations required by clauses (i) and (ii) of subparagraph (G), and may enter into agreements for making such determinations (or for providing information or assistance in connection with the making of such determinations) with appropriate State and local public and private agencies and organizations. Such procedures and agreements shall include the provision of appropriate assistance to individuals who, because of their physical or mental condition, are limited in their ability to furnish the information needed in connection with the making of such determinations.".

42 USC 1396a.

(b) CONFORMING AMENDMENT.—Section 1902(l) of such Act is amended by striking "section 1611(e)(1)(E)" and inserting "subparagraph (E) or (G) of section 1611(e)(1)".

42 USC 1382 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective July 1, 1988.

SEC. 9116. RETENTION OF MEDICAID WHEN SSI BENEFITS ARE LOST UPON ENTITLEMENT TO EARLY WIDOW'S OR WIDOWER'S INSURANCE BENEFITS.

42 USC 1383c.

(a) IN GENERAL.—Section 1634 of the Social Security Act is amended by adding at the end the following new subsection:

"(d) If any person—

"(1) applies for and obtains benefits under subsection (e) or (f) of section 202 (or under any other subsection of section 202 if such person is also eligible for benefits under such subsection (e) or (f)) as required by section 1611(e)(2), being then at least 60 years of age but not entitled to hospital insurance benefits under part A of title XVIII, and

"(2) is determined to be ineligible (by reason of the receipt of such benefits under section 202) for supplemental security income benefits under this title or for State supplementary payments of the type described in section 1616(a),

such person shall nevertheless be deemed to be a recipient of supplemental security income benefits under this title for purposes of title XIX, so long as he or she (A) would be eligible for such supplemental security income benefits, or such State supplementary payments, in the absence of such benefits under section 202, and (B) is not entitled to hospital insurance benefits under part A of title XVIII.".

42 USC 1383c note.

(b) NOTICE.—The Secretary of Health and Human Services, acting through the Social Security Administration, shall (within 3 months after the date of the enactment of this Act) issue a notice to all individuals who will have attained age 60 but not age 65 as of April 1, 1988, and who received supplemental security income benefits under title XVI of the Social Security Act prior to attaining age 60 but lost those benefits by reason of the receipt of widow's or widower's insurance benefits (or other benefits as described in section 1634(d)(1) of that Act as added by subsection (a) of this section) under title II of that Act. Each such notice shall set forth and explain the provisions of section 1634(d) of the Social Security Act (as so added), and shall inform the individual that he or she should contact the Secretary or the appropriate State agency concerning his or her possible eligibility for medical assistance benefits under such title XIX.

42 USC 1383c note.

(c) STATE DETERMINATIONS.—Any determination required under section 1634(d) of the Social Security Act with respect to whether an individual would be eligible for benefits under title XVI of such Act (or State supplementary payments) in the absence of benefits under section 202 shall be made by the appropriate State agency.

42 USC 1396s.

(d) CONFORMING AMENDMENTS.—Section 1922(a)(2) of the Social Security Act is amended—

(1) by striking "1634 (b)" in subparagraph (B) and inserting "1634 (b) and (c)"; and

(2) by adding at the end the following new subparagraph:

"(C) Section 1634(d) of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to early widow's or widower's insurance benefits under section 202 (e) or (f) of this Act).".

42 USC 1383c note.

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to any individual without regard to whether the determination of his or her ineligibility for supplemental security income benefits by reason of the receipt of benefits under section 202 of the Social Security Act[90] (as described in section 1634(d)(2) of such Act) occurred before, on, or after the date of the enactment of this Act; but no individual shall be eligible for assistance under title XIX of such Act by reason of such amendments for any period before July 1, 1988.

42 USC 1383 note.

SEC. 9117. DEMONSTRATION PROGRAM TO ASSIST HOMELESS INDIVIDUALS.

Grants.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") is authorized to make grants to States for projects designed to demonstrate and test the feasibility of special procedures and services to ensure that homeless individuals are provided SSI and other benefits under the Social Security Act to which they are entitled and receive assistance in using such benefits to obtain permanent housing, food, and health care. Each project approved under this section shall meet such conditions and requirements, consistent with this section, as the Secretary shall prescribe.

Grants.

(b) SCOPE OF PROJECTS.—Projects for which grants are made under this section shall include, more specifically, procedures and services to overcome barriers which prevent homeless individuals (particularly the chronically mentally ill) from receiving and appropriately using benefits, including—

---

[90] Copy read "Social Security (as".

(1) the creation of cooperative approaches between the Social Security Administration, State and local governments, shelters for the homeless, and other providers of services to the homeless;

(2) the establishment, where appropriate, of multi-agency SSI Outreach Teams (as described in subsection (c)), to facilitate communication between the agencies and staff involved in taking and processing claims for SSI and other benefits by the homeless who use shelters;

(3) special efforts to identify homeless individuals who are potentially eligible for SSI or other benefits under the Social Security Act;

(4) the provision of special assistance to the homeless in applying for benefits, including assistance in obtaining and developing evidence of disability and supporting documentation for nondisability-related eligibility requirements;

(5) the provision of special training and assistance to public and private agency staff, including shelter employees, on disability eligibility procedures and evidentiary requirements;

(6) the provision of ongoing assistance to formerly homeless individuals to ensure their responding to information requests related to periodic redeterminations of eligibility for SSI and other benefits;

(7) the provision of assistance in ensuring appropriate use of benefit funds for the purpose of enabling homeless individuals to obtain permanent housing, nutrition, and physical and mental health care, including the use, where appropriate, of the disabled individual's representative payee for case management services; and

(8) such other procedures and services as the Secretary may approve.

(c) SSI OUTREACH TEAM PROJECTS.—(1) If a State applies for funds under this section for the purpose of establishing a multi-agency SSI Outreach Team, the membership and functions of such Team[91] shall be as follows (except as provided in paragraph (2)):

(A) The membership of the Team shall include a social services case worker (or case workers, if necessary); a consultative medical examiner who is qualified to provide consultative examinations for the Disability Determination Service of the State; a disability examiner, from the State Disability Determination Service; and a claims representative from an office of the Social Security Administration.

(B) The Team shall have designated members responsible for—

(i) identification of homeless individuals who are potentially eligible for SSI or other benefits under the Social Security Act;

(ii) ensuring that such individuals understand their rights under the programs;

(iii) assisting such individuals in applying for benefits, including assistance in obtaining and developing evidence and supporting documentation relating to disability- and nondisability-related eligibility requirements;

---

[91] Copy read "team".

(iv) arranging transportation and accompanying applicants to necessary examinations, if needed; and

(v) providing for the tracking and monitoring of all claims for benefits by individuals under the project.

(2) If the Secretary determines that an application by a State for an SSI Outreach Team Project under this section which proposes a membership and functions for such Team different from those prescribed in paragraph (1) but which is expected to be as effective, the Secretary may waive the requirements of such paragraph.

(d) INFORMATION AND REPORTS; EVALUATION.—(1) Each State having an approved SSI Outreach Team Project shall periodically submit to the Secretary such information (with respect to the project) as may be necessary to enable the Secretary to evaluate such project in particular and the demonstration program under this section in general.

(2)(A) The Secretary shall from time to time (but not less often than annually) submit to the Congress a full and complete report on the program under this section, together with a detailed evaluation of such program and of the projects thereunder along with such recommendations as may be deemed appropriate. Such evaluation and such recommendations shall be designed to serve as a basis for determining whether (and to what extent) the activities and procedures included in the demonstration program under this section should be continued, expanded, or modified, or converted (with or without changes) into a regular feature of permanent law.

(B) The criteria used by the Secretary in evaluating the program and the projects thereunder shall not be limited to those which would normally be used in evaluating programs and activities of the kind involved, but shall fully take into account the special circumstances of the homeless and their need for personalized attention and follow-through assistance, and shall emphasize the extent to which the procedures and assistance made available to applicants under such projects are recognizing those circumstances and meeting that need.

(e) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary—

(A) the sum of $1,250,000 for the fiscal year 1988;

(B) the sum of $2,500,000 for the fiscal year 1989; and

(C) such sums as may be necessary for each fiscal year thereafter.

SEC. 9118. ASSISTANCE TO HOMELESS AFDC FAMILIES.

Federal Register, publication.

The Secretary of Health and Human Services may not take any action, prior to October 1, 1988, that would have the effect of implementing in whole or in part the proposed regulation published in the Federal Register on December 14, 1987, with respect to emergency assistance and the need for and amount of assistance under the program of aid to families with dependent children, or that would change current policy with respect to any of the matters addressed in such proposed regulation.

SEC. 9119. INCREASE IN PERSONAL NEEDS ALLOWANCE FOR SSI RECIPIENTS.

42 USC 1382.

(a) INCREASE IN STANDARD.—Section 1611(e)(1)(B) of the Social Security Act is amended—

(1) by striking "$300 per year" in clauses (i) and (ii)(I) and inserting "$360 per year"; and

(2) by striking "$600 per year" in clause (iii) and inserting "$720 per year".

(b) **Mandatory Pass-Through of Increased Personal Needs Allowance.**—Section 1618 of such Act is amended by adding at the end the following new subsection: 42 USC 1382g.

"(g) In order for any State which makes supplementary payments of the type described in section 1616(a) (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66) to recipients of benefits determined under section 1611(e)(1)(B), on or after October 1, 1987, to be eligible for payments pursuant to title XIX with respect to any calendar quarter which begins—

"(1) after October 1, 1987, or, if later

"(2) after the calendar quarter in which it first makes such supplementary payments to recipients of benefits so determined,

such State must have in effect an agreement with the Secretary whereby the State will—

"(3) continue to make such supplementary payments to recipients of benefits so determined, and

"(4) maintain such supplementary payments to recipients of benefits so determined at levels which assure (with respect to any particular month beginning with the month in which this subsection is first effective) that—

"(A) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1611(e)(1)(B) for that particular month,

is not less than—

"(B) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1611(e)(1)(B) for October 1987 (or, if no such supplementary payments were made for that month, the combined level for the first subsequent month for which such payments were made), increased—

"(i) in a case to which clause (i) of such section 1611(e)(1)(B) applies or (with respect to the individual or spouse who is in the hospital, home, or facility involved) to which clause (ii) of such section applies, by $5, and

"(ii) in a case to which clause (iii) of such section 1611(e)(1)(B) applies, by $10.".

(c) **Effective Date.**—The amendments made by subsections (a) and (b) shall become effective July 1, 1988. 42 USC 1382 note.

SEC. 9120. EXCLUSION OF DEATH BENEFITS TO THE EXTENT SPENT ON LAST ILLNESS AND BURIAL.

(a) **In General.**—Subparagraphs (D) and (E) of section 1612(a)(2) of the Social Security Act are amended to read as follows: 42 USC 1382a.

"(D) payments to the individual occasioned by the death of another person, to the extent that the total of such payments exceeds the amount expended by such individual for purposes of the deceased person's last illness and burial;

"(E) support and alimony payments, and (subject to the provisions of subparagraph (D) excluding certain amounts expended for purposes of a last illness and burial) gifts (cash or otherwise) and inheritances; and".

42 USC 1382a note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective April 1, 1988.

42 USC 602 note.

SEC. 9121. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

(a) IN GENERAL.—Upon application of the State of Washington and approval by the Secretary of Health and Human Services, the State of Washington (in this section referred to as the "State") may conduct a demonstration project in accordance with this section for the purpose of testing whether the operation of its Family Independence Program enacted in May 1987 (in this section referred to as the "Program"), as an alternative to the AFDC program under title IV of the Social Security Act, would more effectively break the cycle of poverty and provide families with opportunities for economic independence and strengthened family functioning.

(b) NATURE OF PROJECT.—Under the demonstration project conducted under this section—

(1) every individual eligible for aid under the State plan approved under section 402(a) of the Social Security Act shall be eligible to enroll in the Program, which shall operate simultaneously with the AFDC program so long as there are individuals who qualify for the latter;

(2) cash assistance shall be furnished in a timely manner to all eligible individuals under the Program (and the State may not make expenditures for services under the Program until it has paid all necessary cash assistance), with no family receiving less in cash benefits than it would have received under the AFDC program;

(3) individuals may be required to register, undergo assessment, and participate in work, education, or training under the Program, except that—

(A) work or training may not be required in the case of—

(i) a single parent of a child under six months of age, or more than one parent of such a child in a two-parent family,

(ii) a single parent with a child of any age who has received assistance for less than six months,

(iii) a single parent with a child under three years of age who has received assistance for less than three years,

(iv) an individual under 16 years of age or over 64 years of age,

(v) an individual who is incapacitated, temporarily ill, or needed at home to care for an impaired person, or

(vi) an individual who has not yet been individually notified in writing of such requirement or of the expiration of his or her exempt status under this subparagraph;

(B) participation in work or training shall in any case be voluntary during the first two years of the Program, and may thereafter be made mandatory only in counties where more than 50 percent of the enrollees can be placed in employment within three months after they are job ready;

(C) in no case shall the work and training aspect of the Program be mandated in any county where the unemployment level is at least twice the State average; and

(D) mandated work shall not include work in any position created by a reduction in the work force, a bona fide labor dispute, the decertification of a bargaining unit, or a new job classification which subverts the intention of the Program;

(4) there shall be no change in existing State law which would eliminate guaranteed benefits or reduce the rights of applicants or enrollees; and

(5) the Program shall include due process guarantees and procedures no less than those which are available to participants in the AFDC program under Federal law and regulation and under State law.

(c) WAIVERS.—The Secretary shall (with respect to the project under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the project or effectively achieving its purpose, or with the requirements of sections 1902(a)(1), 1902(e)(1), and 1916 of that Act (but only to the extent necessary to enable the State to carry out the Program [92] as enacted by the State in April 1987).

(d) FUNDING.—

(1) The Secretary, under section 403(b) or 1903(d) of the Social Security Act, shall reimburse the State for its expenditures under the Program—

(A) at a rate equal to the Federal matching rate applicable to the State under section 403(a)(1) (or 1118) of the Social Security Act, for cash assistance, medical assistance, and child care provided to enrollees;

(B) at a rate equal to the applicable Federal matching rate under section 403(a)(3) of such Act, for administrative expenses; and

(C) at the rate of 75 percent for an evaluation plan approved by the Secretary.

(2) As a condition of approval of the project under this section, the State must provide assurances satisfactory to the Secretary that the total amount of Federal reimbursement over the period of the project will not exceed the anticipated Federal reimbursements (over that period) under the AFDC and Medicaid programs; but this paragraph shall not prevent the State from claiming reimbursement for additional persons who would qualify for assistance under the AFDC program, for costs attributable to increases in the State's payment standard, or for any other federally-matched benefits or services.

(e) EVALUATION.—The State must satisfy the Secretary that the Program [93] will be evaluated using a reasonable methodology.

(f) DURATION OF PROJECT.—

(1) The project under this section shall begin on the date on which the first individual is enrolled in the Program and (subject to paragraph (2)) shall end five years after that date.

(2) The project may be terminated at any time, on six months written notice, by the State or (upon a finding that the State has materially failed to comply with this section) by the Secretary.

---

[92] Copy read "program".

[93] Copy read "program".

42 USC 602 note.

SEC. 9122. CHILD SUPPORT DEMONSTRATION PROGRAM IN NEW YORK STATE.

(a) IN GENERAL.—Upon application by the State of New York and approval by the Secretary of Health and Human Services (in this section referred to as the "Secretary"), the State of New York (in this section referred to as the "State") may conduct a demonstration program in accordance with this section for the purpose of testing a State program as an alternative to the program of Aid to Families with Dependent Children under title IV of the Social Security Act.

(b) NATURE OF PROGRAM.—Under the demonstration program conducted under this section—

(1) all custodial parents of dependent children who are eligible for supplements under the State plan approved under section 402(a) of the Social Security Act (and such other types or classes of such parents as the State may specify) may elect to receive benefits under the State's Child Support Supplement Program in lieu of supplements under such plan; and

(2) the Federal Government will pay to the State with respect to families receiving benefits under the State's Child Support Supplement Program the same amounts as would have been payable with respect to such families under sections 403 and 1903 of the Social Security Act as if the families were receiving aid and medical assistance under the State plans in effect with respect to such sections.

(c) WAIVERS.—The Secretary shall (with respect to the program under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the program or effectively achieving its purpose.

(d) CONDITIONS OF APPROVAL.—As a condition of approval of the program under this section, the State shall—

(1) provide assurances satisfactory to the Secretary that the State—

(A) will continue to make assistance available to all eligible children in the State who are in need of financial support, and

(B) will continue to operate an effective child support enforcement program;

(2) agree—

(A) to have the program evaluated, and

Reports.

(B) to report interim findings to the Secretary at such times as the Secretary shall provide; and

(3) satisfy the Secretary that the program will be evaluated using a reasonable methodology that can determine whether changes in work behavior and changes in earnings are attributable to participation in the program.

(e) APPLICATION PROCESS.—In order to participate in the program under this section, the State must submit an application under this section not later than two years after the date of enactment of this Act. The Secretary shall approve or disapprove the application of the State not later than 90 days after the date of its submission. If the application is disapproved, the Secretary shall provide to the State a statement of the reasons for such disapproval, of the changes needed to obtain approval, and of the date by which the State may resubmit the application.

(f) EFFECTIVE DATE.—The program under this section shall commence not later than the first day of the third calendar quarter beginning on or after the date on which the application of the State is approved in accordance with subsection (e).

(g) DURATION OF PROGRAM.—

(1) Except as provided in paragraph (2), if the Secretary approves the application of the State, the demonstration program under this section shall be conducted for a period not to exceed five years.

(2)(A) The Governor of the State may before the end of the period described in paragraph (1) terminate the demonstration program under this section if the Governor finds that the program is not successful in testing the State's Child Support Supplement Program as an alternative to the program under title IV of the Social Security Act. The Governor shall notify the Secretary of the decision to terminate the program not less than three months prior to the date of such termination.

(B) The Secretary may terminate the program before the end of such period if the Secretary finds that the program is not in compliance with the terms of the application. The Secretary shall notify the Governor of the decision to terminate the program not less than three months prior to the date of such termination.

SEC. 9123. TECHNICAL CORRECTION.

The subsection of section 1631 of the Social Security Act which was added as subsection (j) by section 11006 of the Anti-Drug Abuse Act of 1986 is redesignated as subsection (m) and is moved to the end of such section 1631 so that it appears immediately after subsection (l) thereof (as added by section 9111(a) of this Act); and the heading of such subsection is amended to read as follows: 42 USC 1383.

"Pre-Release Procedures for Institutionalized Persons".

PART 2—SOCIAL SERVICES, CHILD WELFARE SERVICES, AND OTHER PROVISIONS RELATING TO CHILDREN

SEC. 9131. PERMANENT EXTENSION OF AUTHORITY FOR VOLUNTARY FOSTER CARE PLACEMENTS.

(a) IN GENERAL.—Section 102 of the Adoption Assistance and Child Welfare Act of 1980 is amended— 42 USC 672 note.

(1) in subsection (a)(1) (in the matter preceding subparagraph (A)), by striking "and before October 1, 1987,";

(2) in subsection (c), by striking all that follows "September 30, 1979" and inserting a period; and

(3) in subsection (e), by striking "with respect to which the amendments made by this section are in effect".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective October 1, 1987. 42 USC 672 note.

SEC. 9132. 2-YEAR EXTENSION OF FOSTER CARE CEILING AND OF AUTHORITY TO TRANSFER FOSTER CARE FUNDS TO CHILD WELFARE SERVICES.

(a) IN GENERAL.—Section 474 of the Social Security Act is amended— 42 USC 674.

(1) in paragraphs (1), (2)(A)(iii), (2)(B), (4)(B), and (5)(A)(ii) of subsection (b), by striking "through 1987" and inserting "through 1989";

(2) in paragraph (5)(A) of subsection (b) (in the matter preceding clause (i)), by striking "October 1, 1987" and inserting "October 1, 1989"; and

(3) in paragraphs (1) and (2) of subsection (c), by striking "through 1987" and inserting "through 1989".

42 USC 674 note. (b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective October 1, 1987.

SEC. 9133. MOTHER/INFANT FOSTER CARE.

42 USC 675. (a) IN GENERAL.—Section 475(4) of the Social Security Act is amended—

(1) by inserting "(A)" after "(4)"; and

(2) by adding at the end the following new subparagraph:

"(B) In cases where—

"(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and

"(ii) payments described in subparagraph (A) are being made under this part with respect to such child,

the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.".

42 USC 602. (b) CONFORMING AMENDMENTS RELATING TO ELIGIBILITY UNDER OTHER PROGRAMS.—(1) Section 402(a)(24) of such Act is amended by striking "if an individual is receiving benefits under title XVI, then, for the period for which such benefits are received," and inserting the following: "if an individual is receiving benefits under title XVI or his costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made to his or her minor parent as provided in section 475(4)(B), then, for the period for which such benefits are received or such costs are so covered,".

42 USC 672. (2) Section 472(h) of such Act is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.".

42 USC 673. (3)(A) Section 473(a)(2)(A) of such Act is amended—

(i) by striking "or" at the end of clause (i);

(ii) by adding "or" at the end of clause (ii); and

(iii) by adding after clause (ii) the following new clause:

"(iii) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent as provided in section 475(4)(B),".

(B) Section 473(a)(2)(B)(iii) of such Act is amended by inserting "or (A)(iii)" after "(A)(ii)".

(4) Section 473(b) of such Act is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution

are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective April 1, 1988. 42 USC 602 note.

SEC. 9134. INCREASED FUNDING FOR SOCIAL SERVICES BLOCK GRANTS.

(a) INCREASE IN FUNDING.—Section 2003(c) of the Social Security Act is amended— 42 USC 1397b.

(A) by striking "and" at the end of paragraph (2);

(B) in paragraph (3), by striking "year" the first place it appears and all that follows through the period and inserting "years 1984, 1985, 1986, and 1987, and for each succeeding fiscal year other than the fiscal year 1988; and"; and

(C) by adding at the end the following new paragraph:

"(4) $2,750,000,000 for the fiscal year 1988.".

(b) REQUIREMENT THAT ADDITIONAL FUNDS SUPPLEMENT AND NOT SUPPLANT FUNDS AVAILABLE FROM OTHER SOURCES.—The additional $50,000,000 made available to the States for the fiscal year 1988 pursuant to the amendments made by subsection (a) shall— 42 USC 1397b note.

(A) be used only for the purpose of providing additional services under title XX of the Social Security Act; and

(B) be expended only to supplement the level of any funds that would, in the absence of the additional funds appropriated pursuant to such amendments, be available from other sources (including any amounts available under title XX of the Social Security Act without regard to such amendments) for services in accordance with such title, and shall in no case supplant such funds from other sources or reduce the level thereof.

SEC. 9135. EXTENSION OF SOCIAL SERVICES BLOCK GRANT AND CHILD WELFARE SERVICES PROGRAMS TO AMERICAN SAMOA.

(a) SOCIAL SERVICES BLOCK GRANT PROGRAM.—(1) Section 1101(a)(1) of the Social Security Act is amended by inserting "American Samoa," after "Guam," in the last sentence. 42 USC 1301.

(2)(A) Section 2003(a) of such Act is amended by adding at the end the following new sentence: "The allotment for fiscal year 1989 and each succeeding fiscal year to American Samoa shall be an amount which bears the same ratio to the amount allotted to the Northern Mariana Islands for that fiscal year as the population of American Samoa bears to the population of the Northern Mariana Islands determined on the basis of the most recent data available at the time such allotment is determined.".

(B) Section 2003(b) of such Act is amended by inserting "American Samoa," after "the Virgin Islands," each place it appears.

(b) CHILD WELFARE SERVICES PROGRAM.—(1) Section 1101(a)(1) of such Act is amended by adding at the end thereof the following new sentence: "Such term when used in part B of title IV also includes American Samoa.".

(2) Section 421(b) of such Act is amended by striking "and Guam" and inserting "Guam, and American Samoa". 42 USC 621.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 1988. 42 USC 621 note.

Establishment.

SEC. 9136. NATIONAL COMMISSION ON CHILDREN.

Part A of title XI of the Social Security Act is amended by adding at the end the following new section:

"NATIONAL COMMISSION ON CHILDREN

42 USC 1320b-9.

"SEC. 1139. (a)(1) There is hereby established a commission to be known as the National Commission on Children (in this section referred to as the 'Commission').

"(b)(1) The Commission shall consist of—

"(A) 12 members to be appointed by the President,

"(B) 12 members to be appointed by the Speaker of the House of Representatives, and

"(C) 12 members to be appointed by the President pro tempore of the Senate.

President of U.S.

"(2) The President, the Speaker, and the President pro tempore shall each appoint as members of the Commission—

"(A) 4 individuals who—

"(i) are representatives of organizations providing services to children,

"(ii) are involved in activities on behalf of children, or

"(iii) have engaged in academic research with respect to the problems and needs of children,

"(B) 4 individuals who are elected or appointed public officials (at the Federal, State, or local level) involved in issues and programs relating to children, and

"(C) 4 individuals who are parents or representatives of parents or parents' organizations.

"(3) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal programs.

Reports.

"(c)(1) It shall be the duty and function of the Commission to serve as a forum on behalf of the children of the Nation and to conduct the studies and issue the report required by subsection (d).

"(2) The Commission (and any committees that it may form) shall conduct public hearings in different geographic areas of the country, both urban and rural, in order to receive the views of a broad spectrum of the public on the status of the Nation's children and on ways to safeguard and enhance the physical, mental, and emotional well-being of all of the children of the Nation, including those with physical or mental disabilities, and others whose circumstances deny them a full share of the opportunities that parents of the Nation may rightfully expect for their children.

"(3) The Commission shall receive testimony from individuals, and from representatives of public and private organizations and institutions with an interest in the welfare of children, including educators, health care professionals, religious leaders, providers of social services, representatives of organizations with children as members, elected and appointed public officials, and from parents and children speaking in their own behalf.

Reports.

"(d) The Commission shall submit to the President, and to the Committees on Finance and Labor and Human Resources of the Senate and the Committees on Ways and Means, Education and Labor, and Energy and Commerce of the House of Representatives, an interim report no later than September 30, 1988, and a final report no later than March 31, 1989, setting forth recommendations with respect to the following subjects:

"(1) Questions relating to the health of children that the Commission shall address include—

"(A) how to reduce infant mortality,

"(B) how to reduce the number of low-birth-weight babies,

"(C) how to reduce the number of children with chronic illnesses and disabilities,

"(D) how to improve the nutrition of children,

"(E) how to promote the physical fitness of children,

"(F) how to ensure that pregnant women receive adequate prenatal care,

"(G) how to ensure that all children have access to both preventive and acute care health services, and

"(H) how to improve the quality and availability of health care for children.

"(2) Questions relating to social and support services for children and their parents that the Commission shall address include—

"(A) how to prevent and treat child neglect and abuse,

"(B) how to provide help to parents who seek assistance in meeting the problems of their children,

"(C) how to provide counseling services for children,

"(D) how to strengthen the family unit,

"(E) how children can be assured of adequate care while their parents are working or participating in education or training programs,

"(F) how to improve foster care and adoption services,

"(G) how to reduce drug and alcohol abuse by children and youths, and

"(H) how to reduce the incidence of teenage pregnancy.

"(3) Questions relating to education that the Commission shall address include—

"(A) how to encourage academic excellence for all children at all levels of education,

"(B) how to use preschool experiences to enhance educational achievement,

"(C) how to improve the qualifications of teachers,

"(D) how schools can better prepare the Nation's youth to compete in the labor market,

"(E) how parents and schools can work together to help children achieve success at each step of the academic ladder,

"(F) how to encourage teenagers to complete high school and remain in school to fulfill their academic potential,

"(G) how to address the problems of drug and alcohol abuse by young people,

"(H) how schools might lend support to efforts aimed at reducing the incidence of teenage pregnancy, and

"(I) how schools might better meet the special needs of children who have physical or mental handicaps.

"(4) Questions relating to income security that the Commission shall address include—

"(A) how to reduce poverty among children,

"(B) how to ensure that parents support their children to the fullest extent possible through improved child support collection services, including services on behalf of children whose parents are unmarried, and

"(C) how to ensure that cash assistance to needy children is adequate.

"(5) Questions relating to tax policy that the Commission shall address include—

"(A) how to assure the equitable tax treatment of families with children,

"(B) the effect of existing tax provisions, including the dependent care tax credit, the earned income tax credit, and the targeted jobs tax credit, on children living in poverty,

"(C) whether the dependent care tax credit should be refundable and the effect of such a policy,

"(D) whether the earned income tax credit should be adjusted for family size and the effect of such a policy, and

"(E) whether there are other tax-related policies which would reduce poverty among children.

"(6) In addition to addressing the questions specified in paragraphs (1) through (5), the Commission shall—

"(A) seek to identify ways in which public and private organizations and institutions can work together at the community level to identify deficiencies in existing services for families and children and to develop recommendations to ensure that the needs of families and children are met, using all available resources, in a coordinated and comprehensive manner, and

"(B) assess the existing capacities of agencies to collect and analyze data on the status of children and on relevant programs, identify gaps in the data collection system, and recommend ways to improve the collection of data and the coordination among agencies in the collection and utilization of data.

The reports required by this subsection shall be based upon the testimony received in the hearings conducted pursuant to subsection (c), and upon other data and findings developed by the Commission.

"(e)(1)(A) Members of the Commission shall first be appointed not later than 60 days after the date of the enactment of this section, for terms ending on March 31, 1989.

"(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

"(2) The Commission shall elect one of its members to serve as Chairman of the Commission. The Chairman shall be a nonvoting member of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(4)(A) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission.

"(B) The Commission shall meet not less than 4 times during the period beginning with the date of the enactment of this section and ending with March 31, 1989.

"(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

"(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(f)(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

"(2) In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(g) In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

"(h)(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

"(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

"(i) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(j) There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 9137. BOARDER BABIES DEMONSTRATION PROJECT.

Section 426 of the Social Security Act is amended— 42 USC 626.

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following new subsection:

"(b)(1) There are authorized to be appropriated $4,000,000 for each of the fiscal years 1988, 1989, and 1990 for grants by the Secretary to public or private nonprofit entities submitting applications under this subsection for the purpose of conducting demonstration projects under this subsection to develop alternative care arrangements for infants who do not have health conditions that require hospitalization and who would otherwise remain in inappropriate hospital settings.

"(2) The demonstration projects conducted under this section may include—

"(A) multidisciplinary projects designed to prevent the inappropriate hospitalization of infants and to allow infants described in paragraph (1) to remain with or return to a parent in a residential setting, where appropriate care for the infant and suitable treatment for the parent (including treatment for drug or alcohol addiction) may be assured, with the goal (where possible) of rehabilitating the parent and eliminating the need for such care for the infant;

"(B) multidisciplinary projects that assure appropriate, individualized care for such infants in a foster home or other non-medical residential setting in cases where such infant does not require hospitalization and would otherwise remain in inappropriate hospital settings, including projects to demonstrate methods to recruit, train, and retain foster care families; and

"(C) such other projects as the Secretary determines will best serve the interests of such infants and will serve as models for projects that agencies or organizations in other communities may wish to develop.

"(3) In the case of any project which includes the use of funds authorized under this subsection for the care of infants in foster homes or other non-medical residential settings away from their parents, there shall be developed for each such infant a case plan of the type described in section 475(1) (to the extent that such infant is not otherwise covered by such a plan), and each such project shall include a case review system of the type described in section 475(5) (covering each such infant who is not otherwise subject to such a system).

"(4) In evaluating applications from entities proposing to conduct demonstration projects under this subsection, the Secretary shall give priority to those projects that serve areas most in need of alternative care arrangements for infants described in paragraph (1).

"(5) No project may be funded unless the application therefor contains assurances that it will—

"(A) provide for adequate evaluation;

"(B) provide for coordination with local governments;

"(C) provide for community education regarding the inappropriate hospitalization of infants;

"(D) use, to the extent practical, other available private, local, State, and Federal sources for the provision of direct services; and

"(E) meet such other criteria as the Secretary may prescribe.

Grants.

"(6) Grants may be used to pay the costs of maintenance and of necessary medical and social services (to the extent that these costs are not otherwise paid for under other titles of this Act), and for such other purposes as the Secretary may allow.

"(7) The Secretary shall provide training and technical assistance to grantees, as requested.".

SEC. 9138. STUDY OF INFANTS AND CHILDREN WITH AIDS IN FOSTER CARE.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct (or arrange for) a survey to determine—

(1) the total number of infants and children in the United States who have been diagnosed as having acquired immune deficiency syndrome and who have been placed in foster care;

(2) the problems encountered by social service agencies in placing infants and children with such syndrome in foster care; and

(3) the potential increase (over the five-year period beginning on the date of the enactment of this Act) in the number of infants and children with such syndrome who will require foster care.

For purposes of this section, an infant or child with acquired immune deficiency syndrome includes an infant or child who is infected with the virus associated with such syndrome.

(b) Restriction on Scope of Survey.—In conducting (or arranging for) the survey under subsection (a), the Secretary shall assure that survey activities do not duplicate research activities conducted by the Centers for Disease Control.

(c) Report.—Not later than 12 months after the date of enactment of this Act, the Secretary shall report to the Congress on the results of the survey conducted under subsection (a) and shall make recommendations to the Congress with respect to improving the care of infants and children with acquired immune deficiency syndrome who lack ongoing parental involvement and support.

SEC. 9139. TECHNICAL CORRECTIONS.

(a) The last sentence of section 472(a) of the Social Security Act is amended by striking out "473(a)(1)(B)" and inserting in lieu thereof "473(a)(2)(B)". 42 USC 672.

(b) Section 201(b)(2)(B) of the Immigration Reform and Control Act of 1986 is amended by striking out "Section 473(a)(1) of such Act" and inserting in lieu thereof "Section 473(a)(2) of such Act (as amended by section 1711(a) of the Tax Reform Act of 1986)". 42 USC 673.

PART 3—CHILD SUPPORT ENFORCEMENT AMENDMENTS

SEC. 9141. CONTINUATION OF CHILD SUPPORT ENFORCEMENT SERVICES TO FAMILIES NO LONGER RECEIVING AFDC.

(a) In General.—(1) Section 457(c) of the Social Security Act is amended to read as follows: 42 USC 657.

"(c) Whenever a family with respect to which child support enforcement services have been provided pursuant to section 454(4) ceases to receive assistance under part A of this title, the State shall provide appropriate notice to the family and continue to provide such services, and pay any amount of support collected, subject to the same conditions and on the same basis as in the case of the individuals to whom services are furnished pursuant to section 454(6), except that no application or other request to continue services shall be required of a family to which this subsection applies, and the provisions of section 454(6)(B) may not be applied.".

(2) Section 454(5) of such Act is amended by striking "(except as provided in section 457(c))". 42 USC 654.

(b) Effective Date.—The amendments made by subsection (a) shall become effective upon enactment. 42 USC 654 note.

SEC. 9142. CHILD SUPPORT ENFORCEMENT SERVICES REQUIRED FOR CERTAIN FAMILIES RECEIVING MEDICAID.

(a) In General.—Section 454 of the Social Security Act is amended—

(1)(A) by striking "an assignment under section 402(a)(26) of this title" in paragraph (4)(A) and inserting "an assignment under section 402(a)(26) or section 1912";

(B) by striking ", and" at the end of paragraph (4)(A) and inserting ", or, in the case of such a child with respect to whom an assignment under section 1912 is in effect, the State agency administering the plan approved under title XIX determines pursuant to section 1912(a)(1)(B) that it is against the best interests of the child to do so, and"; and

(C) by inserting "or medical assistance under a State plan approved under title XIX" immediately after "aid to families with dependent children" in paragraph (4)(B); and

(2)(A) by striking "provide that," and inserting "provide that (A)" in paragraph (5); and

(B) by striking the semicolon at the end of paragraph (5) and inserting "; and (B) in any case in which support payments are collected for an individual pursuant to the assignment made under section 1912, such payments shall be made to the State for distribution pursuant to section 1912, except that this clause shall not apply to such payments for any month after the month in which the individual ceases to be eligible for medical assistance;".

42 USC 654 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on July 1, 1988.

SEC. 9143. REPEAL OF UNNECESSARY CHILD SUPPORT REVOLVING FUND.

42 USC 652.

(a) IN GENERAL.—Section 452(c) of the Social Security Act is amended to read as follows:

"(c) The Secretary of the Treasury shall from time to time pay to each State for distribution in accordance with the provisions of section 457 the amount of each collection made on behalf of such State pursuant to subsection (b).".

42 USC 652 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to amounts collected after the date of the enactment of this Act.

PART 4—UNEMPLOYMENT COMPENSATION

26 USC 3304 note.

SEC. 9151. DETERMINATION OF AMOUNT OF FEDERAL SHARE WITH RESPECT TO CERTAIN EXTENDED BENEFITS PAYMENTS.

For the purpose of determining the amount of the Federal payment to any State under section 204(a)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 with respect to the implementation of paragraph (3) of section 202 (a) of such Act (as added by section 1024(a) of the Omnibus Reconciliation Act of 1980), such paragraph shall be considered to apply only with respect to weeks of unemployment beginning after October 31, 1981, except that for any State in which the State legislature did not meet in 1981, it shall be considered to apply for such purpose only with respect to weeks of unemployment beginning after October 31, 1982.

Contracts.
26 USC 3304 note.

SEC. 9152. DEMONSTRATION PROGRAM TO PROVIDE SELF-EMPLOYMENT ALLOWANCES FOR ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall carry out a demonstration program under this section for the purpose of making available self-employment allowances to eligible individuals. To carry out such program, the Secretary shall enter into agreements with three States that—

(1) apply to participate in such program, and

(2) demonstrate to the Secretary that they are capable of implementing the provisions of the agreement.

(b) SELECTION OF STATES.—(1) In determining whether to enter into an agreement with a State under this section, the Secretary shall take into consideration at least—

(A) the availability and quality of technical assistance currently provided by agencies of the State to the self-employed;

(B) existing local market conditions and the business climate for new, small business enterprises in the State;

(C) the adequacy of State resources to carry out a regular unemployment compensation program and a program under this section;

(D) the range and extent of specialized services to be provided by the State to individuals covered by such an agreement;

(E) the design of the evaluation to be applied by the State to the program; and

(F) the standards which are to be utilized by the State for the purpose of assuring that individuals who will receive self-employment assistance under this section will have sufficient experience (or training) and ability to be self employed.

(2) The Secretary may not enter into an agreement with any State under this section unless the Secretary makes a determination that the State's unemployment compensation program has adequate reserves.

(c) PROVISIONS OF AGREEMENTS.—Any agreement entered into with a State under this section shall provide that—

(1) each individual who is an eligible individual with respect to any benefit year beginning during the three-year period commencing on the date on which such agreement is entered into shall receive a self-employment allowance;

(2) self-employment allowances made to any individual under this section shall be made in the same amount, on the same terms, and subject to the same conditions as regular or extended unemployment compensation, as the case may be, paid by such State; except that—

(A) State and Federal requirements relating to availability for work, active search for work, or refusal to accept suitable work shall not apply to such individual; and

(B) such individual shall be considered to be unemployed for purposes of the State and Federal laws applicable to unemployment compensation, as long as the individual meets the requirements applicable under this section to such individual;

(3) to the extent that such allowances are made to an individual under this section, an amount equal to the amount of such allowances shall be charged against the amount that may be paid to such individual under State law for regular or extended unemployment compensation, as the case may be;

(4) the total amount paid to an individual with respect to any benefit year under this section may not exceed the total amount that could be paid to such individual for regular or extended unemployment compensation, as the case may be, with respect to such benefit year under State law;

(5) the State shall implement a program that—

(A) is approved by the Secretary;

(B) will not result in any cost to the Unemployment Trust Fund established by section 904(a) of the Social Security Act in excess of the cost which would have been incurred by such State and charged to such Fund if the State had not participated in the demonstration program under this section;

(C) is designed to select and assist individuals for self-employment allowances, monitor the individual's self-employment, and provide, as described in subsection (d), to the Secretary a complete evaluation of the use of such allowances; and

(D) otherwise meets the requirements of this section; and

(6) the State, from its general revenue funds, shall—

(A) repay to the Unemployment Trust Fund any cost incurred by the State and charged to the Fund which exceeds the cost which would have been incurred by such State and charged to such Fund if the State had not participated in the demonstration program under this section; and

(B) in any case in which any excess cost described in subparagraph (A) is not repaid in the fiscal year in which it was charged to the Fund, pay to the Fund an amount of interest, on the outstanding balance of such excess cost, which is sufficient (when combined with any repayment by the State described in subparagraph (A)) to reimburse the Fund for any loss which would not have been incurred if such excess cost had not been incurred.

(d) EVALUATION.—(1) Each State that enters into an agreement under this section shall carry out an evaluation of its activities under this section. Such evaluation shall be based on an experimental design with random assignment between a treatment group and a control group with not more than one-half of the individuals receiving assistance at any one time being assigned to the treatment group.

Reports.

(2) The Secretary shall use the data provided from such evaluation to analyze the benefits and the costs of the program carried out under this section, to formulate the reports under subsection (g), and to estimate any excess costs described in subsection (c)(6)(A).

(e) FINANCING.—(1) Notwithstanding section 303(a)(5) of the Social Security Act and section 3304(a)(4) of the Internal Revenue Code of 1986, amounts in the unemployment fund of a State may be used by a State to make payments (exclusive of expenses of administration) for self-employment allowances made under this section to an individual who is receiving them in lieu of regular unemployment compensation.

(2) In any case in which a self-employment allowance is made under this section to an individual in lieu of extended unemployment compensation under the Federal-State Extended Unemployment Compensation Act of 1970, payments made under this section for self-employment allowances shall be considered to be compensation described in section 204(a)(1) of such Act and paid under State law.

(f) LIMITATION.—No funds made available to a State under title III of the Social Security Act or any other Federal law may be used for the purpose of administering the program carried out by such State under this section.

(g) REPORT TO CONGRESS.—(1) Not later than two years after the date of the enactment of this Act, the Secretary shall submit an interim report to the Congress on the effectiveness of the demonstration program carried out under this section. Such report shall include—

(A) information on the extent to which this section has been utilized;

(B) an analysis of any barriers to such utilization; and

(C) an analysis of the feasibility of extending the provisions of this section to individuals not covered by State unemployment compensation laws.

(2) Not later than four years after the date of the enactment of this Act, the Secretary shall submit a final report to the Congress on such program.

(h) FRAUD AND OVERPAYMENTS.—(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received payment under this section to which he was not entitled, such individual shall be—

(A) ineligible for further assistance under this section; and

(B) subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) If any person received any payment under this section to which such person was not entitled, the State is authorized to require such person to repay such assistance; except that the State agency may waive such repayment if it determines that—

(i) the providing of such assistance or making of such payment was without fault on the part of such person; and

(ii) such repayment would be contrary to equity and good conscience.

(B) No repayment shall be required under subparagraph (A) until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the person, and the determination has become final. Any determination under such subparagraph shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(i) DEFINITIONS.—For purposes of this section—

(1) the term "eligible individual" means, with respect to any benefit year, an individual who—

(A) is eligible to receive regular or extended compensation under the State law during such benefit year;

(B) is likely to receive unemployment compensation for the maximum number of weeks that such compensation is made available under the State law during such benefit year;

(C) submits an application to the State agency for a self-employment allowance under this section; and

(D) meets applicable State requirements,

except that not more than (i) 3 percent of the number of individuals eligible to receive regular compensation in a State at the beginning of a fiscal year, or (ii) the number of persons who exhausted their unemployment compensation benefits in the fiscal year ending before such fiscal year, whichever is lesser, may be considered as eligible individuals for such State for purposes of this section during such fiscal year;

(2) the term "self-employment allowance" means compensation paid under this section for the purpose of assisting an eligible individual with such individual's self-employment; and

(3) the terms "compensation", "extended compensation", "regular compensation", "benefit year", "State", and "State law", have the respective meanings given to such terms by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

SEC. 9153. EXTENSION OF FUTA TAX.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 3301 of the Federal Unemployment Tax Act (26 U.S.C. 3301) are amended to read as follows:

"(1) 6.2 percent in the case of calendar years 1988, 1989, and 1990; or

"(2) 6.0 percent in the case of calendar year 1991 and each calendar year thereafter;".

26 USC 3301 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to wages paid on or after January 1, 1988.

SEC. 9154. TRANSFER OF FUNDS INTO THE FEDERAL UNEMPLOYMENT ACCOUNT AND THE EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Section 901 of the Social Security Act (42 U.S.C. 1101) is amended by adding at the end the following new subsection:

"Transfers For Calendar Years 1988, 1989, and 1990

"(g)(1) With respect to calendar years 1988, 1989, and 1990, the Secretary of the Treasury shall transfer from the employment security administration account—

"(A) to the Federal unemployment account an amount equal to 50 percent of the amount of tax received under section 3301(1) of the Federal Unemployment Tax Act which is attributable to the difference in the tax rates between paragraphs (1) and (2) of such section; and

"(B) to the extended unemployment compensation account an amount equal to 50 percent of such amount of tax received.

"(2) Transfers under this subsection shall be as of the beginning of the month succeeding the month in which the moneys were credited to the employment security administration account pursuant to subsection (b)(2) with respect to wages paid during such calendar years.".

(b) INCREASE IN THE LIMITATION ON THE AMOUNTS IN SUCH ACCOUNTS.—(1) Section 902(a)(2) of such Act (42 U.S.C. 1102(a)(2)) is amended by striking out "one-eighth" and inserting in lieu thereof "five-eighths".

(2) Section 905(b)(2)(B) of such Act (42 U.S.C. 1105(b)(2)(B)) is amended by striking out "one-eighth" and inserting in lieu thereof "three-eighths".

(c) CONFORMING AMENDMENTS.—(1) Section 905(b)(1) of such Act (42 U.S.C. 1105(b)(1)) is amended by striking out the last sentence thereof.

(2) Section 901(c)(3)(C) of such Act (42 U.S.C. 1101(c)(3)(C)) is amended by striking out "(i)" and all that follows through the period and inserting in lieu thereof "a tax rate of 0.6 percent.".

42 USC 1101 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 9155. INTEREST ON ADVANCES TO THE FEDERAL UNEMPLOYMENT ACCOUNT AND THE EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.—Section 905(d) of the Social Security Act (42 U.S.C. 1105(d)) is amended—

(1) by striking out "(without interest)" and ", without interest,"; and

(2) by adding the following new sentence at the end: "Amounts appropriated as repayable advances for purposes of this subsection shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such advance, borne by all interest bearing obligations of the United States then forming part of the public debt; except that in cases in which such average rate is not a multiple of one-eighth of 1 percent, the rate of interest shall be the multiple of one-eighth of 1 percent next lower than such average rate.".

(b) FEDERAL UNEMPLOYMENT ACCOUNT.—Section 1203 of such Act (42 U.S.C. 1323) is amended—

(1) by striking out "(without interest)" and ", without interest,"; and

(2) by adding the following new sentence at the end: "Amounts appropriated as repayable advances for purposes of this subsection shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such advance, borne by all interest bearing obligations of the United States then forming part of the public debt; except that in cases in which such average rate is not a multiple of one-eighth of 1 percent, the rate of interest shall be the multiple of one-eighth of 1 percent next lower than such average rate.".

(c) CONFORMING AMENDMENT.—Section 903(a)(1) of such Act (42 U.S.C. 1103(a)(1)) is amended by inserting "and interest" after "all advances".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to advances made on or after the date of the enactment of this Act. 42 USC 1103 note.

SEC. 9156. CREDITING TO THE FEDERAL UNEMPLOYMENT ACCOUNT OF INTEREST EARNED ON ADVANCES TO THE STATES.

(a) IN GENERAL.—Section 1202 of the Social Security Act is amended by adding at the end the following new subsection: 42 USC 1322.

"(c) Interest paid by States in accordance with this section shall be credited to the Federal unemployment account established by section 904(g) in the Unemployment Trust Fund.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest paid on advances made on or after the date of the enactment of this Act. 42 USC 1322 note.

Subtitle C—Manufacturers Excise Tax on Certain Vaccines

SEC. 9201. MANUFACTURERS EXCISE TAX ON CERTAIN VACCINES.

(a) IN GENERAL.—Chapter 32 of the Internal Revenue Code of 1986 (relating to manufacturers excise taxes) is amended by inserting after subchapter B the following new subchapter:

"Subchapter C—Certain Vaccines

"Sec. 4131. Imposition of tax.
"Sec. 4132. Definitions and special rules.

26 USC 4131.

"SEC. 4131. IMPOSITION OF TAX.

"(a) General Rule.—There is hereby imposed a tax on any taxable vaccine sold by the manufacturer, producer, or importer thereof.

"(b) Amount of Tax.—

"(1) In general.—The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"If the taxable vaccine is:	The tax per dose is:
DPT vaccine	$4.56
DT vaccine	0.06
MMR vaccine	4.44
Polio vaccine	0.29.

"(2) Combinations of vaccines.—If any taxable vaccine is included in more than 1 category of vaccines in the table contained in paragraph (1), the amount of the tax imposed by subsection (a) on such vaccine shall be the sum of the amounts determined under such table for each category in which such vaccine is so included.

"(c) Termination of Tax if Amounts Collected Exceed Projected Fund Liability.—

"(1) In general.—If the Secretary estimates under paragraph (3) that the Vaccine Injury Compensation Trust Fund would not have a negative projected balance were the tax imposed by this section to terminate as of the close of any applicable date, no tax shall be imposed by this section after such date.

"(2) Applicable date.—For purposes of paragraph (1), the term 'applicable date' means—

"(A) the close of any calendar quarter ending on or after December 31, 1992, and

"(B) the 1st date on which petitions may not be filed under section 2111 and 2111(a) of the Public Health Service Act by reason of section 2134 of such Act and each date thereafter.

"(3) Estimates by secretary.—

"(A) In general.—The Secretary shall estimate the projected balance of the Vaccine Injury Compensation Trust Fund as of—

"(i) the close of each calendar quarter ending on or after December 31, 1992, and

"(ii) such other times as are appropriate in the case of applicable dates described in paragraph (2)(B).

"(B) Determination of projected balance.—In determining the projected balance of the Fund as of any date, the Secretary shall assume that—

"(i) the tax imposed by this section will not apply after such date, and

"(ii) there shall be paid from such Trust Fund all claims made or to be made against such Trust Fund—

"(I) with respect to vaccines administered before October 1, 1992, in the case of an applicable date described in paragraph (2)(A), or

"(II) with respect to petitions filed under section 2111 or section 2111(a) of the Public Health Service Act, in the case of an applicable date described in paragraph (2)(B).

"SEC. 4132. DEFINITIONS AND SPECIAL RULES.

26 USC 4132.

"(a) Definitions Relating to Taxable Vaccines.—For purposes of this subchapter—

"(1) Taxable vaccine.—The term 'taxable vaccine' means any vaccine—

"(A) which is listed in the table contained in section 4131(b)(1), and

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) DPT vaccine.—The term 'DPT vaccine' means any vaccine containing pertussis bacteria, extracted or partial cell bacteria, or specific pertussis antigens.

"(3) DT vaccine.—The term 'DT vaccine' means any vaccine (other than a DPT vaccine) containing diphtheria toxoid or tetanus toxoid.

"(4) MMR vaccine.—The term "MMR vaccine' means any vaccine against measles, mumps, or rubella. Not more than 1 tax shall be imposed by section 4131 on any MMR vaccine by reason of being a vaccine against more than 1 of measles, mumps, or rubella.

"(5) Polio vaccine.—The term 'polio vaccine' means any vaccine containing polio virus.

"(6) Vaccine.—The term 'vaccine' means any substance designed to be administered to a human being for the prevention of 1 or more diseases.

"(7) United states.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(8) Importer.—The term 'importer' means the person entering the vaccine for consumption, use, or warehousing.

"(b) Credit or Refund Where Vaccine Returned to Manufacturer, Etc., or Destroyed.—

"(1) In general.—Under regulations prescribed by the Secretary, whenever any vaccine on which tax was imposed by section 4131 is—

"(A) returned (other than for resale) to the person who paid such tax, or

"(B) destroyed,

the Secretary shall abate such tax or allow a credit, or pay a refund (without interest), to such person equal to the tax paid under section 4131 with respect to such vaccine.

"(2) Claim must be filed within 6 months.—Paragraph (1) shall apply to any returned or destroyed vaccine only with respect to claims filed within 6 months after the date the vaccine is returned or destroyed.

"(3) Condition of allowance of credit or refund.—No credit or refund shall be allowed or made under paragraph (1) with respect to any vaccine unless the person who paid the tax establishes that he—

"(A) has repaid or agreed to repay the amount of the tax to the ultimate purchaser of the vaccine, or

"(B) has obtained the written consent of such purchaser to the allowance of the credit or the making of the refund.

"(4) Tax imposed only once.—No tax shall be imposed by section 4131 on the sale of any vaccine if tax was imposed by section 4131 on any prior sale of such vaccine and such tax is not abated, credited, or refunded.

"(c) OTHER SPECIAL RULES.—

"(1) FRACTIONAL PART OF A DOSE.—In the case of a fraction of a dose, the tax imposed by section 4131 shall be the same fraction of the amount of such tax imposed by a whole dose.

"(2) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4131."

(b) CERTAIN PROVISIONS RELATING TO TAX-FREE SALES, ETC. NOT TO APPLY.—

26 USC 4221. (1) Subsection (a) of section 4221 of such Code (relating to certain tax-free sales) is amended by adding at the end thereof the following new sentence: "In the case of the tax imposed by section 4131, paragraphs (3), (4), and (5) shall not apply and paragraph (2) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe."

(2) Paragraph (2) of section 6416(b) of such Code (relating to specified uses or resales) is amended by adding at the end thereof the following new sentence: "In the case of the tax imposed by section 4131, subparagraphs (B), (C), and (D) shall not apply and subparagraph (A) shall apply only if the use of the exported vaccine meets such requirements as the Secretary may by regulations prescribe."

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 32 of such Code is amended by inserting after the item relating to subchapter B the following new item:

"SUBCHAPTER C. Certain vaccines."

26 USC 4131 note. (d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1988.

SEC. 9202. VACCINE INJURY COMPENSATION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

26 USC 9510.

"SEC. 9510. VACCINE INJURY COMPENSATION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Vaccine Injury Compensation Trust Fund', consisting of such amounts as may be credited to such Trust Fund as provided in section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—

"(1) IN GENERAL.—There are hereby appropriated to the Vaccine Injury Compensation Trust Fund amounts equivalent to the net revenues received in the Treasury from the tax imposed by section 4131 (relating to tax on certain vaccines).

"(2) NET REVENUES.—For purposes of paragraph (1), the term 'net revenues' means the amount estimated by the Secretary based on the excess of—

"(A) the taxes received in the Treasury under section 4131 (relating to tax on certain vaccines), over

"(B) the decrease in the tax imposed by chapter 1 resulting from the tax imposed by section 4131.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) In general.—Amounts in the Vaccine Injury Compensation Trust Fund shall be available, as provided in appropriation Acts, only for the payment of compensation under subtitle 2 of title XXI of the Public Health Service Act (as in effect on the date of the enactment of this section) for vaccine-related injury or death with respect to vaccines administered after September 30, 1988, and before October 1, 1992.

"(2) Transfers for certain repayments.—

"(A) In general.—The Secretary shall pay from time to time from the Vaccine Injury Compensation Trust Fund into the general fund of the Treasury amounts equivalent to amounts paid under section 4132(b) and section 6416 with respect to the taxes imposed by section 4131.

"(B) Transfers based on estimates.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(d) Liability of United States Limited to Amount in Trust Fund.—

"(1) General rule.—Any claim filed against the Vaccine Injury Compensation Trust Fund may be paid only out of such Trust Fund.

"(2) Coordination with other provisions.—Nothing in the National Childhood Vaccine Injury Act of 1986 (or in any amendment made by such Act) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Vaccine Injury Compensation Trust Fund.

"(3) Order in which unpaid claims to be paid.—If at any time the Vaccine Injury Compensation Trust Fund has insufficient funds to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1) be paid in full in the order in which they are finally determined."

(b) Clerical Amendment.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9510. Vaccine Injury Compensation Trust Fund."

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1988. 26 USC 9510 note.

Subtitle D—Pension Provisions

PART I—FULL-FUNDING LIMITATIONS

SEC. 9301. FULL-FUNDING LIMITATION FOR DEDUCTIONS TO QUALIFIED PLANS.

(a) General Rule.—Paragraph (7) of section 412(c) of the Internal Revenue Code of 1986 (defining full-funding limitation) is amended to read as follows: 26 USC 412.

"(7) Full-funding limitation.—

"(A) In general.—For purposes of paragraph (6), the term 'full-funding limitation' means the excess (if any) of—

"(i) the lesser of (I) 150 percent of current liability, or (II) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) CURRENT LIABILITY.—For purposes of subparagraphs (A) and (D), the term 'current liability' has the meaning given such term by subsection (l)(7) (without regard to subparagraph (D) thereof).

"(C) SPECIAL RULE FOR PARAGRAPH (6)(B).—For purposes of paragraph (6)(B), subparagraph (A)(i) shall be applied without regard to subclause (I) thereof.

"(D) REGULATORY AUTHORITY.—The Secretary may by regulations provide—

"(i) for adjustments to the percentage contained in subparagraph (A)(i) to take into account the respective ages or lengths of service of the participants,

"(ii) alternative methods based on factors other than current liability for the determination of the amount taken into account under subparagraph (A)(i), and

"(iii) for the treatment under this section of contributions which would be required to be made under the plan but for the provisions of subparagraph (A)(i)(I)."

(b) AMENDMENT TO ERISA.—Paragraph (7) of section 302(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)) is amended to read as follows:

"(7) FULL-FUNDING LIMITATION.—

"(A) IN GENERAL.—For purposes of paragraph (6), the term 'full-funding limitation' means the excess (if any) of—

"(i) the lesser of (I) 150 percent of current liability, or (II) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) CURRENT LIABILITY.—For purposes of subparagraphs (A) and (D), the term 'current liability' has the meaning given such term by subsection (d)(7) (without regard to subparagraph (D) thereof).

"(C) SPECIAL RULE FOR PARAGRAPH (6)(B).—For purposes of paragraph (6)(B), subparagraph (A)(i) shall be applied without regard to subclause (I) thereof.

"(D) REGULATORY AUTHORITY.—The Secretary of the Treasury may by regulations provide—

"(i) for adjustments to the percentage contained in subparagraph (A)(i) to take into account the respective ages or lengths of service of the participants, "(ii) alternative methods based on factors other than current liability for the determination of the amount taken into account under subparagraph (A)(i), and

"(iii) for the treatment under this section of contributions which would be required to be made under the plan but for the provisions of subparagraph (A)(i)(I)."

(c) Effective Date.— 26 USC 412 note.

(1) In general.—The amendments made by this section shall apply to years beginning after December 31, 1987.

(2) Regulations.—The Secretary of the Treasury or his delegate shall prescribe such regulations as are necessary to carry out the amendments made by this section no later than August 15, 1988.

(3) Study.—The Secretary of the Treasury or his delegate shall study the effect of the amendments made by this section on benefit security under defined benefit pension plans and shall report the results of such study to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate no later than August 15, 1988.

PART II—PENSION FUNDING AND TERMINATION REQUIREMENTS

Pension Protection Act.

SEC. 9302. SHORT TITLE; DEFINITIONS.

(a) Short Title.—This part may be cited as the "Pension Protection Act". 26 USC 1 note.

(b) Definitions.—For purposes of this part—

(1) 1986 code.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) ERISA.—The term "ERISA" means the Employee Retirement Income Security Act of 1974.

Subpart A—Modifications of Minimum Funding Standard

SEC. 9303. ADDITIONAL FUNDING REQUIREMENTS.

(a) Amendments to 1986 Code.—

(1) In general.—Section 412 of the 1986 Code (relating to minimum funding standard) is amended by adding at the end thereof the following new subsection: 26 USC 412.

"(l) Additional Funding Requirements for Plans Which Are Not Multiemployer Plans.—

"(1) In general.—In the case of a defined benefit plan (other than a multiemployer plan) which has an unfunded current liability for any plan year, the amount charged to the funding standard account for such plan year shall be increased by the sum of—

"(A) the excess (if any) of—

"(i) the deficit reduction contribution determined under paragraph (2) for such plan year, over

"(ii) the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v) thereof), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus

"(B) the unpredictable contingent event amount (if any) for such plan year.

Such increase shall not exceed the amount necessary to increase the funded current liability percentage to 100 percent.

"(2) DEFICIT REDUCTION CONTRIBUTION.—For purposes of paragraph (1), the deficit reduction contribution determined under this paragraph for any plan year is the sum of—

"(A) the unfunded old liability amount, plus

"(B) the unfunded new liability amount.

"(3) UNFUNDED OLD LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year is the amount necessary to amortize the unfunded old liability under the plan in equal annual installments over a period of 18 plan years (beginning with the 1st plan year beginning after December 31, 1988).

"(B) UNFUNDED OLD LIABILITY.—The term 'unfunded old liability' means the unfunded current liability of the plan as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987).

"(C) SPECIAL RULES FOR BENEFIT INCREASES UNDER EXISTING COLLECTIVE BARGAINING AGREEMENTS.—

"(i) IN GENERAL.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and the employer ratified before October 17, 1987, the unfunded old liability amount with respect to such plan for any plan year shall be increased by the amount necessary to amortize the unfunded existing benefit increase liability in equal annual installments over a period of 18 plan years beginning with—

"(I) the plan year in which the benefit increase with respect to such liability occurs, or

"(II) if the taxpayer elects, the 1st plan year beginning after December 31, 1988.

"(ii) UNFUNDED EXISTING BENEFIT INCREASE LIABILITIES.—For purposes of clause (i), the unfunded existing benefit increase liability means, with respect to any benefit increase under the agreements described in clause (i) which takes effect during or after the 1st plan year beginning after December 31, 1987, the unfunded current liability determined—

"(I) by taking into account only liabilities attributable to such benefit increase, and

"(II) by reducing the amount determined under paragraph (8)(A)(ii) by the current liability determined without regard to such benefit increase.

"(iii) EXTENSIONS, MODIFICATIONS, ETC. NOT TAKEN INTO ACCOUNT.—For purposes of this subparagraph, any extension, amendment, or other modification of an agreement after October 16, 1987, shall not be taken into account.

"(4) UNFUNDED NEW LIABILITY AMOUNT.—For purposes of this subsection—

"(A) In general.—The unfunded new liability amount with respect to any plan for any plan year is the applicable percentage of the unfunded new liability.

"(B) Unfunded new liability.—The term 'unfunded new liability' means the unfunded current liability of the plan for the plan year determined without regard to—

"(i) the unamortized portion of the unfunded old liability, and

"(ii) the liability with respect to any unpredictable contingent event benefits (without regard to whether the event has occurred).

"(C) Applicable percentage.—The term 'applicable percentage' means, with respect to any plan year, 30 percent, reduced by the product of—

"(i) .25 multiplied by

"(ii) the number of percentage points (if any) by which the funded current liability percentage exceeds 35 percent.

"(5) Unpredictable contingent event amount.—

"(A) In general.—The unpredictable contingent event amount with respect to a plan for any plan year is an amount equal to the greater of—

"(i) the applicable percentage of the product of—

"(I) 100 percent, reduced (but not below zero) by the funded current liability percentage for the plan year, multiplied by

"(II) the amount of unpredictable contingent event benefits paid during the plan year, including (except as provided by the Secretary) any payment for the purchase of an annuity contract for a participant or beneficiary with respect to such benefits, or

"(ii) the amount which would be determined for the plan year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 7 plan years (beginning with the plan year in which such event occurs).

"(B) Applicable percentage.—

"In the case of plan years beginning in:	The applicable percentage is:
1989 and 1990	5
1991	10
1992	15
1993	20
1994	30
1995	40
1996	50
1997	60
1998	70
1999	80
2000	90
2001 and thereafter	100.

"(C) Paragraph not to apply to existing benefits.—This paragraph shall not apply to unpredictable contingent event benefits (and liabilities attributable thereto) for which the event occurred before October 17, 1987.

"(D) Special rule for first year of amortization.—Unless the employer elects otherwise, the amount determined under subparagraph (A) for the plan year in which the event occurs shall be equal to 150 percent of the amount determined under subparagraph (A)(i). The amount under subparagraph (A)(ii) for subsequent plan years in the amortization period shall be adjusted in the manner provided by the Secretary to reflect the application of this subparagraph.

"(6) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding plan year had no more than 150 participants, the amount of the increase under paragraph (1) for such plan year shall be equal to the product of—

"(i) such increase determined without regard to this subparagraph, multiplied by

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(7) CURRENT LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(B) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(ii) UNPREDICTABLE CONTINGENT EVENT BENEFIT.—The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary).

"(C) INTEREST RATES USED.—The rate of interest used to determine current liability shall be the rate of interest used under subsection (b)(5).

"(D) CERTAIN SERVICE DISREGARDED.—

"(i) IN GENERAL.—In the case of a participant to whom this subparagraph applies, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage shall be determined as follows:

"If the years of participation are:	The applicable percentage is:
1	20
2	40
3	60
4	80
5 or more	100.

"(iii) PARTICIPANTS TO WHOM SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any participant who, at the time of becoming a participant—

"(I) has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and

"(II) who first becomes a participant under the plan in a plan year beginning after December 31, 1987.

"(8) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED CURRENT LIABILITY.—The term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of—

"(i) the current liability under the plan, over

"(ii) value of the plan's assets determined under subsection (c)(2) reduced by any credit balance in the funding standard account.

"(B) FUNDED CURRENT LIABILITY PERCENTAGE.—The term 'funded current liability percentage' means, with respect to any plan year, the percentage which—

"(i) the amount determined under subparagraph (A)(ii), is of

"(ii) the current liability under the plan.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414.

"(D) ADJUSTMENTS TO PREVENT OMISSIONS AND DUPLICATIONS.—The Secretary shall provide such adjustments in the unfunded old liability amount, the unfunded new liability amount, the unpredictable contingent event amount, the current payment amount, and any other charges or credits under this section as are necessary to avoid duplication or omission of any factors in the determination of such amounts, charges, or credits."

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 412(b) of the 1986 Code is amended by adding at the end thereof the following new sentence: [94] "For additional requirements in the case of plans other than multiemployer plans, see subsection (l)." 26 USC 412.

(b) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Section 302 of ERISA (29 U.S.C. 1082) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL FUNDING REQUIREMENTS FOR PLANS WHICH ARE NOT MULTIEMPLOYER PLANS.—

---

[94] Incorrect indention in copy.

"(1) IN GENERAL.—In the case of a defined benefit plan (other than a multiemployer plan) which has an unfunded current liability for any plan year, the amount charged to the funding standard account for such plan year shall be increased by the sum of—

"(A) the excess (if any) of—

"(i) the deficit reduction contribution determined under paragraph (2) for such plan year, over

"(ii) the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v) thereof), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus

"(B) the unpredictable contingent event amount (if any) for such plan year.

Such increase shall not exceed the amount necessary to increase the funded current liability percentage to 100 percent.

"(2) DEFICIT REDUCTION CONTRIBUTION.—For purposes of paragraph (1), the deficit reduction contribution determined under this paragraph for any plan year is the sum of—

"(A) the unfunded old liability amount, plus

"(B) the unfunded new liability amount.

"(3) UNFUNDED OLD LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year is the amount necessary to amortize the unfunded old liability under the plan in equal annual installments over a period of 18 plan years (beginning with the 1st plan year beginning after December 31, 1988).

"(B) UNFUNDED OLD LIABILITY.—The term 'unfunded old liability' means the unfunded current liability of the plan as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987).

"(C) SPECIAL RULES FOR BENEFIT INCREASES UNDER EXISTING COLLECTIVE BARGAINING AGREEMENTS.—

"(i) IN GENERAL.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and the employer ratified before October 17, 1987, the unfunded old liability amount with respect to such plan for any plan year shall be increased by the amount necessary to amortize the unfunded existing benefit increase liability in equal annual installments over a period of 18 plan years beginning with—

"(I) the plan year in which the benefit increase with respect to such liability occurs, or

"(II) if the taxpayer elects, the 1st plan year beginning after December 31, 1988.

"(ii) UNFUNDED EXISTING BENEFIT INCREASE LIABILITIES.—For purposes of clause (i), the unfunded existing benefit increase liability means, with respect to any benefit increase under the agreements described in clause (i) which takes effect during or after the 1st plan year beginning after December 31, 1987, the unfunded current liability determined—

"(I) by taking into account only liabilities attributable to such benefit increase, and

"(II) by reducing the amount determined under paragraph (8)(A)(ii) by the current liability determined without regard to such benefit increase.

"(iii) EXTENSIONS, MODIFICATIONS, ETC. NOT TAKEN INTO ACCOUNT.—For purposes of this subparagraph, any extension, amendment, or other modification of an agreement after October 16, 1987, shall not be taken into account.

"(4) UNFUNDED NEW LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded new liability amount with respect to any plan for any plan year is the applicable percentage of the unfunded new liability.

"(B) UNFUNDED NEW LIABILITY.—The term 'unfunded new liability' means the unfunded current liability of the plan for the plan year determined without regard to—

"(i) the unamortized portion of the unfunded old liability, and

"(ii) the liability with respect to any unpredictable contingent event benefits (without regard to whether the event has occurred).

"(C) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, with respect to any plan year, 30 percent, reduced by the product of—

"(i) .25 multiplied by

"(ii) the number of percentage points (if any) by which the funded current liability percentage exceeds 35 percent.

"(5) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

"(A) IN GENERAL.—The unpredictable contingent event amount with respect to a plan for any plan year is an amount equal to the greater of—

"(i) the applicable percentage of the product of—

"(I) 100 percent, reduced (but not below zero) by the funded current liability percentage for the plan year, multiplied by

Contracts.

"(II) the amount of unpredictable contingent event benefits paid during the plan year, including (except as provided by the Secretary of the Treasury) any payment for the purchase of an annuity contract for a participant or beneficiary with respect to such benefits, or

"(ii) the amount which would be determined for the plan year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 7 plan years (beginning with the plan year in which such event occurs).

"(B) APPLICABLE PERCENTAGE.—

"In the case of plan years beginning in:	The applicable percentage is:
1989 and 1990	5
1991	10
1992	15
1993	20
1994	30
1995	40
1996	50
1997	60
1998	70
1999	80
2000	90
2001 and thereafter	100.

"(C) PARAGRAPH NOT TO APPLY TO EXISTING BENEFITS.—This paragraph shall not apply to unpredictable contingent event benefits (and liabilities attributable thereto) for which the event occurred before October 17, 1987.

"(D) SPECIAL RULE FOR FIRST YEAR OF AMORTIZATION.—Unless the employer elects otherwise, the amount determined under subparagraph (A) for the plan year in which the event occurs shall be equal to 150 percent of the amount determined under subparagraph (A)(i). The amount under subparagraph (A)(ii) for subsequent plan years in the amortization period shall be adjusted in the manner provided by the Secretary of the Treasury to reflect the application of this subparagraph.

"(6) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding plan year had no more than 150 participants, the amount of the increase under paragraph (1) for such plan year shall be equal to the product of—

"(i) such increase determined without regard to this subparagraph, multiplied by

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(7) CURRENT LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current liability' means all liabilities to participants and their beneficiaries under the plan.

"(B) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(ii) UNPREDICTABLE CONTINGENT EVENT BENEFIT.—

The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary of the Treasury).

"(C) INTEREST RATES USED.—The rate of interest used to determine current liability shall be the rate of interest used under subsection (b)(5).

"(D) CERTAIN SERVICE DISREGARDED.—

"(i) IN GENERAL.—In the case of a participant to whom this subparagraph applies, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage shall be determined as follows:

"If the years of participation are:	The applicable percentage is:
1	20
2	40
3	60
4	80
5 or more	100.

"(iii) PARTICIPANTS TO WHOM SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any participant who, at the time of becoming a participant—

"(I) has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and

"(II) who first becomes a participant under the plan in a plan year beginning after December 31, 1987.

"(8) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED CURRENT LIABILITY.—The term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of—

"(i) the current liability under the plan, over

"(ii) value of the plan's assets determined under subsection (c)(2) reduced by any credit balance in the funding standard account.

"(B) FUNDED CURRENT LIABILITY PERCENTAGE.—The term 'funded current liability percentage' means, with respect to any plan year, the percentage which—

"(i) the amount determined under subparagraph (A)(ii), is of

"(ii) the current liability under the plan.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections[94a] (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986.

"(D) ADJUSTMENTS TO PREVENT OMISSIONS AND DUPLICATIONS.—The Secretary of the Treasury shall provide such adjustments in the unfunded old liability amount, the unfunded new liability amount, the unpredictable contingent event amount, the current payment amount, and any other charges or credits under this section as are necessary to avoid duplication or omission of any factors in the determination of such amounts, charges, or credits."

[94a] Copy read "subsection".

26 USC 412 note.

(c) REVISION OF VALUATION REGULATIONS.—Effective with respect to plan years beginning after December 31, 1987, the provisions of the regulations prescribed under section 412(c)(2) of the 1986 Code which permit asset valuations to be based on a range between 85 percent and 115 percent of average value shall have no force and effect with respect to plans other than multiemployer plans (as defined in section 414(f) of the 1986 Code). The Secretary of the Treasury or his delegate shall amend such regulations to carry out the purposes of the preceding sentence.

(d) VALUATION OF BONDS.—

Regulations.
26 USC 412.

(1) AMENDMENT TO 1986 CODE.—Subparagraph (B) of section 412(c)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a plan other than a multiemployer plan, this subparagraph shall not apply, but the Secretary may by regulations provide that the value of any dedicated bond portfolio of such plan shall be determined by using the interest rate under subsection (b)(5)."

Regulations.
29 USC 1082.

(2) AMENDMENT TO ERISA.—Subparagraph (B) of section 302(c)(2) of ERISA is amended by adding at the end thereof the following new sentence: "In the case of a plan other than a multiemployer plan, this subparagraph shall not apply, but the Secretary of the Treasury may by regulations provide that the value of any dedicated bond portfolio of such plan shall be determined by using the interest rate under subsection (b)(5)."

26 USC 412 note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply with respect to plan years beginning after December 31, 1988.

(2) SUBSECTIONS (C) AND (D).—The amendments made by subsections (c) and (d) shall apply with respect to years beginning after December 31, 1987.

(3) SPECIAL RULE FOR STEEL COMPANIES.—

(A) IN GENERAL.—For any plan year beginning before January 1, 1994, any increase in the funding standard account under section 412(l) of the 1986 Code or section 302(d) of ERISA (as added by this section) with respect to any steel employee plan shall not exceed the sum of—

(i) the required percentage of the current liability under such plan, plus

(ii) the amount determined under subparagraph (C)(i) for such plan year.

(B) REQUIRED PERCENTAGE.—For purposes of subparagraph (A), the term "required percentage" means, with respect to any plan year, the excess (if any) of—

(i) the sum of—

(I) the funded current liability percentage as of the beginning of the 1st plan year beginning after December 31, 1988 (determined without regard to any plan amendment adopted after June 30, 1987), plus

(II) 1 percentage point for the plan year for which the determination under this paragraph is being made and for each prior plan year beginning after December 31, 1988, over

(ii) the funded current liability percentage as of the beginning of the plan year for which such determination is being made.

(C) SPECIAL RULES FOR CONTINGENT EVENTS.—In the case of any unpredictable contingent event benefit with respect to which the event on which such benefits are contingent occurs after December 17, 1987—

(i) AMORTIZATION AMOUNT.—For purposes of subparagraph (A)(ii), the amount determined under this clause for any plan year is the amount which would be determined if the unpredictable contingent event benefit liability were amortized in equal annual installments over 10 plan years (beginning with the plan year in which such event occurs).

(ii) BENEFIT AND CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (B), in determining the funded current liability percentage for any plan year, there shall not be taken into account—

(I) the unpredictable contingent event benefit liability, or

(II) any amount contributed to the plan which is attributable to clause (i).

(D) STEEL EMPLOYEE PLAN.—For purposes of this paragraph, the term "steel employee plan" means any plan if—

(i) such plan is maintained by a steel company, and

(ii) substantially all of the employees covered by such plan are employees of such company.

(E) OTHER DEFINITIONS.—For purposes of this paragraph—

(i) STEEL COMPANY.—The term "steel company" means any corporation described in section 806(b) of the Steel Import Stabilization Act.

(ii) OTHER DEFINITIONS.—The terms "current liability", "funded current liability percentage", and "unpredictable contingent event benefit" have the meanings given such terms by section 412(l) of the 1986 Code (as added by this section).

(F)[95] SPECIAL RULE.—The provisions of this paragraph shall apply in the case of a company which was originally incorporated on April 25, 1927, in Michigan and reincorporated on June 3, 1968, in Delaware in the same manner as if such company were a steel company.

SEC. 9304. TIME FOR MAKING CONTRIBUTIONS.

(a) PERIOD DURING WHICH CONTRIBUTIONS MAY BE MADE AFTER CLOSE OF YEAR.—

(1) AMENDMENT TO 1986 CODE.—Paragraph (10) of section 412(c) of the 1986 Code (relating to time when certain contributions deemed made) is amended to read as follows: 26 USC 412.

"(10) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section—

"(A) PLANS OTHER THAN MULTIEMPLOYER PLANS.—In the case of a plan other than a multiemployer plan, any contributions for a plan year made by an employer during the period—

---

[95] Copy read "(E)".

"(i) beginning on the day after the last day of such plan year, and

"(ii) ending on the day which is 8½ months after the close of the plan year,

shall be deemed to have been made on such last day.

"(B) MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary."

(2) AMENDMENT TO ERISA.—Paragraph (10) of section 302(c) of ERISA (relating to time when certain contributions deemed made) (29 U.S.C. 1082(c)(10)) [96] is amended to read as follows:

"(10) For purposes of this section—

"(A) In the case of a plan other than a multiemployer plan, any contributions for a plan year made by an employer during the period—

"(i) beginning on the day after the last day of such plan year, and

"(ii) ending on the date which is 8½ months after the close of the plan year,

shall be deemed to have been made on such last day.

Regulations.

"(B) In the case of a multiemployer plan, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary of the Treasury."

26 USC 412 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1987.

(b) QUARTERLY ESTIMATED PAYMENTS REQUIRED.—

26 USC 412.

(1) AMENDMENT TO 1986 CODE.—Section 412 of the 1986 Code (relating to minimum funding standard) is amended by adding at the end thereof the following new subsection:

"(m) QUARTERLY CONTRIBUTIONS REQUIRED.—

"(1) IN GENERAL.—If a plan (other than a multiemployer plan) fails to pay the full amount of a required installment for any plan year, then the rate of interest charged to the funding standard account under subsection (b)(5) with respect to the amount of the underpayment for the period of the underpayment shall be equal to the greater of—

"(A) 175 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or

"(B) the rate under subsection (b)(5).

"(2) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1)—

"(A) AMOUNT.—The amount of the underpayment shall be the excess of—

"(i) the required installment, over

---

[96] Copy read "1082(c)(10)".

"(ii) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(B) PERIOD OF UNDERPAYMENT.—The period for which interest is charged under this subsection with regard to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan (determined without regard to subsection (c)(10)).

"(C) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of subparagraph (A)(ii), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(3) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this subsection—

"(A) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(B) TIME FOR PAYMENT OF INSTALLMENTS.—

"In the case of the following required installments:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year.

"(4) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The amount of any required installment shall be the applicable percentage of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) 90 percent of the amount required to be contributed to or under the plan by the employer for the plan year under section 412 (without regard to any waiver under subsection (c) thereof), or

"(ii) 100 percent of the amount so required for the preceding plan year.

Clause (ii) shall not apply if the preceding plan year was not a year of 12 months.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

"For plan years beginning in:	The applicable percentage is:
1989	6.25
1990	12.5
1991	18.75
1992 and thereafter	25.

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan with any unpredictable contingent event benefit liabilities—

"(i) such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B), and "(ii) each required installment shall be increased by the greater of—

"(I) the amount of benefits described in subsection (l)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (l)(5)(A)(ii) for the plan year.

"(5) FISCAL YEARS AND SHORT YEARS.—

"(A) FISCAL YEARS.—In applying this subsection to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this subsection, the months which correspond thereto.

"(B) SHORT PLAN YEAR.—This subsection shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary."

(2) AMENDMENT TO ERISA.—Section 302 of ERISA (29 U.S.C. 1082) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) QUARTERLY CONTRIBUTIONS REQUIRED.—

"(1) IN GENERAL.—If a plan (other than a multiemployer plan) fails to pay the full amount of a required installment for any plan year, then the rate of interest charged to the funding standard account under subsection (b)(5) with respect to the amount of the underpayment for the period of the underpayment shall be equal to the greater of—

"(A) 175 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or

"(B) the rate under subsection (b)(5).

"(2) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1)—

"(A) AMOUNT.—The amount of the underpayment shall be the excess of—

"(i) the required installment, over

"(ii) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(B) PERIOD OF UNDERPAYMENT.—The period for which any interest is charged under this subsection with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan (determined without regard to subsection (c)(10)).

"(C) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of subparagraph (A)(ii), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(3) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this subsection—

"(A) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(B) TIME FOR PAYMENT OF INSTALLMENTS.—

"In the case of the following required installments:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year.

"(4) Amount of required installment.—For purposes of this subsection—

"(A) In general.—The amount of any required installment shall be the applicable percentage of the required annual payment.

"(B) Required annual payment.—For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) 90 percent of the amount required to be contributed to or under the plan by the employer for the plan year under section 412 of the Internal Revenue Code of 1986 (without regard to any waiver under subsection (c) thereof), or

"(ii) 100 percent of the amount so required for the preceding plan year.

Clause (ii) shall not apply if the preceding plan year was not a year of 12 months.

"(C) Applicable percentage.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

"For plan years beginning in:	The applicable percentage is:
1989	6.25
1990	12.5
1991	18.75
1992 and thereafter	25.

"(D) Special rules for unpredictable contingent event benefits.—In the case of a plan with any unpredictable contingent event benefit liabilities—

"(i) such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B), and

"(ii) each required installment shall be increased by the greater of—

"(I) the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (d)(5)(A)(ii) for the plan year.

"(5) Fiscal years and short years.—

"(A) Fiscal years.—In applying this subsection to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this subsection, the months which correspond thereto.

"(B) Short plan year.—This section shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary of the Treasury." Regulations.

(3) Effective date.—The amendments made by this subsection shall apply with respect to plan years beginning after 1988. 26 USC 412 note.

(c) Increase in Excise Tax From 5 Percent to 10 Percent.—

26 USC 4971.

(1) In general.—Section 4971(a) of the 1986 Code (relating to initial tax on failure to meet minimum funding standards) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent (5 percent in the case of a multiemployer plan)".

26 USC 4971 note.

(2) Effective date.—The amendments made by this subsection shall apply to plan years beginning after 1988.

(d) Requirement of Notice.—Section 101 of ERISA (relating to duty of disclosure and reporting) (29 U.S.C. 1021) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Notice of Failure to Meet Minimum Funding Standards.—

"(1) In general.—If an employer of a plan other than a multiemployer plan fails to make a required installment or other payment required to meet the minimum funding standards under section 302 to a plan before the 60th day following the due date for such installment or other payment, the employer shall notify each participant and beneficiary (including an alternate payee as defined in section 206(d)(3)(K)) of such plan of such failure. Such notice shall be made at such time and in such manner as the Secretary may prescribe.

"(2) Subsection not to apply if waiver pending.—This subsection shall not apply to any failure if the employer has filed a waiver request under section 303 with respect to the plan year to which the required installment relates, except that if the waiver request is denied, notice under paragraph (1) shall be provided within 60 days after the date of such denial.

"(3) Definitions.—For purposes of this subsection, the terms 'required installment' and 'due date' have the same meanings given such terms by section 302(e)."

(e) Imposition of Lien Where Failure to Make Required Contributions.—

(1) Amendment to 1986 code.—Section 412 of the 1986 Code (as amended by this subtitle) is amended by adding at the end thereof the following new subsection:

"(n) Imposition of Lien Where Failure to Make Required Contributions.—

"(1) In general.—In the case of a plan to which this section applies, if—

"(A) any person fails to make a required installment under subsection (m) or any other payment required under this section before the due date for such installment or other payment, and

"(B) the unpaid balance of such installment or other payment (including interest), when added to the aggregate unpaid balance of all preceding such installments or other payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

"(2) Plans to which subsection applies.—This subsection shall apply to a defined benefit plan (other than a multiemployer plan) for any plan year for which the funded current liability percentage (within the meaning of subsection (l)(8)(B)) of such plan is less than 100 percent.

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the lesser of—

"(A) the amount by which the unpaid balances described in paragraph (1)(B) (including interest) exceed $1,000,000, or

"(B) the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

"(i) for plan years beginning after 1987, and

"(ii) for which payment has not been made before the due date.

"(4) NOTICE OF FAILURE; LIEN.—

"(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required installment or other payment.

"(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the 60th day following the due date for the required installment or other payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

"(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 of the Employee Retirement Income Security Act of 1974 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (m), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under this section.[97]

"(B) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414."

(2) AMENDMENT TO ERISA.—Section 302 of ERISA (as amended by this subtitle) (29 U.S.C. 1082) is amended by redesignating subsection (f) as subsection (g) and by adding after subsection (e) the following new subsection:

"(f) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—In the case of a plan to which this section applies, if—

---

[97] Copy read "section." ".

"(A) any person fails to make a required installment under subsection (e) or any other payment required under this section before the due date for such installment or other payment, and

"(B) the unpaid balance of such installment or other payment (including interest), when added to the aggregate unpaid balance of all preceding such installments or other payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a defined benefit plan (other than a multiemployer plan) for any plan year for which the funded current liability percentage (within the meaning of subsection (d)(8)(B)) of such plan is less than 100 percent.

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the lesser of—

"(A) the amount by which the unpaid balances described in paragraph (1)(B) (including interest) exceed $1,000,000, or

"(B) the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

"(i) for plan years beginning after 1987, and

"(ii) for which payment has not been made before the due date.

"(4) NOTICE OF FAILURE; LIEN.—

"(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required installment or other payment.

"(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the 60th day following the due date for the required installment or other payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

"(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (e), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under this section."

"(B) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1987.

26 USC 412 note.

SEC. 9305. LIABILITY OF MEMBERS OF CONTROLLED GROUP FOR TAXES ON FAILURE TO MEET MINIMUM FUNDING STANDARDS AND TO MAKE MINIMUM FUNDING CONTRIBUTIONS.

(a) EXCISE TAX.—

(1) IN GENERAL.—Section 4971 of the 1986 Code (relating to taxes on failure to meet minimum funding standards) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

26 USC 4971.

"(e) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the tax imposed by subsection (a) or (b) shall be paid by the employer responsible for contributing to or under the plan the amount described in section 412(b)(3)(A).

"(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for the tax imposed by subsection (a) or (b).

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (a) of section 4971 of the 1986 Code is amended by striking out the last sentence.

(B) Subsection (b) of section 4971 of the 1986 Code is amended by striking out the last sentence.

(b) MINIMUM FUNDING CONTRIBUTIONS.—

(1) AMENDMENT TO 1986 CODE.—Section 412(c) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) LIABILITY FOR CONTRIBUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of any contribution required by this section and any required installments under subsection (m) shall be paid by the employer responsible for contributing to or under the plan the amount described in subsection (b)(3)(A).

"(B) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—

"(i) IN GENERAL.—In the case of a plan other than a multiemployer plan, if the employer referred to in subparagraph (A) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contribution or required installment.

"(ii) CONTROLLED GROUP.—For purposes of clause (i), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(2) AMENDMENT TO ERISA.—Section 302(c) of ERISA (29 U.S.C. 1082(c)) is amended by adding at the end thereof the following new paragraph:

"(11) LIABILITY FOR CONTRIBUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of any contribution required by this section and any required installments under subsection (e) shall be paid by the employer responsible for contributing to or under the plan the amount described in subsection (b)(3)(A).

"(B) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—

"(i) IN GENERAL.—In the case of a plan other than a multiemployer plan, if the employer referred to in subparagraph (A) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contribution or required installment.

"(ii) CONTROLLED GROUP.—For purposes of clause (i), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986." [98]

26 USC 414. (c) CONFORMING AMENDMENT.—Section 414(b) of the 1986 Code is amended by striking out "the minimum funding standard of section 412, the tax imposed by section 4971, and".

26 USC 412 note. (d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 1987.

SEC. 9306. FUNDING WAIVERS.

(a) REQUIREMENTS FOR WAIVERS.—

(1) AMENDMENTS TO 1986 CODE.—

(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—Subsection (d) of section 412 of the 1986 Code (relating to variance from minimum funding standard) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—In the case of a plan other than a multiemployer plan, no waiver may be granted under this subsection with respect to any plan for any plan year unless an application therefor is submitted to the Secretary not later than the 15th day of the 3rd month beginning after the close of such plan year."

(B) WAIVER ALLOWED ONLY FOR TEMPORARY HARDSHIP.—Subsection (d) of section 412 of the 1986 Code is amended—

(i) by striking out "substantial business hardship" in paragraphs (1) and (2) and inserting in lieu thereof "temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan)", and

---

[98] Indention on paragraphs " '(11)", " '(A)", " '(B)", " '(i)", and " '(ii)", incorrect.

(ii) by striking out "SUBSTANTIAL" in the headings of paragraphs (1) and (2).

(C) HARDSHIP MUST ALSO EXIST AT CONTROLLED GROUP LEVEL.—Subsection (d) of section 412 of the 1986 Code is amended by adding at the end thereof the following new paragraph: 26 USC 412.

"(5) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this subsection.

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(2) AMENDMENTS TO ERISA.—

(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—Section 303 of ERISA (relating to variance from minimum funding standard) (29 U.S.C. 1083) is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL RULES.—

"(1) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—In the case of a plan other than a multiemployer plan, no waiver may be granted under this section with respect to any plan for any plan year unless an application therefor is submitted to the Secretary of the Treasury not later than the 15th day of the 3rd month beginning after the close of such plan year."

(B) WAIVER ALLOWED ONLY FOR TEMPORARY HARDSHIP.—Section 303 of ERISA (29 U.S.C. 1083) is amended by striking out "substantial business hardship" in subsections (a) and (b) and inserting in lieu thereof "temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan)".

(C) HARDSHIP MUST ALSO EXIST AT CONTROLLED GROUP LEVEL.—Subsection (d) of section 303 of ERISA (as amended by subparagraph (A)) (29 U.S.C. 1083) is amended by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of subsection (a) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary of the Treasury may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary of the Treasury determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this subsection.

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

(b) FREQUENCY OF WAIVERS.—

26 USC 412.

(1) AMENDMENTS TO 1986 CODE.—The second sentence of section 412(d)(1) of the 1986 Code is amended by striking out "more than 5 of any 15" and inserting in lieu thereof "more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan)".

(2) AMENDMENTS TO ERISA.—The second sentence of section 303(a) of ERISA (29 U.S.C. 1083(a)) is amended by striking out "more than 5 of any 15" and inserting in lieu thereof "more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan)".

(c) INTEREST ON REPAYMENT OF WAIVED CONTRIBUTIONS.—

(1) AMENDMENTS TO 1986 CODE.—

(A) Paragraph (1) of section 412(d) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in subsection (b)(2)(C) for any plan year shall be—

"(A) in the case of a plan other than a multiemployer plan, the greater of (i) 150 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or (ii) the rate of interest used under the plan in determining costs, and

"(B) in the case of a multiemployer plan, the rate determined under section 6621(b)."

(B) Subsection (e) of section 412 of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "In the case of a plan other than a multiemployer plan, the interest rate applicable for any plan year under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs. In the case of a multiemployer plan, such rate shall be the rate determined under section 6621(b)."

(2) AMENDMENTS TO ERISA.—

(A) Subsection (a) of section 303 of ERISA (29 U.S.C. 1083(a)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in subsection (b)(2)(C) for any plan year shall be—

"(A) in the case of a plan other than a multiemployer plan, the greater of (i) 150 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (ii) the rate of interest used under the plan in determining costs, and

"(B) in the case of a multiemployer plan, the rate determined under section 6621(b)."

(B) Subsection (a) of section 304 of ERISA (29 U.S.C. 1084(a)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence:

"In the case of a plan other than a multiemployer plan, the interest rate applicable for any plan year under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs. In the case of a multiemployer plan, such rate shall be the rate determined under section 6621(b) of such Code."

(d) NOTICE TO PARTICIPANTS OF APPLICATION FOR FUNDING WAIVERS.—

(1) AMENDMENT TO 1986 CODE.—Section 412 (f)(4)(A) of the 1986 Code (relating to advance notice) is amended by striking out "plan." and inserting in lieu thereof "plan, and each participant, beneficiary, and alternate payee (within the meaning of section 414(p)(8)). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV of such Act and the benefit liabilities.". 26 USC 412.

(2) AMENDMENT TO ERISA.—Section 303(e)(1) of ERISA (relating to advance notice) (29 U.S.C. 1083(e)(1)) is amended by striking out "plan." and inserting in lieu thereof "plan, and each affected party (as defined in section 4001(a)(21)) other than the Pension Benefit Guaranty Corporation. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and the benefit liabilities.".

(e) DECREASE IN AMOUNT OF DEFICIENCIES REQUIRED BEFORE SECURITY REQUIRED.—

(1) AMENDMENT TO 1986 CODE.—Subparagraph (C) of section 412 (f)(3) is amended by striking out "$2,000,000" and inserting in lieu thereof "$1,000,000".

(2) AMENDMENT TO ERISA.—Section 306(c)(1) of ERISA (29 U.S.C. 1085a(c)(1)) is amended by striking out "$2,000,000" and inserting in lieu thereof "$1,000,000".

(f) EFFECTIVE DATES.— 26 USC 412 note.

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply in the case of—

(A) any application submitted after December 17, 1987, and

(B) any waiver granted pursuant to such an application.

(2) SPECIAL RULE FOR APPLICATION REQUIREMENT.—

(A) IN GENERAL.—The amendments made by subsections (a)(1)(A) and (a)(2)(A) shall apply to plan years beginning after December 31, 1987.

(B) TRANSITIONAL RULE FOR YEARS BEGINNING IN 1988.—In the case of any plan year beginning during calendar 1988, section 412(d)(4) of the 1986 Code and section 303(d)(1) of ERISA (as added by subsection (a)(1)) shall be applied by substituting "6th month" for "3rd month".

(3) FREQUENCY OF WAIVERS.—In applying the second sentence of section 412(d) of the 1986 Code and section 303(a) of ERISA to plans other than multiemployer plans, the number of waivers which may be granted pursuant to applications submitted after December 17, 1987, shall be determined without regard to waivers granted with respect to plan years beginning before January 1, 1988.

(4) SUBSECTION (d).—The amendments made by subsection (d) shall apply to applications submitted more than 90 days after the date of the enactment of this Act.

SEC. 9307. OTHER FUNDING CHANGES.

(a) AMORTIZATION PERIODS.—

(1) AMENDMENTS TO 1986 CODE.—

26 USC 412.

(A) Paragraphs (2)(B)(iv), (2)(C), and (3)(B)(ii) of section 412(b) of the 1986 Code are each amended by striking out "15 plan years" and inserting in lieu thereof "5 plan years (15 plan years in the case of a multiemployer plan)".

(B) Paragraphs (2)(B)(v) and (3)(B)(iii) of section 412(b) of the 1986 Code are each amended by striking out "30 plan years" and inserting in lieu thereof "10 plan years (30 plan years in the case of a multiemployer plan)".

(2) AMENDMENTS TO ERISA.—

(A) Paragraphs (2)(B)(iv), (2)(C), and (3)(B)(ii) of section 302(b) of ERISA (29 U.S.C. 1082(b)) are each amended by striking out "15 plan years" and inserting in lieu thereof "5 plan years (15 plan years in the case of a multiemployer plan)".

(B) Paragraphs (2)(B)(v) and (3)(B)(iii) of section 302(b) of ERISA (29 U.S.C. 1082(b)) are each amended by striking out "30 plan years" and inserting in lieu thereof "10 plan years (30 plan years in the case of a multiemployer plan)".

(b) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—

(1) AMENDMENT TO 1986 CODE.—Paragraph (3) of section 412(c) of the 1986 Code is amended to read as follows:

"(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

"(A) in the case of—

"(i) a plan other than a multiemployer plan, each of which is reasonable (taking into account the experience of the plan and reasonable expectations) or which, in the aggregate, result in a total contribution equivalent to that which would be determined if each such assumption and method were reasonable, or

"(ii) a multiemployer plan, which, in the aggregate, are reasonable (taking into account the experiences of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan."

(2) AMENDMENT TO ERISA.—Paragraph (3) of section 302(c) of ERISA (29 U.S.C. 1082(c)(3)) is amended to read as follows:

"(3) For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

"(A) in the case of—

"(i) a plan other than a multiemployer plan, each of which is reasonable (taking into account the experience of the plan and reasonable expectations) or which, in the aggregate, result in a total contribution equivalent to that which would be determined if each such assumption and method were reasonable, or

"(ii) a multiemployer plan, which, in the aggregate, are reasonable (taking into account the experiences of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan."

(c) LIMITATION ON DEDUCTION FOR CONTRIBUTIONS TO CERTAIN PLANS NOT LESS THAN UNFUNDED CURRENT LIABILITY.—Paragraph (1) of section 404(a) of the 1986 Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph: 26 USC 404.

"(D) SPECIAL RULE IN CASE OF CERTAIN PLANS.—In the case of any defined benefit plan (other than a multiemployer plan) which has more than 100 participants for the plan year, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the unfunded current liability determined under section 412(l) (without regard to any reduction by the credit balance in the funding standard account). For purposes of this subparagraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group (within the meaning of section 412(l)(8)(c))) shall be treated as 1 plan, but only employees of such member or employer shall be taken into account."

(d) LIMITATION ON AMORTIZATION OF PAST SERVICE CREDITS.—Clause (iii) of section 404(a)(1)(A) of the 1986 Code (relating to pension trusts) is amended by striking out "to amortize such credits" and inserting in lieu thereof "to amortize the unfunded costs attributable to such credits".

(e) LIMITATION ON INTEREST RATE.—

(1) AMENDMENT TO 1986 CODE.—Paragraph (5) of section 412(b) of the 1986 Code (relating to interest) is amended to read as follows:

"(5) INTEREST.—

"(A) IN GENERAL.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs. Regulations.

"(B) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan's current liability and for purposes of determining a plan's required contribution under section 412(l) for any plan year—

"(i) IN GENERAL.—If any rate of interest used under the plan to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 10 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

"(II) SECRETARIAL AUTHORITY.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, the Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under subclause (I).

"(iii) ASSUMPTIONS.—Notwithstanding subsection (c)(3)(A)(i), for purposes of this section and for purposes of determining current liability, the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.".

(2) AMENDMENT TO ERISA.—Paragraph (5) of section 302(b) of ERISA (relating to interest) (29 U.S.C. 1082(b)(5)) is amended to read as follows:

"(5) INTEREST.—For purposes of determining a plan's current liability and for purposes of determining a plan's required contribution under section 412(l) for any plan year—

Regulations.

"(A) IN GENERAL.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

"(B) REQUIRED CHANGE OF INTEREST RATE.—

"(i) IN GENERAL.—If any rate of interest used under the plan to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 10 percent above, and not more than 10 percent below, the average rate of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

"(II) Secretarial authority.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, the Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under subclause (I).

"(iii) Assumptions.—Notwithstanding subsection (c)(3)(A)(i), for purposes of this section and for purposes of determining current liability, the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.".[98a]

(f) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1987. 26 USC 404 note.

Subpart B—Plan Terminations

SEC. 9311. LIMITATIONS ON EMPLOYER REVERSIONS UPON PLAN TERMINATION.

(a) Restrictions on Reversions Pursuant to Recently Amended Plans.—

(1) In general.—Section 4044(d) of ERISA (29 U.S.C. 1344(d)) is amended—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2)(A) In determining the extent to which a plan provides for the distribution of plan assets to the employer for purposes of paragraph (1)(C), any such provision, and any amendment increasing the amount which may be distributed to the employer, shall not be treated as effective before the end of the fifth calendar year following the date of the adoption of such provision or amendment.

"(B) A distribution to the employer from a plan shall not be treated as failing to satisfy the requirements of this paragraph if the plan has been in effect for fewer than 5 years and the plan has provided for such a distribution since the effective date of the plan.

"(C) Except as otherwise provided in regulations of the Secretary of the Treasury, in any case in which a transaction described in section 208 occurs, subparagraph (A) shall continue to apply separately with respect to the amount of any assets transferred in such transaction. Regulations.

"(D) For purposes of this subsection, the term 'employer' includes any member of the controlled group of which the employer is a member. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m) or (o) of section 414 of the Internal Revenue Code of 1986."

(2) Transitional rule.—The amendments made by paragraph (1) shall apply, in the case of plans which, as of December 17, 1987, have no provision relating to the distribution of plan assets to the employer for purposes of section 4044(d)(1)(C) of the Employee Retirement Income Security Act of 1974, only with respect to plan amendments providing for the 29 USC 1344 note.

[98a] Copy read "plan."

distribution of plan assets to the employer which are adopted after 1 year after the effective date of such amendments made by paragraph (1). Such amendment shall not apply to any provision of the plan adopted on or before December 17, 1987, which provides for the distribution of plan assets to the employer.

(b) DISTRIBUTION OF ASSETS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—Section 4044(d) of ERISA (29 U.S.C. 1344(d)) is amended—

(1) in paragraph (1), by striking "Any" and inserting "Subject to paragraph (3), any"; and

(2) by striking paragraph (3) (as redesignated by subsection (c)(1)) and inserting the following new paragraph:

"(3)(A) Before any distribution from a plan pursuant to paragraph (1), if any assets of the plan attributable to employee contributions remain after satisfaction of all liabilities described in subsection (a), such remaining assets shall be equitably distributed to the participants who made such contributions or their beneficiaries (including alternate payees, within the meaning of section 206(d)(3)(K)).

"(B) For purposes of subparagraph (A), the portion of the remaining assets which are attributable to employee contributions shall be an amount equal to the product derived by multiplying—

"(i) the market value of the total remaining assets, by

"(ii) a fraction—

"(I) the numerator of which is the present value of all portions of the accrued benefits with respect to participants which are derived from participants' mandatory contributions (referred to in subsection (a)(2)), and

"(II) the denominator of which is the present value of all benefits with respect to which assets are allocated under paragraphs (2) through (6) of subsection (a).

"(C) For purposes of this paragraph, each person who is, as of the termination date—

"(i) a participant under the plan, or

"(ii) an individual who has received, during the 3-year period ending with the termination date, a distribution from the plan of such individual's entire nonforfeitable benefit in the form of a single sum distribution in accordance with section 203(e) or in the form of irrevocable commitments purchased by the plan from an insurer to provide such nonforfeitable benefit,

shall be treated as a participant with respect to the termination, if all or part of the nonforfeitable benefit with respect to such person is or was attributable to participants' mandatory contributions (referred to in subsection (a)(2))."

(c) TECHNICAL AMENDMENT.—Section 4044(b)(4) of ERISA (29 U.S.C. 1344(b)(4)) is amended by striking "section 401(a), 403(a), or 405(a)" and inserting "section 401(a) or 403(a)".

29 USC 1344 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to—

(1) plan terminations under section 4041(c) of ERISA with respect to which notices of intent to terminate are provided under section 4041(a)(2) of ERISA after December 17, 1987, and

(2) plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of ERISA after December 17, 1987.

SEC. 9312. ELIMINATION OF SECTION 4049 TRUST; INCREASE IN LIABILITY TO PENSION BENEFIT GUARANTY CORPORATION AND IN PAYMENTS BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES.

(a) REPEAL.—Section 4049 of ERISA (29 U.S.C. 1349) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) ELIMINATION OF EMPLOYER LIABILITY TO SECTION 4049 TRUST.—

(A) REPEAL.—Subsection (c) of section 4062 of ERISA (29 U.S.C. 1362(c)) is repealed.

(B) CONFORMING AMENDMENTS.—Section 4062 of ERISA is further amended by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(2) INCREASE IN EMPLOYER LIABILITY TO THE CORPORATION.—

(A) IN GENERAL.—Subparagraph (A) of section 4062(b)(1) of ERISA (29 U.S.C. 1362(b)(1)(A)) is amended to read as follows:

Regulations.

"(A) IN GENERAL.—Except as provided in subparagraph (B), the liability to the corporation of a person described in subsection (a) shall be the total amount of the unfunded benefit liabilities (as of the termination date) to all participants and beneficiaries under the plan, together with interest (at a reasonable rate) calculated from the termination date in accordance with regulations prescribed by the corporation."

(B) LIEN LIMITED TO 30 PERCENT OF NET WORTH.—

(i) Subsection (a) of section 4068 of ERISA (29 U.S.C. 1368(a)) is amended by striking out "to the extent of an amount equal to the unpaid amount described in section 4062(b)(1)(A)(i)" each place it appears and inserting in lieu thereof "to the extent such amount does not exceed 30 percent of the collective net worth of all persons described in section 4062(a)".

(ii) Title IV of ERISA (29 U.S.C. 4001 et seq.) is amended by transferring subsection (e) of section 4062 of ERISA (29 U.S.C. 1362(e)) to the end of section 4068 of ERISA (29 U.S.C. 1368) and by redesignating such subsection as subsection (f).

(C) TREATMENT OF MULTIPLE CONTROLLED GROUPS.—

(i) IN GENERAL.—So much of section 4064(b) of ERISA (29 U.S.C. 1364(b)) as precedes the second sentence is amended to read as follows:

"(b) The corporation shall determine the liability with respect to each contributing sponsor and each member of its controlled group in a manner consistent with section 4062, except that the amount of liability determined under section 4062(b)(1) with respect to the entire plan shall be allocated to each controlled group by multiplying such amount by a fraction—

"(1) the numerator of which is the amount required to be contributed to the plan for the last 5 plan years ending prior to the termination date by persons in such controlled group as contributing sponsors, and

"(2) the denominator of which is the total amount required to be contributed to the plan for such last 5 plan years by all persons as contributing sponsors, and clauses (i)(II) and (ii) of section 4062(b)(1)(A) shall be applied separately with respect to each controlled group."

(ii) CONFORMING AMENDMENTS.—Section 4068(a) of ERISA (29 U.S.C. 1368(a)) is amended by adding at the end thereof the following new sentence: "The preceding provisions of this subsection shall be applied in a manner consistent with the provisions of section 4064(d) relating to treatment of multiple controlled groups."

(3) PAYMENT BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES OF RECOVERY PERCENTAGE OF OUTSTANDING AMOUNT OF BENEFIT LIABILITIES.—

(A) IN GENERAL.—Section 4022 of ERISA (29 U.S.C. 1322) is amended—

(i) by redesignating subsections (c) and (d) as subsections (d) and (e); and

(ii) by inserting after subsection (b) the following new subsection:

"(c)(1) In addition to benefits paid under the preceding provisions of this section with respect to a terminated plan, the corporation shall pay the portion of the amount determined under paragraph (2) which is allocated with respect to each participant under section 4044(a), to such participant or (in the case of a deceased participant) to such participant's beneficiaries (including alternate payees, within the meaning of section 206(d)(3)(K)).

"(2) The amount determined under this paragraph is an amount equal to the product derived by multiplying—

"(A) the outstanding amount of benefit liabilities under the plan (including interest calculated from the termination date), by

"(B) the applicable recovery ratio.

"(3)(A) Except as provided in subparagraph (C), for purposes of this subsection, the term 'recovery ratio' means the average ratio, with respect to prior plan terminations described in subparagraph (B), of—

"(i) the value of the recovery of the corporation under section 4062, 4063, or 4064 in connection with such prior terminations, to

"(ii) the amount of unfunded benefit liabilities under such plans as of the termination date in connection with such prior terminations.

"(B) A plan termination described in this subparagraph is a termination with respect to which—

"(i) the corporation has determined the value of recoveries under section 4062, 4063, or 4064, and

"(ii) notices of intent to terminate were provided after December 17, 1987.

"(C) In the case of a terminated plan with respect to which the outstanding amount of benefit liabilities exceeds $20,000,000, for purposes of this section, the term 'recovery ratio' means, with respect to the termination of such plan, the ratio of—

"(i) the value of the recoveries of the corporation under section 4062, 4063, or 4064 in connection with such plan, to

"(ii) the amount of unfunded benefit liabilities under such plan as of the termination date.

"(4) Determinations under this subsection shall be made by the corporation. Such determinations shall be binding unless shown by clear and convincing evidence to be unreasonable."

(B) TRANSITIONAL RULE.—

29 USC 1322 note.

(i) IN GENERAL.—In the case of any plan termination to which the amendments made by this section apply and with respect to which notices of intent to terminate were provided on or before December 17, 1990—

(I) subparagraph (A) of section 4022(c)(1) of ERISA (as amended by this paragraph) shall not apply, and

(II) subparagraph (B) of section 4022(c)(1) of ERISA (as so amended) shall apply irrespective of the outstanding amount of benefit liabilities under the plan.

(ii) LIMITATION.—Clause (i) shall not apply in the case of any plan termination referred to in clause (i) with respect to which the recovery ratio is not finally determined under section 4022(c)(1)(B) of ERISA (as so amended) as of December 17, 1990.

(4) BENEFIT LIABILITIES.—Paragraph (16) of section 4001(a) of ERISA (29 U.S.C. 1301(a)(16)) is amended to read as follows:

"(16) 'benefit liabilities' means the benefits of employees and their beneficiaries under the plan (within the meaning of section 401(a)(2) of the Internal Revenue Code of 1986);".

(5) OUTSTANDING AMOUNT OF BENEFIT LIABILITIES.—Paragraph (19) of section 4001(a) of ERISA (29 U.S.C. 1301(a)(19)) is amended to read as follows:

"(19) 'outstanding amount of benefit liabilities' means, with respect to any plan, the excess (if any) of—

"(A) the value of the benefit liabilities under the plan (determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044), over

"(B) the value of the benefit liabilities which would be so determined by only taking into account benefits which are guaranteed under section 4022 or to which assets of the plan are allocated under section 4044;".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 4041(c)(3)(B)(ii) of ERISA (29 U.S.C. 1341(c)(3)(B)(ii)) is amended—

(A) by striking subclause (II);

(B) by striking "plan, and" at the end of subclause (I) and inserting "plan."; and

(C) by striking "available to it—" and all that follows through "the plan administrator" and inserting "available to it, the plan administrator".

(2) Section 4041(c)(3)(B)(iii) of ERISA (29 U.S.C. 1341(c)(3)(B)(iii)) is amended—

(A) by striking subclause (II);

(B) by striking "section 4042, and" at the end of subclause (I) and inserting "section 4042."; and

(C) by striking "available to it—" and all that follows through "the corporation" in subclause (I) and inserting "available to it, the corporation".

(3) Subsection (i) of section 4042 of ERISA (29 U.S.C. 1342(i)) is repealed.

(4) Section 4005(g) of ERISA (29 U.S.C. 1305(g)) is amended by striking out "or fiduciaries with respect to trusts to which the requirements of section 4049 apply".

29 USC 1301 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to—

(A) plan terminations under section 4041(c) of ERISA with respect to which notices of intent to terminate are provided under section 4041(a)(2) of ERISA after December 17, 1987, and

(B) plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of ERISA after December 17, 1987.

Regulations. 29 USC 1349.

(2) SECTION 4049 ADMINISTRATIVE EXPENSES UNDER PRIOR TERMINATIONS.—Section 4049(a) of ERISA (as effective under paragraph (1)), is amended by adding at the end thereof the following new sentence: "Reasonable administrative expenses incurred in carrying out the responsibilities under this section prior to the receipt of any liability payments under section 4062(c) shall be paid by the persons described in section 4062(a) in accordance with procedures which shall be prescribed by the corporation by regulation, and the amount of the liability determined under section 4062(c) shall be reduced by the amount of such expenses so paid."

SEC. 9313. STANDARDS FOR TERMINATION.

(a) STANDARD TERMINATION PROCEDURES AVAILABLE ONLY WHEN ASSETS SUFFICIENT TO MEET BENEFIT LIABILITIES.—

(1) IN GENERAL.—Subparagraph (D) of section 4041(b)(1) of ERISA (29 U.S.C. 1341(b)(1)(D)) is amended to read as follows:

"(D) when the final distribution of assets occurs, the plan is sufficient for benefit liabilities (determined as of the termination date)."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraphs (2)(A), (2)(C), (2)(D), and (3) of section 4041(b) of ERISA (29 U.S.C. 1341(b)(2)(A), (2)(C), (2)(D), (3)) are each amended by striking out "benefit commitments" each place it appears and inserting in lieu thereof "benefit liabilities".

(B) Subparagraph (B) of section 4041(b)(2) of ERISA (29 U.S.C. 1341(b)(2)(B)) is amended—

(i) by striking out "the amount of such person's benefit commitments (if any)" and inserting in lieu thereof "the amount of the benefit liabilities (if any) attributable to such person"; and

(ii) by striking out "such benefit commitments" and inserting in lieu thereof "such benefit liabilities".

(C)(i) Subparagraph (A) of section 4041(b)(3) of ERISA (29 U.S.C. 1341(b)(3)(A)) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) purchase irrevocable commitments from an insurer to provide all benefit liabilities under the plan, or

"(ii) in accordance with the provisions of the plan and any applicable regulations, otherwise fully provide all benefit liabilities under the plan."

(ii) Subparagraph (B) of section 4041(b)(3) of ERISA (29 U.S.C. 1341(b)(3)) is amended by striking out "so as to pay" and all that follows and inserting in lieu thereof "so as to pay all benefit liabilities under the plan".

(D) Paragraphs (2) and (3) of section 4041(c) of ERISA (29 U.S.C. 1341(c) (2), (3)) are each amended by striking out "benefit commitments" each place it appears (including in any heading) and inserting in lieu thereof "benefit liabilities".

(E) Paragraph (1) of section 4041(d) of ERISA (29 U.S.C. 1341(d)) is amended—

(i) by striking out "no amount of unfunded benefit commitments" and inserting in lieu thereof "no amount of unfunded benefit liabilities", and

(ii) by striking out "BENEFIT COMMITMENTS" in the paragraph heading and inserting in lieu thereof "BENEFIT LIABILITIES".

(F) Paragraph (18) of section 4001(a) of ERISA (29 U.S.C. 1301(a)(18)) is amended to read as follows:

"(18) 'amount of unfunded benefit liabilities' means, as of any date, the excess (if any) of—

"(A) the value of the benefit liabilities under the plan (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044), over

"(B) the current value (as of such date) of the assets of the plan;".

(b) CRITERIA FOR DISTRESS TERMINATION.—

(1) APPLICABILITY TO ALL MEMBERS OF CONTROLLED GROUP.—Section 4041(c)(2) of ERISA (29 U.S.C. 1341(c)(2)) is amended—

(A) in subparagraph (B), by striking "a substantial member" in the matter preceding clause (i) and inserting "a member"; and

(B) by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(2) REQUIREMENT OF ADDITIONAL FINDINGS TO QUALIFY FOR DISTRESS TERMINATION BASED ON REORGANIZATION IN BANKRUPTCY.—Section 4041(c)(2)(B)(ii)(III) of ERISA (29 U.S.C. 1341(c)(2)(B)(ii)(III)) is amended by striking "approves the termination" and inserting "determines that, unless the plan is terminated, such person will be unable to pay all its debts pursuant to a plan of reorganization and will be unable to continue in business outside the chapter 11 reorganization process and approves the termination".

(3) CLARIFICATION OF DATE AS OF WHICH EMPLOYER MUST BE IN A BANKRUPTCY PROCEEDING TO QUALIFY FOR DISTRESS TERMINATION.—Clauses (i) and (ii) of section 4041(c)(2)(B) of ERISA (29 U.S.C. 1341(c)(2)(B) (i) and (ii)) are each amended by inserting "proposed" before "termination date".

(4) TREATMENT UNDER DISTRESS TESTS OF CASES CONVERTED TO LIQUIDATION.—Section 4041(c)(2)(B)(i)(I) of ERISA (29 U.S.C. 1341(c)(2)(B)(i)(I)) is amended by inserting before the comma at the end the following: "(or a case described in clause (ii) filed by or against such person has been converted, as of such date, to a case in which liquidation is sought)".

(5) NOTICE TO CORPORATION UNDER REORGANIZATION DISTRESS TEST.—Section 4041(c)(2)(B)(ii) of ERISA (29 U.S.C 1341(c)(2)(B)(ii)) is amended—

(A) in subclause (II), by striking "and" at the end;

(B) by redesignating subclause (III) as subclause (IV);

(C) by inserting after subclause (II) the following new subclause:

"(III) such person timely submits to the corporation any request for the approval of the bankruptcy court (or other appropriate court in a case under such similar law of a State or political subdivision) of the plan termination, and";

and

(D) in subclause (IV) (as redesignated), by striking "(or other" and all that follows through "subdivision)" and inserting "(or such other appropriate court)".

(6) ARRANGEMENTS FOR PAYMENT OF LIABILITY BY CONTROLLED GROUPS.—Section 4067 of ERISA (29 U.S.C. 1367) is amended by striking "controlled groups who are" and inserting "controlled groups who are or may become".

29 USC 1301 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan terminations under section 4041 of ERISA with respect to which notices of intent to terminate are provided under section 4041(a)(2) of ERISA after December 17, 1987.

SEC. 9314. ADDITIONAL AMENDMENTS RELATING TO PLAN TERMINATION.

(a) CERTAIN INFORMATION NOT REQUIRED FROM CERTAIN INSURANCE CONTRACT PLANS.—

(1) STANDARD TERMINATION.—Section 4041(b)(2)(A) of ERISA (29 U.S.C. 1341(b)(2)(A)) is amended—

(A) by striking clause (iii) and inserting the following:

"(iii) certification by the plan administrator that—

"(I) the information on which the enrolled actuary based the certification under clause (i) is accurate and complete, and

"(II) the information provided to the corporation under clause (ii) is accurate and complete."; and

(B) by adding at the end thereof the following:

"Clause (i) and clause (iii)(I) shall not apply to a plan described in section 412(i) of the Internal Revenue Code of 1986.".

(2) DISTRESS TERMINATION.—Section 4041(c)(2)(A) of ERISA (29 U.S.C. 1341(c)(2)(A)) is amended—

(A) by striking clause (iv) and inserting the following:

"(iv) certification by the plan administrator that—

"(I) the information on which the enrolled actuary based the certifications under clause (ii) is accurate and complete, and

"(II) the information provided to the corporation under clauses (i) and (iii) is accurate and complete."; and

(B) by adding at the end the following:

"Clause (ii) and clause (iv)(I) shall not apply to a plan described in section 412(i) of the Internal Revenue Code of 1986.".

(b) CLARIFICATION OF EXISTING AUTHORITY TO POOL ASSETS OF TERMINATED PLANS.—Section 4042 of ERISA (29 U.S.C. 1342(a)) is amended by striking the third sentence and inserting the following: "Notwithstanding any other provision of this title, the corporation is authorized to pool assets of terminated plans for purposes of administration, investment, payment of liabilities of all such terminated plans, and such other purposes as it determines to be appropriate in the administration of this title.".

(b) Submission of Plan Data in Involuntary Termination.—Section 4042(c) of ERISA (29 U.S.C. 1342(c)) is amended by adding at the end the following new paragraph:

"(3) In the case of a proceeding initiated under this section, the plan administrator shall provide the corporation, upon the request of the corporation, the information described in clauses (ii), (iii), and (iv) of section 4041(c)(2)(A).".

(c) Civil Penalties for Failure to Timely Provide Required Information Relating to Single-Employer Plans.—

(1) In general.—Subtitle D of ERISA (29 U.S.C. 1361 et seq.) is amended by adding at the end the following new section:

"PENALTY FOR FAILURE TO TIMELY PROVIDE REQUIRED INFORMATION

"Sec. 4071. The corporation may assess a penalty, payable to the corporation, against any person who fails to provide any notice or other material information required under this subtitle or subtitle A, B, or C, or any regulations prescribed under any such subtitle, within the applicable time limit specified therein. Such penalty shall not exceed $1,000 for each day for which such failure continues.". 29 USC 1371.

(2) Clerical amendments.—The table of contents in section 1 of ERISA (29 U.S.C. 1001 note) is amended by adding after the item relating to section 4070 the following new item:

"Sec. 4071. Penalty for failure to timely provide required information.".

Subpart C—Increase in Premium Rates

SEC. 9331. INCREASE IN PREMIUM RATES.

(a) General Rule.—Clause (i) of section 4006(a)(3)(A) of ERISA (29 U.S.C. 1306(a)(3)(A)) is amended by striking out "for plan years beginning after December 31, 1985, an amount equal to $8.50" and inserting in lieu thereof "for plan years beginning after December 31, 1987, an amount equal to the sum of $16 plus the additional premium (if any) determined under subparagraph (E)".

(b) Determination of Additional Premium.—Paragraph (3) of section 4006(a) of ERISA (29 U.S.C. 1306(a)(3)) is amended by adding at the end thereof the following new subparagraph:

"(E)(i) The additional premium determined under this subparagraph with respect to any plan for any plan year shall be an amount equal to the amount determined under clause (ii) divided by the number of participants in such plan as of the close of the preceding plan year.

"(ii) The amount determined under this clause for any plan year shall be an amount equal to $6.00 for each $1,000 (or fraction thereof) of unfunded vested benefits under the plan as of the close of the preceding plan year.

"(iii) For purposes of clause (ii)—

"(I) Except as provided in subclause (II), the term 'unfunded vested benefits' means the amount which would be the unfunded current liability (within the meaning of section 302(d)(8)(A)) if only vested benefits were taken into account.

"(II) The interest rate used in valuing vested benefits for purposes of subclause (I) shall be equal to 80 percent of the annual yield on 30-year Treasury securities for the month preceding the month in which the plan year begins.

"(iv)(I) Except as provided in this clause, the aggregate increase in the premium payable with respect to any participant by reason of this subparagraph shall not exceed $34.

"(II) If an employer made contributions to a plan during 1 or more of the 5 plan years preceding the 1st plan year to which this subparagraph applies in an amount not less than the maximum amount allowable as a deduction with respect to such contributions under section 404 of such Code, the dollar amount in effect under subclause (I) for the 1st 5 plan years to which this subparagraph applies shall be reduced by $3 for each plan year for which such contributions were made in such amount.

(c) LIABILITY FOR PREMIUM.—

(1) IN GENERAL.—Section 4007 of ERISA (29 U.S.C. 1307) is amended by striking out "plan administrator" each place it appears and inserting in lieu thereof "designated payor".

(2) DESIGNATED PAYOR.—Section 4007 of ERISA (29 U.S.C. 1307) is amended by adding at the end thereof the following new subsection:

"(e)(1) For purposes of this section, the term 'designated payor' means—

"(A) the contributing sponsor or plan administrator in the case of a single-employer plan, and

"(B) the plan administrator in the case of a multiemployer plan.

"(2) If the contributing sponsor of any single-employer plan is a member of a controlled group, each member of such group shall be jointly and severally liable for any premiums required to be paid by such contributing sponsor. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

(d) DEPOSIT OF PREMIUMS INTO SEPARATE REVOLVING FUND.—Section 4005 of ERISA (relating to establishment of Pension Benefit Guaranty funds) (29 U.S.C. 1305) is amended by redesignating subsections (f) and (g) as subsections (g) and (h) and by inserting after subsection (e) the following new subsection:

"(f)(1) A seventh fund shall be established and credited with—

"(A) premiums, penalties, and interest charges collected under section 4006(a)(3)(A)(i) (not described in subparagraph (B)) to the extent attributable to the amount of the premium in excess of $8.50,

"(B) premiums, penalties, and interest charges collected under section 4006(a)(3)(E), and

"(C) earnings on investments of the fund or on assets credited to the fund.

"(2) Amounts in the fund shall be available for transfer to other funds established under this section with respect to a single-employer plan but shall not be available to pay—

"(A) administrative costs of the corporation, or

"(B) benefits under any plan which was terminated before October 1, 1988,

unless no other amounts are available for such payment.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate."

(e) CONFORMING AMENDMENTS.—Section 4006(c)(1)(A) of ERISA (29 U.S.C. 1306(c)(1)(A)) is amended by striking out "and" at the end of clause (i), by inserting "*and before January 1, 1986,*" after "*after*

December 31, 1977,", and by adding at the end thereof the following new clause:

"(iii) with respect to each plan year beginning after December 31, 1985, and before January 1, 1988, an amount equal to $8.50 for each individual who was a participant in such plan during the plan year, and".

(f) EFFECTIVE DATE.— 29 USC 1305 note.

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1987.

(2) SEPARATE ACCOUNTING.—The amendments made by subsection (d) shall apply to fiscal years beginning after September 30, 1988.

Subpart D—Miscellaneous Provisions

SEC. 9341. SECURITY REQUIRED UPON ADOPTION OF PLAN AMENDMENT RESULTING IN SIGNIFICANT UNDERFUNDING.

(a) AMENDMENTS TO 1986 CODE.—[99] Subsection (a) of section 401 of the 1986 Code (relating to requirements for qualification) is amended by inserting after paragraph (28) the following new paragraph: [100] 26 USC 401.

"(29) SECURITY REQUIRED UPON ADOPTION OF PLAN AMENDMENT RESULTING IN SIGNIFICANT UNDERFUNDING.—

"(A) IN GENERAL.—If—

"(i) a defined benefit plan (other than a multiemployer plan) adopts an amendment an effect of which is to increase current liability under the plan for a plan year, and

"(ii) the funded current liability percentage of the plan for the plan year in which the amendment takes effect is less than 60 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment,

the trust of which such plan is a part shall not constitute a qualified trust under this subsection unless such amendment does not take effect until the contributing sponsor (or any member of the controlled group of the contributing sponsor) provides security to the plan.

"(B) FORM OF SECURITY.—The security required under subparagraph (A) shall consist of—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of the Employee Retirement Income Security Act of 1974,

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

"(iii) such other form of security as is satisfactory to the Secretary and the parties involved.

"(C) AMOUNT OF SECURITY.—The security shall be in an amount equal to the excess of—

"(i) the lesser of—

"(I) the amount of additional plan assets which would be necessary to increase the funded current liability percentage under the plan to 60 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment, or

---

[99] Copy read "CODE—".

[100] Copy read "paragraph:—".

"(II) the amount of the increase in current liability under the plan attributable to the plan amendment, over

"(ii) $10,000,000.

"(D) RELEASE OF SECURITY.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at the end of the first plan year which ends after the provision of the security and for which the funded current liability percentage under the plan is not less than 60 percent. The Secretary may prescribe regulations for partial releases of the security by reason of increases in the funded current liability percentage. Regulations.

"(E) DEFINITIONS.—For purposes of this paragraph, the terms 'current liability', 'funded current liability percentage', and 'unfunded current liability' shall have the meanings given such terms by section 412(l), except that in computing unfunded current liability there shall not be taken into account any unamortized portion of the unfunded old liability amount as of the close of the plan year."

(b) AMENDMENTS TO ERISA.—Part 3 of subtitle B of title I of ERISA (29 U.S.C. 1081 et seq.) is amended—

29 USC 1086. (1) by redesignating section 307 as section 308; and

(2) by inserting after section 306 the following new section:

"SECURITY REQUIRED UPON ADOPTION OF PLAN AMENDMENT RESULTING IN SIGNIFICANT UNDERFUNDING

29 USC 1085b. "SEC. 307. (a) IN GENERAL.—If—

"(1) a defined benefit plan (other than a multiemployer plan) adopts an amendment an effect of which is to increase current liability under the plan for a plan year, and

"(2) the funded current liability percentage of the plan for the plan year in which the amendment takes effect is less than 60 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment,

the contributing sponsor (or any member of the controlled group of the contributing sponsor) shall provide security to the plan.

"(b) FORM OF SECURITY.—The security required under subsection (a) shall consist of—

"(1) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412,

"(2) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

"(3) such other form of security as is satisfactory to the Secretary of the Treasury and the parties involved.

"(c) AMOUNT OF SECURITY.—The security shall be in an amount equal to the excess of—

"(1) the lesser of—

"(A) the amount of additional plan assets which would be necessary to increase the funded current liability percentage under the plan to 60 percent, including the amount of the unfunded current liability under the plan attributable to the plan amendment, or

"(B) the amount of the increase in current liability under the plan attributable to the plan amendment, over

"(2) $10,000,000.

"(d) RELEASE OF SECURITY.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at the end of the first plan year which ends after the provision of the security and for which the funded current liability percentage under the plan is not less than 60 percent. The Secretary may prescribe regulations for partial releases of the security by reason of increases in the funded current liability percentage.

Regulations.

"(e) DEFINITIONS.—For purposes of this section, the terms 'current liability', 'funded current liability percentage', and 'unfunded current liability' shall have the meanings given such terms by section 302(d), except that in computing unfunded current liability there shall not be taken into account any unamortized portion of the unfunded old liability amount as of the close of the plan year."

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of ERISA (29 U.S.C. 1001 note) is amended by striking out the item relating to section 307 and inserting in lieu thereof the following new items:

"Sec. 307. Security required upon adoption of plan amendment resulting in significant underfunding.

"Sec. 308. Effective dates."

26 USC 401 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to plan amendments adopted after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan amendments adopted pursuant to collective bargaining agreements ratified before the date of enactment.

SEC. 9342. REPORTING REQUIREMENTS.

(a) FUNDED PERCENTAGE REQUIRED TO BE SHOWN IN ANNUAL REPORT.—

(1) Subsection (d) of section 103 of ERISA (29 U.S.C. 1023(d)) is amended by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively, and by inserting after paragraph (10) the following new paragraph:

"(11) If the current value of the assets of the plan is less than 60 percent of the current liability under the plan (within the meaning of section 302(d)(7)), such percentage."

(2) Paragraph (3) of section 104(b) of ERISA (29 U.S.C. 1024(b)(3)) is amended by striking out "such other material" and inserting in lieu thereof "such other material (including the percentage determined under section 103(d)(11))".

(b) AMENDMENT OF STATUTE OF LIMITATIONS WITH RESPECT TO CERTAIN REPORTS.—Section 413(a)(2) of ERISA (29 U.S.C. 1113(a)(2)) is amended by striking "(A)" and by striking "or (B)" and all that follows through "title".

(c) Penalty for Failure To Provide Annual Report in Complete Form.—Section 502(c) of ERISA (29 U.S.C. 1132(c)) is amended—

(1) by inserting "(1)" after "(c)", and by striking "(1) who" and "(2) who" and inserting "(A) who" and "(B) who", respectively; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may assess a civil penalty of up to $1,000 a day from the date of a plan administrator's failure or refusal to file the annual report required to be filed with the Secretary under section 101(b)(4). For purposes of this paragraph, an annual report that has been rejected under section 104(a)(4) for failure to provide material information shall not be treated as having been filed with the Secretary.".

29 USC 1132 note. Reports.

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply with respect to reports required to be filed after December 31, 1987.

(2) Regulations.—The Secretary of Labor shall issue the regulations required to carry out the amendments made by subsection (c) not later than January 1, 1989.

SEC. 9343. COORDINATION OF PROVISIONS OF THE INTERNAL REVENUE CODE OF 1986 WITH PROVISIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.[101]

26 USC 401 note.

(a) Interpretation of Internal Revenue Code.—Except to the extent specifically provided in the Internal Revenue Code of 1986 or as determined by the Secretary of the Treasury, titles I and IV of the Employee Retirement Income Security Act of 1974 are not applicable in interpreting such Code.

(b) Clarification Regarding Effect of Determination Letter by the Internal Revenue Service on Enforcement by the Department of Labor of Fiduciary Standards Under[102] ERISA.—Section 3001(d) of ERISA (29 U.S.C. 1201(d)) is amended by adding after the second sentence the following: "The determination of the Secretary of the Treasury shall not be prima facie evidence on issues relating solely to part 4 of subtitle B of title I.".

(c) Clarification Regarding Returns of Contributions Upon Receipt of Adverse Determination Letters.—

(1) In general.—Subparagraph (B) of section 403(c)(2) of ERISA (29 U.S.C. 1103(c)(2)(B)) is amended to read as follows:

"(B) If a contribution is conditioned on initial qualification of the plan under section 401 or 403(a) of the Internal Revenue Code of 1986, and if the plan receives an adverse determination with respect to its initial qualification, then paragraph (1) shall not prohibit the return of such contribution to the employer within one year after such determination, but only if the application for the determination is made by the time prescribed by law for filing the employer's return for the taxable year in which such plan was adopted, or such later date as the Secretary of the Treasury may prescribe.".

(2) Conforming amendment.—Paragraph (3) of section 403(c) of ERISA (29 U.S.C. 1103(c)(3)) is amended by striking out "4972(b) of the Internal Revenue Code of 1954" and inserting in lieu thereof "4979(c) of the Internal Revenue Code of 1986"

---

[101] Copy read "1974".

[102] Copy read "UNDER".

SEC. 9344. CLARIFICATION REGARDING THE IMPOSITION OF AN ANNUAL SANCTION FOR PROHIBITED TRANSACTIONS WHICH ARE CONTINUING IN NATURE.

Regulations.

Section 502(i) of ERISA (29 U.S.C. 1132(i)) is amended by striking the second sentence and inserting the following: "The amount of such penalty may not exceed 5 percent of the amount involved in each such transaction (as defined in section 4975(f)(4) of the Internal Revenue Code of 1986) for each year or part thereof during which the prohibited transaction continues, except that, if the transaction is not corrected (in such manner as the Secretary shall prescribe[103] in regulations which shall be consistent with section 4975(f)(5) of such Code) within 90 days after notice from the Secretary (or such longer period as the Secretary may permit), such penalty may be in an amount not more than 100 percent of the amount involved.".

SEC. 9345. ADDITIONAL LIMITATIONS ON INVESTMENT BY AN INDIVIDUAL ACCOUNT PLAN FORMING PART OF A FLOOR-OFFSET ARRANGEMENT AND ON INVESTMENT BY AN INDIVIDUAL ACCOUNT PLAN IN EMPLOYER STOCK.

(a) Treatment of Individual Account Portions of Floor-Offset Arrangements.—

(1) In general.—Section 407(d)(3) of ERISA (29 U.S.C. 1107(d)(3)) is amended by adding at the end the following new subparagraph:

"(C) The term 'eligible individual account plan' does not include any individual account plan the benefits of which are taken into account in determining the benefits payable to a participant under any defined benefit plan."

(2) Treatment of floor-offset arrangement as single plan.—Section 407(d) of ERISA (29 U.S.C. 1107(d)) is amended by adding at the end the following new paragraph:

"(9) For purposes of this section, an arrangement which consists of a defined benefit plan and an individual account plan shall be treated as 1 plan if the benefits of such arrangement are taken into account in determining the benefits payable under such defined benefit plan."

29 USC 1107 note.

(3) Effective date.—The amendments made by this subsection shall apply with respect to arrangements established after December 17, 1987.

(b) Restrictions on Treatment of Stock as Qualifying Employer Security.—Section 407 of ERISA (29 U.S.C. 1107) is amended—

(1) in subsection (d)(5), by adding at the end the following new sentence: "After December 17, 1987, in the case of a plan other than an eligible individual account plan, stock shall be considered a qualifying employer security only if such stock satisfies the requirements of subsection (f)(1)."; and

(2) by adding at the end the following new subsection:

"(f)(1) Stock satisfies the requirements of this subsection if—

"(A) no more than 25 percent of the aggregate amount of stock of the same class issued and outstanding at the time of acquisition is held by the plan, and

"(B) at least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer.

---

[103] Copy read "presribe".

"(2) Until January 1, 1993, a plan shall not be treated as violating subsection (a) solely by holding stock which fails to satisfy the requirements of paragraph (1) if such stock—

"(A) has been so held since December 17, 1987, or

Contracts.

"(B) was acquired after December 17, 1987, pursuant to a legally binding contract in effect on December 17, 1987, and has been so held at all times after the acquisition.

Contracts.

"(3) After December 17, 1987, no plan may acquire stock which does not satisfy the requirements of paragraph (1) unless the acquisition is made pursuant to a legally binding contract in effect on such date.".

SEC. 9346. INTEREST RATE ON ACCUMULATED CONTRIBUTIONS.

(a) AMENDMENTS TO ERISA.—Section 204(c)(2) of ERISA (29 U.S.C. 1054(c)(2)) is amended—

(1) in subparagraph (C)(iii), by striking "5 percent per annum" and inserting "120 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of a plan year)"; and

(2) in subparagraph (D)—

(A) in the first sentence, by striking ", the rate of interest described in clause (iii) of subparagraph (C), or both,"; and

(B) by striking the second sentence.

26 USC 411.

(b) AMENDMENTS TO 1986 CODE.—Section 411(c)(2) of the 1986 Code (relating to accrued benefit derived from employee contributions) is amended—

(1) in subparagraph (C)(iii), by striking "5 percent per annum" and inserting "120 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of a plan year)"; and

(2) in subparagraph (D)—

(A) in the first sentence, by striking ", the rate of interest described in clause (iii) of subparagraph (C), or both,"; and

(B) by striking the second sentence.

29 USC 1054 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1987.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989.—If any amendment made by this section requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1989, if—

(A) during the period after such amendments made by this section take effect and before such first plan year, the plan is operated in accordance with the requirements of such amendments or in accordance with an amendment prescribed by the Secretary of the Treasury and adopted by the plan, and

(B) such plan amendment applies retroactively to the period after such amendments take effect and such first plan year.

A plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this subsection.

Subtitle E—Miscellaneous Provisions

SEC. 9401. RESTORATION OF TRUST FUNDS FOR 1987.

(a) In General.—

(1) Obligations issued.—Except as provided in subsection (b), within 30 days after the expiration of any debt issuance suspension period to which this section applies, the Secretary of the Treasury shall issue to each Federal fund obligations under chapter 31 of title 31, United States Code, which bear such issue dates, interest rates, and maturity dates as are necessary to ensure that, after such obligations are issued, the holdings of such Federal fund will replicate to the maximum extent practicable the obligations that would have been held by such Federal fund if any—

(A) failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of section 3101(b) of title 31, United States Code, had not occurred, and

(B) issuance of such obligations had occurred immediately on the expiration of the debt issuance suspension period.

(2) Interest credited.—On the first normal interest payment date or within 30 days after the expiration of any debt issuance suspension period (whichever is later) to which this section applies, the Secretary of the Treasury shall credit to each Federal fund an amount determined by the Secretary, after taking into account the actions taken pursuant to paragraph (1), to be equal to the income lost by such Federal fund by reason of any failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of such section 3101(b), including any income lost between the expiration of the debt issuance suspension period and the date of the credit.

(b) Interest on Market-based Obligations.—With respect to any Federal fund which invests in market-based special obligations, on the expiration of a debt issuance suspension period to which this section applies, the Secretary of the Treasury shall immediately credit to such fund an amount equal to the interest that would have been earned by such fund during the debt issuance suspension period if the daily balance in such fund that the Secretary was unable to invest by reason of the limitation of such section 3101(b) had been invested each day during such period, overnight, in obligations under chapter 31 of title 31, United States Code, earning interest at a rate determined by the Secretary in accordance with the standard practice of the Department of the Treasury.

(c) Interest on State and Local Government Series.—On the expiration of any debt issuance suspension period to which this section applies, the Secretary of the Treasury shall (as of the close of such period) credit to each holder of any obligation which is part of the State and Local Government Series and which is in the nature of a demand deposit an amount equal to the income lost by such holder by reason of not being able to reinvest the principal of, and interest on, such obligation during such period.

(d) Debt Issuance Suspension Periods to Which Section Applies.—This section shall apply to debt issuance suspension periods beginning on or after July 18, 1987, and ending before January 1, 1988.

(e) CREDITED AMOUNTS TREATED AS INTEREST.—[104] All amounts credited under this section shall be treated as interest on obligations issued under chapter 31 of title 31, United States Code, for all purposes of Federal law.

(f) DEFINITIONS.—For purposes of this section—

(1) DEBT ISSUANCE SUSPENSION PERIOD.—The term "debt issuance suspension period" means any period for which the Secretary of the Treasury determines that the issuance of obligations of the United States sufficient to conduct the orderly financial operations of the United States may not be made without exceeding the limitation imposed by section 3101(b) of title 31, United States Code.

(2) FEDERAL FUND.—The term "Federal fund" means any Federal trust fund or Government account established pursuant to Federal law to which the Secretary of the Treasury has issued or is expressly authorized by law directly to issue obligations under chapter 31 of title 31, United States Code, in respect of public money, money otherwise required to be deposited in the Treasury, or amounts appropriated; except that such term shall not include the Civil Service Retirement and Disability Fund or the Thrift Savings Fund of the Federal Employees' Retirement System.

(g) SPECIAL RULES.—In the case of any debt suspension period beginning on or after July 18, 1987, and ending before the date of the enactment of this Act—

(1) for purposes of determining the date on which the Secretary of the Treasury is required to take the actions described in subsections (a), (b), and (c), such period shall be treated as having ended on such date of enactment, and

(2) the amount required to be credited under subsection (c) shall include any income lost because the credit was not made upon the expiration of such period.

SEC. 9402. 6-MONTH EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NON-TAX DEBTS OWED TO FEDERAL AGENCIES.

26 USC 6402 note.

(a) GENERAL RULE.—Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking out "January 1, 1988" and inserting in lieu thereof "July 1, 1988".

26 USC 6402 note.

(b) CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF PROVISION.—

(1) Nothing in the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall be construed as exempting debts of corporations or any other category of persons from the application of such amendments.

(2) It is the intent of the Congress that, to the extent practicable, the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall extend to all Federal agencies (as defined in the amendments made by such section).

Regulations.

(3) The Secretary of the Treasury shall issue regulations to carry out the purposes of this subsection.

26 USC 6402 note.

(c) STUDY BY THE GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States, in consultation with the Secretary of the Treasury or his delegate, shall conduct a study of the operation and effectiveness of the amendments made by section 2653 of the Deficit Reduction Act of 1984. The study shall compile and evaluate information on the effect of those amendments on voluntary compliance with the income tax laws. Not later than April 1, 1989, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of the study conducted under this subsection, together with such recommendations as he may deem advisable.

---

[104] Copy read "AMOUNTS TREATED AS INTEREST.—".

Reports.

SEC. 9403. INCREASE IN LIMIT ON LONG-TERM BONDS.

The last sentence of section 3102(a) of title 31, United States Code, is amended by striking out "$250,000,000,000" and inserting in lieu thereof "$270,000,000,000".

Subtitle F—Customs User Fees; Trade and Customs Agency Authorizations

SEC. 9501. CUSTOMS USER FEES.

(a) AMENDMENTS TO CUSTOMS USER FEES PROGRAM.—Section 13031 of the Consolidated Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended as follows:

(1) MERCHANDISE PROCESSING FEE IMPOSED ON FOREIGN CONTENT OF CERTAIN SCHEDULE 8 ARTICLES.—

(A) Subsection (a)(9)(A) is amended to read as follows:

"(A) provided for under any item in schedule 8 of the Tariff Schedules of the United States except item 806.30 or 807.00,".

(B) Subsection (b)(8)(A) is amended—

(i) by striking out "and" at the end of clause (i);

(ii) by striking out the period at the end of clause (ii) and inserting a semicolon; and

(iii) by adding at the end thereof the following:

"(iii) in the case of merchandise classified under item 806.30 of the Tariff Schedules of the United States, be applied to the value of the foreign repairs or alterations to the merchandise; and

"(iv) in the case of merchandise classified under item 807.00 of such Schedules, be applied to the full value of the merchandise, less the cost or value of the component United States products.

With respect to merchandise that is classified under item 806.30 or 807.00 of such Schedules and is duty-free, the Secretary may collect the fee charged on the processing of the merchandise under subsection (a) (9) or (10) on the basis of aggregate data derived from financial and manufacturing reports used by the importer in the normal course of business, rather than on the basis of entry-by-entry accounting.".

(2) PROVISION OF CUSTOMS SERVICES.—Subsection (e) is amended—

(A) by redesignating paragraph (4) as paragraph (6);

(B) by inserting after paragraph (3) the following new paragraphs:

"(4) Notwithstanding any other provision of law, all customs services (including, but not limited to, normal and overtime clearance and preclearance services) shall be adequately provided, when requested, for—

"(A) the clearance of any commercial vessel, vehicle, or aircraft or its passengers, crew, stores, material, or cargo arriving, departing, or transiting the United States;

"(B) the preclearance at any customs facility outside the United States of any commercial vessel, vehicle or aircraft or its passengers, crew, stores, material, or cargo; and

"(C) the inspection or release of commercial cargo or other commercial shipments being entered into, or withdrawn from, the customs territory of the United States.

"(5) For purposes of this subsection, customs services shall be treated as being 'adequately provided' if such of those services that are necessary to meet the needs of parties subject to customs inspection are provided in a timely manner taking into account factors such as—

"(A) the unavoidability of weather, mechanical, and other delays;

"(B) the necessity for prompt and efficient passenger and baggage clearance;

"(C) the perishability of cargo;

"(D) the desirability or unavoidability of late night and early morning arrivals from various time zones;

"(E) the availability (in accordance with regulations prescribed under subsection (g)(2)) of customs personnel and resources; and

"(F) the need for specific enforcement checks."; and

(C) by amending paragraph (6) (as redesignated by subparagraph (A)) to read as follows:

"(6) Notwithstanding any other provision of law except paragraph (2), during any period when fees are authorized under subsection (a), no charges, other than such fees, may be collected—

"(A) for any—

"(i) cargo inspection, clearance, or other customs activity, expense, or service performed (regardless whether performed outside of normal business hours on an overtime basis), or

"(ii) customs personnel provided,

in connection with the arrival or departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, in the United States;

"(B) for any preclearance or other customs activity, expense, or service performed, and any customs personnel provided, outside the United States in connection with the departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, for the United States; or

"(C) in connection with—

"(i) the activation or operation (including Customs Service supervision) of any foreign trade zone or subzone established under the Act of June 18, 1934 (commonly know as the Foreign Trade Zones Act, 19 U.S.C. 81a et seq.), or

"(ii) the designation or operation (including Customs Service supervision) of any bonded warehouse under section 555 of the Tariff Act of 1930 (19 U.S.C. 1555).".

(3) Disposition of fees.—Subsection (f) is amended by striking out paragraphs (1), (2), and (3) and inserting the following:

"(f) Disposition of Fees.—(1) There is established in the general fund of the Treasury a separate account which shall be known as the 'Customs User Fee Account'. Notwithstanding section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), there shall be deposited as offsetting receipts into the Customs User Fee Account all fees collected under subsection (a) except that portion of such fees that is required under paragraph (3) for the direct reimbursement of appropriations.

"(2) All funds in the Customs User Fee Account shall be available, to the extent provided for in appropriations Acts, to pay the costs (other than costs for which direct reimbursement under paragraph (3) is required) incurred by the United States Customs Service in conducting commercial operations, including, but not limited to, all costs associated with commercial passenger, vessel, vehicle, aircraft, and cargo processing. So long as there is a surplus of funds in the Customs User Fee Account, the Secretary of the Treasury may not reduce personnel staffing levels for providing commercial clearance and preclearance services.

"(3) The Secretary of the Treasury, in accordance with such section 524 and without regard to apportionment or any other administrative practice or limitation, shall directly reimburse, from the fees collected under subsection (a), each appropriation for the amount paid out of that appropriation for the costs incurred by the Secretary in providing—

"(A) inspectional overtime services; and

"(B) all preclearance services;

for which the recipients of such services are not required to reimburse the Secretary of the Treasury. Reimbursement under this paragraph shall apply with respect to each fiscal year occurring after September 30, 1987, and shall be made at least quarterly. To the extent necessary, reimbursement of appropriations under this paragraph may be made on the basis of estimates made by the Secretary of the Treasury of the costs for inspectional overtime and preclearance services, and adjustments shall be made in subsequent reimbursements to the extent that the estimates were in excess of, or less than, the amounts required to be reimbursed.".

(4) REGULATIONS.—Subsection (g) is amended—

(A) by striking out "(g) REGULATIONS.—The" and inserting "(g) REGULATIONS.—(1) In addition to the regulations required under paragraph (2), the "; and

(B) by inserting at the end thereof the following new paragraph:

"(2) The Secretary of the Treasury shall prescribe regulations governing the work shifts of customs personnel at airports. Such regulations shall provide, among such other factors considered appropriate by the Secretary, that—

"(A) the work shifts will be adjusted, as necessary, to meet cyclical and seasonal demands and to minimize the use of overtime;

"(B) the work shifts will not be arbitrarily reduced or compressed; and

"(C) consultation with the Advisory Committee on Commercial Operations of the United States Customs Service (established under section 9501(c) of the Omnibus Budget Reconciliation Act of 1987) will be carried out before adjustments are made in the work shifts.".

(5) EXTENSION OF CUSTOMS USER FEES PROGRAM.—Subsection (j)(3) is amended by striking out "1989" and inserting "1990".

(b) ADDITIONAL PERIOD TO CLAIM CERTAIN REFUNDS.—Section 1893(g)(2) of the Tax Reform Act of 1986 is amended by striking out "90 days after the date of enactment of this Act" and inserting "90 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1987". 19 USC 58c note.

19 USC 3 note.

(c) ANALYSIS REGARDING THE CES PROGRAM; EFFECT ON IMPLEMENTATION OF PROGRAM.—

(1) The Comptroller General of the United States shall conduct a comprehensive analysis, including a cost-benefit study, of the centralized cargo examination station (CES) concept from the perspective of both the United States Customs Service and business community users. The analysis shall be submitted on the same day to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (hereinafter in this subsection referred to as the "Committees") not later than March 30, 1988, and shall include recommendations as to how best to implement cargo inspection procedures.

(2) The United States Customs Service—

(A) may not, after the date of the enactment of this Act, establish any new centralized cargo examination station at any ocean port, airport, or land border location unless the Customs Service provides to the Committees advance notice, in writing, of not less than 90 days regarding the proposed establishment; and

(B) shall, on such date of enactment, suspend operations at each centralized cargo examination station that was operating at an airport on the day before such date until the 90th day after a date—

(i) that is not earlier than the date on which the analysis required under paragraph (1) is submitted to the Committees, and

(ii) on which the Customs Service provides to the Committees notice, in writing, that it intends to resume such operations at the station.

During the period of suspension of operations under subparagraph (B) at any centralized cargo examination station at an airport, the Secretary of the Treasury shall maintain customs operations and staffing at that airport at a level not less than that which was in effect immediately before the suspension took effect.

19 USC 58c note.

(d) EFFECTIVE DATES.—

(1) Except as otherwise provided in this subsection, the provisions of this section take effect on the date of the enactment of this Act.

(2) The amendments made by subsection (a)(1) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

(3) The amendment made by subsection (a)(3) shall take effect on October 1, 1987.

SEC. 9502. UNITED STATES INTERNATIONAL TRADE COMMISSION AUTHORIZATIONS.

Section 330(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended—

(1) by striking out "1986" and inserting "1988"; and

(2) by striking out "$28,901,000;" and inserting "$35,386,000;".

SEC. 9503. UNITED STATES CUSTOMS SERVICE AUTHORIZATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for fiscal year 1988 not to exceed $348,192,000 for the salaries and expenses of the United States Customs Service that are incurred in noncommercial operations, of which $171,857.06 shall be available only for concluding Contract TC-82-54 that was awarded for the development and testing of an automatic license plate reader.

"(2) FOR COMMERCIAL OPERATIONS.—There are authorized to be appropriated for fiscal year 1988 not to exceed $615,000,000 from the Customs User Fee Account for the salaries and expenses of the United States Customs Service that are incurred in commercial operations.

"(3) FOR AIR INTERDICTION.—There are authorized to be appropriated for fiscal year 1988 not to exceed $118,309,000 for the operation (including salaries and expenses) and maintenance of the air interdiction program of the United States Customs Service.".

(b) CONGRESSIONAL NOTICE OF CERTAIN ACTIONS.—Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended—

(1) by striking out "USE OF SAVINGS RESULTING FROM ADMINISTRATIVE CONSOLIDATIONS.—" in subsection (f);

(2) by striking out "ALLOCATION OF RESOURCES.—" in subsection (g) and inserting "(1)"; and

(3) by adding at the end of subsection (g) the following new paragraph:

"(2) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 180 days prior to taking any action which would—

"(A) result in any significant reduction in force of employees other than by means of attrition;

"(B) result in any significant reduction in hours of operation or services rendered at any office of the United States Customs Service or any port of entry;

"(C) eliminate or relocate any office of the United States Customs Service;

"(D) eliminate any port of entry; or

"(E) significantly reduce the number of employees assigned to any office of the United States Customs Service or any port of entry.".

(c) ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF THE UNITED STATES CUSTOMS SERVICE.—

Establishment.
19 USC 2071 note.

(1) The Secretary of the Treasury shall establish an advisory committee which shall be known as the "Advisory Committee on Commercial Operations of the United States Customs Service" (hereafter in this subsection referred to as the "Advisory Committee").

(2)(A) The Advisory Committee shall consist of 20 members appointed by the Secretary of the Treasury.

(B) In making appointments under subparagraph (A), the Secretary of the Treasury shall ensure that—

(i) the membership of the Advisory Committee is representative of the individuals and firms affected by the commercial operations of the United States Customs Service; and

(ii) a majority of the members of the Advisory Committee do not belong to the same political party.

(3) The Advisory Committee shall—

(A) provide advice to the Secretary of the Treasury on all matters involving the commercial operations of the United States Customs Service; and

Reports.

(B) submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that shall—

(i) describe the operations of the Advisory Committee during the preceding year, and

(ii) set forth any recommendations of the Advisory Committee regarding the commercial operations of the United States Customs Service.

(4) The Assistant Secretary of the Treasury for Enforcement shall preside over meetings of the Advisory Committee.

(d) DISSOLUTION OF EXISTING ADVISORY COMMITTEE.—Section 13033 of the Consolidated Budget Reconciliation Act of 1985 is repealed.

19 USC 2071 note.

SEC. 9504. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE AUTHORIZATIONS.

Section 141(f)(1) of the Trade Act of 1974 (19 U.S.C. 2171(f)(1)) is amended to read as follows:

"(f)(1)(A) There are authorized to be appropriated for fiscal year 1988 to the Office for the purposes of carrying out its functions not to exceed $15,172,000.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for fiscal year 1988—

"(i) not to exceed $69,000 may be used for entertainment and representation expenses of the Office; and

"(ii) not to exceed $1,000,000 shall remain available until expended.".

Revenue Act of 1987.

TITLE X—REVENUE PROVISIONS

SEC. 10000. SHORT TITLE; AMENDMENT OF THE 1986 CODE.

26 USC 1 note.

(a) SHORT TITLE.—This title may be cited as the "Revenue Act of 1987".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

26 USC 1 *et seq.*
26 USC 15 note.

(c) COORDINATION WITH SECTION 15.—No amendment made by this title shall be treated as a change in a rate of tax for purposes section 15 of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—

TITLE X—REVENUE PROVISIONS

Sec. 10000. Short title; amendment of the 1986 Code.

Subtitle A—Individual Income Tax Provisions

Sec. 10101. Expenses of overnight camps not allowable for dependent care credit
Sec. 10102. Changes to deduction for qualified residence interest.
Sec. 10103. Clarification of treatment of Federal judges.
Sec. 10104. Treatment of regulated investment companies under 2-percent floor.

Subtitle B—Business Provisions

PART I—ACCOUNTING PROVISIONS

Sec. 10201. Repeal of reserve for accrual of vacation pay.
Sec. 10202. Provisions relating to installment sales.
Sec. 10203. Reduction in percentage of items taken into account under completed contract method.
Sec. 10204. Amortization of past service pension costs.
Sec. 10205. Certain farm corporations required to use accrual method of accounting.
Sec. 10206. Entities may elect taxable years other than required taxable year.

PART II—PARTNERSHIP PROVISIONS

Sec. 10211. Certain publicly traded partnerships treated as corporations.
Sec. 10212. Treatment of publicly traded partnerships under section 469.
Sec. 10213. Treatment of publicly traded partnerships for unrelated business tax.
Sec. 10214. Treatment of certain partnership allocations.
Sec. 10215. Study.

PART III—CORPORATE PROVISIONS

Sec. 10221. Reduction in dividends received deduction for dividends from corporations not 20-percent owned.
Sec. 10222. Certain earnings and profits adjustments not to apply for certain purposes.
Sec. 10223. Treatment of mirror subsidiary transactions.
Sec. 10224. Benefits of graduated corporate rates not allowed to personal service corporations.
Sec. 10225. Amendments to section 382.
Sec. 10226. Limitation on use of preacquisition losses to offset built-in gains.
Sec. 10227. Recapture of LIFO amount in the case of elections by S corporations.
Sec. 10228. Excise tax on receipt of greenmail.

PART IV—FOREIGN TAX PROVISIONS

Sec. 10231. Denial of foreign tax credit for taxes paid or accrued to South Africa.

PART V—INSURANCE PROVISIONS

Sec. 10241. Interest rate used in computing tax reserves for life insurance companies may not be less than applicable Federal rate.
Sec. 10242. Treatment of foreign insurance.
Sec. 10243. Treatment of mutual life insurance company policy holder dividends for purposes of book preference.
Sec. 10244. Certain insurance syndicates.

Subtitle C—Estimated Tax Provisions

Sec. 10301. Revision of corporate estimated tax provisions.
Sec. 10302. Revised withholding certificates required to be put into effect more promptly.
Sec. 10303. Estimated tax penalties for 1987.

Subtitle D—Estate and Gift Tax Provisions

PART I—GENERAL PROVISIONS

Sec. 10401. 5-year extension of existing rates; phaseout of benefits of existing rates, and unified credit.
Sec. 10402. Inclusion related to valuation freezes.

PART II—ESTATE TAX PROVISIONS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS

Sec. 10411. Congressional clarification of estate tax deduction for sales of employer securities.
Sec. 10412. Modifications of estate tax deduction for sale of employer securities.
Sec. 10413. Excise tax on plans or cooperatives disposing of employer securities for which estate tax deduction was allowed.

Subtitle E—Provisions Relating to Excise Taxes and User Fees

PART I—EXCISE TAXES

Sec. 10501. Extension of telephone excise tax.
Sec. 10502. Diesel fuel and aviation fuel taxes imposed at wholesale level.
Sec. 10503. Extension of temporary increase in amount of tax imposed on coal producers.

PART II—TAX-RELATED USER FEES

Sec. 10511. Fees for request for ruling, determination, and similar letters.
Sec. 10512. Occupational taxes relating to alcohol, tobacco, and firearms.

Subtitle F—Other Revenue Provisions

PART I—TARGETED JOBS CREDIT

Sec. 10601. Denial of targeted jobs credit for wages paid during period of labor dispute.

PART II—TREATMENT OF CERTAIN ILLEGAL IRRIGATION SUBSIDIES

Sec. 10611. Treatment of certain illegal irrigation subsidies.

PART III—COMPLIANCE

Sec. 10621. State escheat laws not to apply to refunds of Federal tax.
Sec. 10622. Sense of Congress as to increased Internal Revenue Service funding for taxpayer assistance and enforcement.

PART IV—TAX EXEMPT BOND PROVISIONS

Sec. 10631. Issues used to acquire nongovernmental output property.
Sec. 10632. Bonds issued by Indian tribal governments.[105]

Subtitle G—Lobbying and Political Activities of Tax-Exempt Organizations

PART I—DISCLOSURE REQUIREMENTS

Sec. 10701. Required disclosure of nondeductibility of contributions.
Sec. 10702. Public inspection of annual returns and applications for tax-exempt status.
Sec. 10703. Additional information required on annual returns of section 501(c)(3) organizations.
Sec. 10704. Penalties.
Sec. 10705. Required disclosure that certain information or service available from Federal Government.

PART II—POLITICAL ACTIVITIES

Sec. 10711. Clarification of prohibited political activities.
Sec. 10712. Excise taxes on political expenditures by section 501(c)(3) organizations.
Sec. 10713. Additional enforcement authority in the case of flagrant political expenditures.
Sec. 10714. Tax on disqualifying lobbying expenditures.

Subtitle A—Individual Income Tax Provisions

SEC. 10101. EXPENSES OF OVERNIGHT CAMPS NOT ALLOWABLE FOR DEPENDENT CARE CREDIT.

(a) GENERAL RULE.—Subparagraph (A) of section 21(b)(2) (defining employment-related expenses) is amended by adding at the end thereof the following new sentence:

> "Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying individual stays overnight."

26 USC 21 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid in taxable years beginning after December 31, 1987.

SEC. 10102. CHANGES TO DEDUCTION FOR QUALIFIED RESIDENCE INTEREST.

(a) GENERAL RULE.—Paragraph (3) of section 163(h) (defining qualified residence interest) is amended to read as follows:

---

[105] Copy read "Indian Tribal Governments.".

"(3) QUALIFIED RESIDENCE INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified residence interest' means any interest which is paid or accrued during the taxable year on—

"(i) acquisition indebtedness with respect to any qualified residence of the taxpayer, or

"(ii) home equity indebtedness with respect to any qualified residence of the taxpayer.

For purposes of the preceding sentence, the determination of whether any property is a qualified residence of the taxpayer shall be made as of the time the interest is accrued.

"(B) ACQUISITION INDEBTEDNESS.—

"(i) IN GENERAL.—The term 'acquisition indebtedness' means any indebtedness which—

"(I) is incurred in acquiring, constructing, or substantially improving any qualified residence of the taxpayer, and

"(II) is secured by such residence.

Such term also includes any indebtedness secured by such residence resulting from the refinancing of indebtedness meeting the requirements of the preceding sentence (or this sentence); but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness.

"(ii) $1,000,000 LIMITATION.—The aggregate amount treated as acquisition indebtedness for any period shall not exceed $1,000,000 ($500,000 in the case of a married individual filing a separate return).

"(C) HOME EQUITY INDEBTEDNESS.—

"(i) IN GENERAL.—The term 'home equity indebtedness' means any indebtedness (other than acquisition indebtedness) secured by a qualified residence to the extent the aggregate amount of such indebtedness does not exceed—

"(I) the fair market value of such qualified residence, reduced by

"(II) the amount of acquisition indebtedness with respect to such residence.

"(ii) LIMITATION.—The aggregate amount treated as home equity indebtedness for any period shall not exceed $100,000 ($50,000 in the case of a separate return by a married individual).

"(D) TREATMENT OF INDEBTEDNESS INCURRED ON OR BEFORE OCTOBER 13, 1987.—

"(i) IN GENERAL.—In the case of any pre-October 13, 1987, indebtedness—

"(I) such indebtedness shall be treated as acquisition indebtedness, and

"(II) the limitation of subparagraph (B)(ii) shall not apply.

"(ii) REDUCTION IN $1,000,000 LIMITATION.—The limitation of subparagraph (B)(ii) shall be reduced (but not below zero) by the aggregate amount of outstanding pre-October 13, 1987, indebtedness.

"(iii) PRE-OCTOBER 13, 1987, INDEBTEDNESS.—The term 'pre-October 13, 1987, indebtedness' means—

"(I) any indebtedness which was incurred on or before October 13, 1987, and which was secured by a qualified residence on October 13, 1987, and at all times thereafter before the interest is paid or accrued, or

"(II) any indebtedness which is secured by the qualified residence and was incurred after October 13, 1987, to refinance indebtedness described in subclause (I) (or refinanced indebtedness meeting the requirements of this subclause) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

"(iv) LIMITATION ON PERIOD OF REFINANCING.—Subclause (II) of clause (iii) shall not apply to any indebtedness after—

"(I) the expiration of the term of the indebtedness described in clause (iii)(I), or

"(II) if the principal of the indebtedness described in clause (iii)(I) is not amortized over its term, the expiration of the term of the 1st refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such 1st refinancing)."

(b) CONFORMING AMENDMENTS.—Subsection (h) of section 163 is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

26 USC 163 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

26 USC 219 note.

SEC. 10103. CLARIFICATION OF TREATMENT OF FEDERAL JUDGES.

(a) GENERAL RULE.—A Federal judge—

(1) shall be treated as an active participant for purposes of section 219(g) of the Internal Revenue Code of 1986, and

(2) shall be treated as an employee for purposes of chapter 1 of such Code.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 10104. TREATMENT OF REGULATED INVESTMENT COMPANIES UNDER 2-PERCENT FLOOR.

26 USC 67 note. (a) 1-YEAR DELAY IN TREATMENT OF PUBLICLY OFFERED REGULATED INVESTMENT COMPANIES UNDER 2-PERCENT FLOOR.—

(1) GENERAL RULE.—Section 67(c) of the Internal Revenue Code of 1986 to the extent it relates to indirect deductions through a publicly offered regulated investment company shall apply only to taxable years beginning after December 31, 1987.

(2) PUBLICLY OFFERED REGULATED INVESTMENT COMPANY DEFINED.—For purposes of this subsection—

(A) IN GENERAL.—The term "publicly offered regulated investment company" means a regulated investment company the shares of which are—

(i) continuously offered pursuant to a public offering (within the meaning of section 4 of the Securities Act of 1933, as amended (15 U.S.C. 77a to 77aa)),

(ii) regularly traded on an established securities market, or

(iii) held by or for no fewer than 500 persons at all times during the taxable year.

(B) SECRETARY MAY REDUCE 500 PERSON REQUIREMENT.—The Secretary of the Treasury or his delegate may by regulation decrease the minimum shareholder requirement of subparagraph (A)(iii) in the case of regulated investment companies which experience a loss of shareholders through net redemptions of their shares.

Regulations.

(b) CHANGES IN DISTRIBUTION REQUIREMENTS.—

(1) INCREASE IN REQUIRED DISTRIBUTION OF INCOME.—Paragraph (1) of section 4982(b) (defining required distribution) is amended by striking out "90 percent" in subparagraph (B) and inserting in lieu thereof "98 percent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 651 of the Tax Reform Act of 1986.

26 USC 4982 note.

Subtitle B—Business Provisions

PART I—ACCOUNTING PROVISIONS

SEC. 10201. REPEAL OF RESERVE FOR ACCRUAL OF VACATION PAY.

(a) GENERAL RULE.—Section 463 (relating to accrual of vacation pay) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Section 81 is hereby repealed.

(2) Subparagraph (B) of section 404(b)(2) is amended to read as follows:

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any benefit provided through a welfare benefit fund (as defined in section 419(e))."

(3) Section 404(a)(5) is amended by adding at the end thereof the following new sentence: "For purposes of this section, any vacation pay which is treated as deferred compensation shall be deductible for the taxable year of the employer in which paid to the employee."

(4) Paragraph (2) of section 419(e) is amended by inserting "or" at the end of subparagraph (B), by striking out ", or" at the end of subparagraph (C), and inserting in lieu thereof a period, and by striking out subparagraph (D).

(5) Paragraph (5) of section 461(h) is amended to read as follows:

"(5) SUBSECTION NOT TO APPLY TO CERTAIN ITEMS.—This subsection shall not apply to any item for which a deduction is allowable under a provision of this title which specifically provides for a deduction for a reserve for estimated expenses."

(6) The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 81.

(7) The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 463.

(c) Effective Date.—

26 USC 404 note.

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

26 USC 463 note.

(2) Change in method of accounting.—In the case of any taxpayer who elected to have section 463 of the Internal Revenue Code of 1986 apply for such taxpayer's last taxable year beginning before January 1, 1988, and who is required to change his method of accounting by reason of the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the net amount of adjustments required by section 481 of such Code to be taken into account by the taxpayer—

(i) shall be reduced by the balance in the suspense account under section 463(c) of such Code as of the close of such last taxable year, and

(ii) shall be taken into account over the 4-taxable year period beginning with the taxable year following such last taxable year as follows:

In the case of the:	The percentage taken into account is:
1st year	25
2nd year	5
3rd year	35
4th year	35.

Notwithstanding subparagraph (C)(ii), if the period the adjustments are required to be taken into account under section 481 of such Code is less than 4 years, such adjustments shall be taken into account ratably over such shorter period.

SEC. 10202. PROVISIONS RELATING TO INSTALLMENT SALES.

(a) Repeal of Proportionate Disallowance of Installment Method.—

(1) In general.—Section 453C (relating to certain indebtedness treated as payment on installment obligations) is hereby repealed.

(2) Conforming amendment.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 453C.

(b) Repeal of Installment Method for Dealers in Property.—

(1) In general.—Subparagraph (A) of section 453(b)(2) (defining installment sale) is amended to read as follows:

"(A) Dealer dispositions.—Any dealer disposition (as defined in subsection (l))."

(2) Dealer disposition defined.—Section 453 (relating to installment method) is amended by adding at the end thereof the following new subsection:

"(l) Dealer Dispositions.—For purposes of subsection (b)(2)(A)—

"(1) In general.—The term 'dealer disposition' means any of the following dispositions:

"(A) Personal property.—Any disposition of personal property by a person who regularly sells or otherwise disposes of personal property on the installment plan.

"(B) REAL PROPERTY.—Any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business.

"(2) EXCEPTIONS.—The term 'dealer disposition' does not include—

"(A) FARM PROPERTY.—The disposition on the installment plan of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e)(4) or (5)).

"(B) TIMESHARES AND RESIDENTIAL LOTS.—

"(i) IN GENERAL.—Any dispositions described in clause (ii) on the installment plan if the taxpayer elects to have paragraph (3) apply to any installment obligations which arise from such dispositions. An election under this paragraph shall not apply with respect to an installment obligation which is guaranteed by any person other than an individual.

"(ii) DISPOSITIONS TO WHICH SUBPARAGRAPH APPLIES.—A disposition is described in this clause if it is a disposition in the ordinary course of the taxpayer's trade or business to an individual of—

"(I) a timeshare right to use or a timeshare ownership interest in residential real property for not more than 6 weeks per year, or a right to use specified campgrounds for recreational purposes, or

"(II) any residential lot, but only if the taxpayer (or any related person) is not to make any improvements with respect to such lot.

For purposes of subclause (I), a timeshare right to use (or timeshare ownership interest in) property held by the spouse, children, grandchildren, or parents of an individual shall be treated as held by such individual.

"(C) CARRYING CHARGES OR INTEREST.—Any carrying charges or interest with respect to a disposition described in subparagraph (A) or (B) which are added on the books of account of the seller to the established cash selling price of the property shall be included in the total contract price of the property and, if such charges or interest are not so included, any payments received shall be treated as applying first against such carrying charges or interest.

"(3) PAYMENT OF INTEREST ON TIMESHARES AND RESIDENTIAL LOTS.—

"(A) IN GENERAL.—In the case of any installment obligation to which paragraph (2)(B) applies, the tax imposed by this chapter for any taxable year for which payment is received on such obligation shall be increased by the amount of interest determined in the manner provided under subparagraph (B).

"(B) COMPUTATION OF INTEREST.—

"(i) IN GENERAL.—The amount of interest referred to in subparagraph (A) for any taxable year shall be determined—

"(I) on the amount of the tax for such taxable year which is attributable to the payments received during such taxable year on installment obligations to which this subsection applies, "(II) for the period beginning on the date of sale, and ending on the date such payment is received, and

"(III) by using the applicable Federal rate under section 1274 (without regard to subsection (d)(2) thereof) in effect at the time of the sale compounded semiannually.

"(ii) INTEREST NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the portion of any tax attributable to the receipt of any payment shall be determined without regard to any interest imposed under subparagraph (A).

"(iii) TAXABLE YEAR OF SALE.—No interest shall be determined for any payment received in the taxable year of the disposition from which the installment obligation arises.

"(C) TREATMENT AS INTEREST.—Any amount payable under this paragraph shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during such taxable year."

(c) TREATMENT OF INSTALLMENT OBLIGATIONS OF NONDEALERS.—Section 453A (relating to installment method for dealers in personal property) is amended to read as follows:

"SEC. 453A. SPECIAL RULES FOR NONDEALERS OF REAL PROPERTY.

"(a) GENERAL RULE.—In the case of an installment obligation to which this section applies—

"(1) interest shall be paid on the deferred tax liability with respect to such obligation in the manner provided under subsection (c), and

"(2) the pledging rules under subsection (d) shall apply.

"(b) INSTALLMENT OBLIGATIONS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to any obligation which arises from the disposition of real property under the installment method which is property used in the taxpayer's trade or business or property held for the production of rental income, but only if the sales price of such property exceeds $150,000.

"(2) SPECIAL RULE FOR INTEREST PAYMENTS.—For purposes of subsection (a)(1), this section shall apply to an obligation described in paragraph (1) arising during a taxable year only if—

"(A) such obligation is outstanding as of the close of such taxable year, and

"(B) the face amount of all obligations of the taxpayer described in paragraph (1) which arose during, and are outstanding as of the close of, such taxable year exceeds $5,000,000.

Except as provided in regulations, all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as one person for purposes of this paragraph.

"(3) EXCEPTION FOR PERSONAL USE AND FARM PROPERTY.—An installment obligation shall not be treated as described in paragraph (1) if it arises from the disposition—

"(A) by an individual of personal use property (within the meaning of section 1275(b)(3)), or

"(B) of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e)(4) or (5)).

"(4) Special rule for timeshares and residential lots.—An installment obligation shall not be treated as described in paragraph (1) if it arises from a disposition described in section 453(l)(2)(B), but the provisions of section 453(l)(3) (relating to interest payments on timeshares and residential lots) shall apply to such obligation.

"(5) Sales price.—For purposes of paragraph (1), all sales or exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

"(c) Interest on Deferred Tax Liability.—

"(1) In general.—If an obligation to which this section applies is outstanding as of the close of any taxable year, the tax imposed by this chapter for such taxable year shall be increased by the amount of interest determined in the manner provided under paragraph (2).

"(2) Computation of interest.—For purposes of paragraph (1), the interest for any taxable year shall be an amount equal to the product of—

"(A) the applicable percentage of the deferred tax liability with respect to such obligation, multiplied by

"(B) the underpayment rate in effect under section 6621(a)(2) for the month with or within which the taxable year ends.

"(3) Deferred tax liability.—For purposes of this section, the term 'deferred tax liability' means, with respect to any taxable year, the product of—

"(A) the amount of gain with respect to an obligation which has not been recognized as of the close of such taxable year, multiplied by

"(B) the maximum rate of tax in effect under section 1 or 11, whichever is appropriate, for such taxable year.

"(4) Applicable percentage.—For purposes of this subsection, the term 'applicable percentage' means, with respect to obligations arising in any taxable year, the percentage determined by dividing—

"(A) the portion of the aggregate face amount of such obligations outstanding as of the close of such taxable year in excess of $5,000,000, by

"(B) the aggregate face amount of such obligations outstanding as of the close of such taxable year.

"(5) Regulations.[106]—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection including regulations providing for the application of this subsection in the case of contingent payments, short taxable years, and pass-thru entities.

"(d) Pledges, Etc., of Installment Obligations.—

"(1) In general.—For purposes of section 453, if any indebtedness (hereinafter in this subsection referred to as 'secured indebtedness') is secured by an installment obligation to which this section applies, the net proceeds of the secured indebtedness shall be treated as a payment received on such installment obligation as of the later of—

---

[106] Copy read "Regulations—".

"(A) the time the indebtedness becomes secured indebtedness, or

"(B) the proceeds of such indebtedness are received by the taxpayer.

"(2) LIMITATION BASED ON TOTAL CONTRACT PRICE.—The amount treated as received under paragraph (1) by reason of any secured indebtedness shall not exceed the excess (if any) of—

"(A) the total contract price, over

"(B) any portion of the total contract price received under the contract before such secured indebtedness was incurred (including amounts previously treated as received under paragraph (1) but not including amounts not taken into account by reason of paragraph (3)).

"(3) LATER PAYMENTS TREATED AS RECEIPT OF TAX PAID AMOUNTS.—If any amount is treated as received under paragraph (1) with respect to any installment obligation, subsequent payments received on such obligation shall not be taken into account for purposes of section 453 to the extent that the aggregate of such subsequent payments does not exceed the aggregate amount treated as received under paragraph (1).

"(4) SECURED INDEBTEDNESS.—For purposes of this subsection indebtedness is secured by an installment obligation to the extent that payment of principal or interest on such indebtedness is directly secured (under the terms of the indebtedness or any underlying arrangements) by any interest in such installment obligation."

(2) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 453A and inserting in lieu thereof the following new item:

"Sec. 453A. Special rules for nondealers of real property."

(3) CONFORMING AMENDMENTS.—Sections 381(c)(8) and 691(a)(4) and (5) are each amended by striking out "or 453A" each place it appears.

(d) MINIMUM TAX.—Paragraph (6) of section 56(a) (relating to installment sales of certain property) is amended to read as follows:

"(6) INSTALLMENT SALES OF CERTAIN PROPERTY.—In the case of any disposition after March 1, 1986, of any property described in section 1221(1), income from such disposition shall be determined without regard to the installment method under section 453. This paragraph shall not apply to any disposition with respect to which an election is in effect under section 453(l)(2)(B)."

26 USC 453 note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to dispositions in taxable years beginning after December 31, 1987.

(2) SPECIAL RULES FOR DEALERS.—

(A) IN GENERAL.—In the case of dealer dispositions (within the meaning of section 453A of the Internal Revenue Code of 1986), the amendments made by subsections (a) and (b) shall apply to installment obligations arising from dispositions after December 31, 1987.

(B) SPECIAL RULES FOR OBLIGATIONS ARISING FROM DEALER DISPOSITIONS AFTER FEBRUARY 28, 1986, AND BEFORE JANUARY 1, 1988.—

(i) IN GENERAL.—In the case of an applicable installment obligation arising from a disposition described in subclause (I) or (II) of section 453C(e)(1)(A)(i) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this section) before January 1, 1988, the amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1987.

(ii) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who is required by clause (i) to change its method of accounting for any taxable year with respect to obligations described in clause (i)—

(I) such change shall be treated as initiated by the taxpayer,

(II) such change shall be treated as made with the consent of the Secretary of the Treasury or his delegate, and

(III) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period not longer than 4 taxable years.

(3) SPECIAL RULE FOR NONDEALERS.—

(A) ELECTION.—A taxpayer may elect, at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe, to have the amendments made by subsections (a) and (c) apply to taxable years ending after December 31, 1986, with respect to dispositions and pledges occurring after August 16, 1986.

(B) PLEDGING RULES.—Except as provided in subparagraph (A)—

(i) IN GENERAL.—Section 453A(d) of the Internal Revenue Code of 1986 shall apply to any installment obligation which is pledged to secure any secured indebtedness (within the meaning of section 453A(d)(4) of such Code) after December 17, 1987, in taxable years ending after such date.

(ii) COORDINATION WITH SECTION 453C.—For purposes of section 453C of such Code (as in effect before its repeal), the face amount of any obligation to which section 453A(d) of such Code applies shall be reduced by the amount treated as payments on such obligation under section 453A(d) of such Code and the amount of any indebtedness secured by it shall not be taken into account.

(4) MINIMUM TAX.—The amendment made by subsection (d) shall apply to dispositions in taxable years beginning after December 31, 1986.

(5) COORDINATION WITH TAX REFORM ACT OF 1986.—The amendments made by this section shall not apply to any installment obligation or to any taxpayer during any period to the extent the amendments made by section 811 of the Tax Reform Act of 1986 do not apply to such obligation or during such period.

SEC. 10203. REDUCTION IN PERCENTAGE OF ITEMS TAKEN INTO ACCOUNT UNDER COMPLETED CONTRACT METHOD.

(a) IN GENERAL.—Section 460(a) (relating to percentage of completion—capitalized cost method) is amended—

(1) by striking out "40 percent" each place it appears in the text and heading thereof and inserting in lieu thereof "70 percent", and

(2) by striking out "60 percent" and inserting in lieu thereof "30 percent".

26 USC 460 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts entered into after October 13, 1987.

(2) SPECIAL RULE FOR CERTAIN SHIP CONTRACTS.—

(A) IN GENERAL.—The amendments made by this section shall not apply in the case of a qualified ship contract.

(B) QUALIFIED SHIP CONTRACT.—For purposes of subparagraph (A), the term "qualified ship contract" [107] means any contract for the construction in the United States of not more than 5 ships if—

(i) such ships will not be constructed (directly or indirectly) for the Federal Government, and

(ii) the taxpayer reasonably expects to complete such contract within 5 years of the contract commencement date (as defined in section 460(g) of the Internal Revenue Code of 1986).

26 USC 263A note.

SEC. 10204. AMORTIZATION OF PAST SERVICE PENSION COSTS.

(a) IN GENERAL.—For purposes of sections 263A and 460 of the Internal Revenue Code of 1986, the allocable costs (within the meaning of section 263A(a)(2) or section 460(c) of such Code, whichever is applicable) with respect to any property shall include contributions paid to or under a pension or annuity plan whether or not such contributions represent past service costs.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a) shall apply to costs incurred after December 31, 1987, in taxable years ending after such date.

(2) SPECIAL RULE FOR INVENTORY PROPERTY.—In the case of any property which is inventory in the hands of the taxpayer—

(A) IN GENERAL.—Subsection (a) shall apply to taxable years beginning after December 31, 1987.

(B) CHANGE IN METHOD OF ACCOUNTING.—If the taxpayer is required by this section to change its method of accounting for any taxable year—

(i) such change shall be treated as initiated by the taxpayer,

(ii) such change shall be treated as made with the consent of the Secretary of the Treasury or his delegate, and

(iii) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period not longer than 4 taxable years.

---

[107] Copy read " 'qualified ship contract' ".

SEC. 10205. CERTAIN FARM CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) General Rule.—Section 447 (relating to method of accounting for corporations engaged in farming) is amended by striking out subsections (c) and (e), by redesignating subsection (d) as subsection (e), and by inserting after subsection (b) the following new subsections:

"(c) Exception for Certain Corporations.—For purposes of subsection (a), a corporation shall be treated as not being a corporation if it is—

"(1) an S corporation, or

"(2) a corporation the gross receipts of which meet the requirements of subsection (d).

"(d) Gross Receipts Requirements.—

"(1) In general.—A corporation meets the requirements of this subsection if, for each prior taxable year beginning after December 31, 1975, such corporation (and any predecessor corporation) did not have gross receipts exceeding $1,000,000. For purposes of the preceding sentence, all corporations which are members of the same controlled group of corporations (within the meaning of section 1563(a)) shall be treated as 1 corporation.

"(2) Special rules for family corporations.—

"(A) In general.—In the case of a family corporation, paragraph (1) shall be applied—

"(i) by substituting 'December 31, 1985,' for 'December 31, 1975,'; and

"(ii) by substituting '$25,000,000' for '$1,000,000'.

"(B) Gross receipts test.—

"(i) Controlled groups.—Notwithstanding the last sentence of paragraph (1), in the case of a family corporation—

"(I) except as provided by the Secretary, only the applicable percentage of gross receipts of any other member of any controlled group of corporations of which such corporation is a member shall be taken into account, and

"(II) under regulations, gross receipts of such corporation or of another member of such group shall not be taken into account by such corporation more than once.

"(ii) Pass-thru entities.—For purposes of paragraph (1), if a family corporation holds directly or indirectly any interest in a partnership, estate, trust or other pass-thru entity, such corporation shall take into account its proportionate share of the gross receipts of such entity.

"(iii) Applicable percentage.—For purposes of clause (i), the term 'applicable percentage' means the percentage equal to a fraction—

"(I) the numerator of which is the fair market value of the stock of another corporation held directly or indirectly as of the close of the taxable year by the family corporation, and

"(II) the denominator of which is the fair market value of all stock of such corporation as of such time.

For purposes of this clause, the term 'stock' does not include stock described in section 1563(c)(1).[108]

"(C) FAMILY CORPORATION.—For purposes of this section,[108a] the term 'family corporation' means—

"(i) any corporation if at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of all other classes of stock of the corporation, are owned by members of the same family, and

"(ii) any corporation described in subsection (h)."

(b) SUSPENSE ACCOUNT IN LIEU OF 481 ADJUSTMENTS.—Section 447 is amended by adding at the end thereof the following new subsection:

"(i) SUSPENSE ACCOUNT FOR FAMILY CORPORATIONS.—

"(1) IN GENERAL.—If any family corporation is required by this section to change its method of accounting for any taxable year (hereinafter in this subsection referred to as the 'year of the change'), notwithstanding subsection (f), such corporation shall establish a suspense account under this subsection in lieu of taking into account adjustments under section 481(a) with respect to amounts included in the suspense account.

"(2) INITIAL OPENING BALANCE.—The initial opening balance of the account described in paragraph (1) shall be the lesser of—

"(A) the net adjustments which would have been required to be taken into account under section 481 but for this subsection, or

"(B) the amount of such net adjustments determined as of the beginning of the taxable year preceding the year of change.

If the amount referred to in subparagraph (A) exceeds the amount referred to in subparagraph (B), notwithstanding paragraph (1), such excess shall be included in gross income in the year of the change.

"(3) REDUCTION IN ACCOUNT IF FARMING BUSINESS CONTRACTS.—If—

"(A) the gross receipts of the corporation from the trade or business of farming for the year of the change or any subsequent taxable year, is less than

"(B) such gross receipts for the taxpayer's last taxable year beginning before the year of the change (or for the most recent taxable year for which a reduction in the suspense account was made under this paragraph),

the amount in the suspense account (after taking into account prior reductions) shall be reduced by the percentage by which the amount described in subparagraph (A) is less than the amount described in subparagraph (B).

"(4) INCOME INCLUSION.—Any reduction in the suspense account under paragraph (3) shall be included in gross income for the taxable year of the reduction.

"(5) INCLUSION WHERE CORPORATION CEASES TO BE A FAMILY CORPORATION.—

"(A) IN GENERAL.—If the corporation ceases to be a family corporation during any taxable year, the amount in the suspense account (after taking into account prior reductions) shall be included in gross income for such taxable year.

---

[108] Copy read "1563(c)(1)." ".

[108a] Copy read "section.".

"(B) SPECIAL RULE FOR CERTAIN TRANSFERS.—For purposes of subparagraph (A), any transfer in a corporation after December 15, 1987, shall be treated as a transfer to a person whose ownership could not qualify such corporation as a family corporation unless it is a transfer—

"(i) to a member of the family of the transferor, or

"(ii) in the case of a corporation described in subsection (h), to a member of a family which on December 15, 1987, held stock in such corporation which qualified the corporation under subsection (h).

"(6) SUBCHAPTER C TRANSACTIONS.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party by reason of subchapter C shall be determined under regulations prescribed by the Secretary."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (e) of section 447 (as redesignated by subsection (a)) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (d)".

(2) Paragraph (1) of section 447(h) is amended—

(A) by striking out "This section shall not apply to any corporation" and inserting in lieu thereof "A corporation is described in this subsection",

(B) by striking out "subsection (d)" each place it appears and inserting in lieu thereof "subsection (e)", and

(C) by striking out "subsection (d)(1)" each place it appears and inserting in lieu thereof "subsection (e)(1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987. 26 USC 447 note.

SEC. 10206. ENTITIES MAY ELECT TAXABLE YEARS OTHER THAN REQUIRED TAXABLE YEAR.

(a) ELECTION OF DIFFERENT YEAR.—

(1) IN GENERAL.—Part I of subchapter E of chapter 1 (relating to accounting periods) is amended by adding at the end thereof the following new section:[109]

"SEC. 444. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

26 USC 444.

"(a) GENERAL RULE.—Except as provided in subsections (b) and (c), a partnership, S corporation, or personal service corporation may elect to have a taxable year other than the required taxable year.

"(b) LIMITATIONS ON TAXABLE YEARS WHICH MAY BE ELECTED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an election may be made under subsection (a) only if the deferral period of the taxable year elected is not longer than 3 months.

"(2) CHANGES IN TAXABLE YEAR.—Except as provided in paragraph (3), in the case of an entity changing a taxable year, an election may be made under subsection (a) only if the deferral period of the taxable year elected is not longer than the shorter of—

"(A) 3 months, or

---

[109] Copy read "section.".

"(B) the deferral period of the taxable year which is being changed.

"(3) SPECIAL RULE FOR ENTITIES RETAINING 1986 TAXABLE YEARS.—In the case of an entity's 1st taxable year beginning after December 31, 1986, an entity may elect a taxable year under subsection (a) which is the same as the entity's last taxable year beginning in 1986.

"(4) DEFERRAL PERIOD.—For purposes of this subsection, the term 'deferral period' means, with respect to any taxable year of the entity, the months between—

"(A) the beginning of such year, and

"(B) the close of the 1st required taxable year ending within such year.

"(c) EFFECT OF ELECTION.—If an entity makes an election under subsection (a), then—

"(1) in the case of a partnership or S corporation, such entity shall make the payments required by section 7519, and

"(2) in the case of a personal service corporation, such corporation shall be subject to the deduction limitations of section 280H.

"(d) ELECTIONS.—

"(1) PERSON MAKING ELECTION.—An election under subsection (a) shall be made by the partnership, S corporation, or personal service corporation.

"(2) PERIOD OF ELECTION.—

"(A) IN GENERAL.—Any election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation changes its taxable year. Any change to a required taxable year may be made without the consent of the Secretary.

"(B) NO FURTHER ELECTION.—If an election is terminated under subparagraph (A), the partnership, S corporation, or personal service corporation may not make another election under subsection (a).

"(3) TIERED STRUCTURES, ETC.—No election may be made under subsection (a) with respect to an entity which is part of a tiered structure other than a tiered structure comprised of 1 or more partnerships or S corporations all of which have the same taxable year.

"(e) REQUIRED TAXABLE YEAR.—For purposes of this section, the term 'required taxable year' means the taxable year determined under section 706(b), 1378, or 441(i) without taking into account any taxable year which is allowable by reason of business purposes. Solely for purposes of the preceding sentence, sections 706(b), 1378, and 441(i) shall be treated as in effect for taxable years beginning before January 1, 1987.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations to prevent the avoidance of subsection (b)(2)(B) or (d)(2)(B) through the change in form of an entity."

(2) CONFORMING AMENDMENT.—The table of sections for part I of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 444. Election of taxable year other than required taxable year."

(b) REQUIRED PAYMENTS.—

(1) In general.—Chapter 77 is amended by adding at the end thereof the following new section:

"SEC. 7519. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

26 USC 7519.

"(a) General Rule.—This section applies to a partnership or S corporation for any taxable year, if—

"(1) an election under section 444 is in effect for the taxable year, and

"(2) the required payment determined under subsection (b) for such taxable year (or any preceding taxable year) exceeds $500.

"(b) Required Payment.—For purposes of this section, the term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to—

"(1) the excess of the product of—

"(A) the applicable percentage of the adjusted highest section 1 rate, multiplied by

"(B) the net base year income of the entity, over

"(2) the amount of the required payment for the preceding applicable election year.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the end of the base year plus 1 percentage point (or, in the case of applicable election years beginning in 1987, 36 percent).

"(c) Refund of Payments.—If the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), then the entity shall be entitled to a refund of such excess.

"(d) Net Base Year Income.—For purposes of this section—

"(1) In general.—An entity's net base year income shall be equal to the sum of—

"(A) the deferral ratio multiplied by the entity's net income for the base year, plus

"(B) the excess (if any) of—

"(i) the deferral ratio multiplied by the aggregate amount of applicable payments made by the entity during the base year, over

"(ii) the aggregate amount of such applicable payments made during the deferral period of the base year.

For purposes of this paragraph, the term 'deferral ratio' means the ratio which the number of months in the deferral period of the base year bears to the number of months in the partnership's or S corporation's taxable year.

"(2) Net income.—Net income is determined by taking into account the aggregate amount of the following items—

"(A) Partnerships.—In the case of a partnership, net income shall be the amount (not below zero) determined by taking into account the aggregate amount of the partnership's items described in section 702(a) (other than credits).

"(B) S corporations.—In the case of an S corporation, net income shall be the amount (not below zero) determined by taking into account the aggregate amount of the S corporation's items described in section 1366(a) (other than credits). If the S corporation was a C corporation for the base year, its taxable income for such year shall be treated as its net income for such year.

"(C) Certain limitations disregarded.—For purposes of subparagraph (A) or (B), any limitation on the amount of any item described in either such paragraph which may be taken into account for purposes of computing the taxable income of a partner or shareholder shall be disregarded.

"(3) APPLICABLE PAYMENTS.—

"(A) IN GENERAL.—The term 'applicable payment' means amounts paid or incurred by a partnership or S corporation which are includible in gross income of a partner or shareholder.

"(B) EXCEPTIONS.—The term 'applicable payment' shall not include any—

"(i) gain from the sale or exchange of property between the partner or shareholder and the partnership or S corporation, and

"(ii) dividend paid by the S corporation.

"(4) APPLICABLE PERCENTAGE.—The applicable percentage is the percentage determined in accordance with the following table:

"If the applicable election year of the partnership or S corporation begins during:	The applicable percentage is:
1987	25
1988	50
1989	75
1990 or thereafter	100.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DEFERRAL PERIOD.—The term 'deferral period' has the meaning given to such term by section 444(b)(4).

"(2) YEARS.—

"(A) BASE YEAR.—The term 'base year' means, with respect to any applicable election year, the taxable year of the partnership or S corporation preceding such applicable election year.

"(B) APPLICABLE ELECTION YEAR.—The term 'applicable election year' means any taxable year of a partnership or S corporation with respect to which an election is in effect under section 444.

"(3) REQUIREMENT OF REPORTING.—Each partnership or S corporation which makes an election under section 444 shall include on any required return or statement such information as the Secretary shall prescribe as is necessary to carry out the provisions of this section.

"(f) ADMINISTRATIVE PROVISIONS.—

Regulations.

"(1) IN GENERAL.—Except as otherwise provided in this subsection or in regulations prescribed by the Secretary, any payment required by this section shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C.

"(2) DUE DATE.—The amount of any payment required by this section shall be paid on or before April 15 of the calendar year following the calendar year in which the applicable election year begins (or such later date as may be prescribed by the Secretary).

"(3) INTEREST.—For purposes of determining interest, any payment required by this section shall be treated as a tax; except that no interest shall be allowed with respect to any refund of a payment made under this section.

"(4) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any person to pay on the date prescribed therefor any amount required by this section, there shall be imposed on such person a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of the amount of the payment required under this section over the amount (if any) of such payment paid on or before the date prescribed therefor.

"(B) NEGLIGENCE AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of section 6653, any payment required by this section shall be treated as a tax.

"(C) WILLFUL [110] FAILURE.—If any partnership or S corporation willfully fails to comply with the requirements of this section, section 444 shall cease to apply with respect to such partnership or S corporation.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section and section 280H, including regulations for annualizing the income and applicable payments of an entity if the base year is a taxable year of less than 12 months."

(2) CONFORMING AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7519. Required payments for entities electing not to have required taxable year."

(c) DEDUCTION LIMITATIONS.—

(1) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280H. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS BY PERSONAL SERVICE CORPORATIONS ELECTING ALTERNATIVE TAXABLE YEARS.

26 USC 280H.

"(a) GENERAL RULE.—If—

"(1) an election by a personal service corporation under section 444 is in effect for a taxable year, and

"(2) such corporation does not meet the minimum distribution requirements of subsection (c) for such taxable year,

then the deduction otherwise allowed under this chapter for applicable amounts paid or incurred by such corporation to employee-owners shall not exceed the maximum deductible amount. The preceding sentence shall not apply for purposes of subchapter G (relating to personal holding companies).

"(b) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—If any amount is not allowed as a deduction for a taxable year under subsection (a), such amount shall be treated as paid or incurred in the succeeding taxable year.

"(c) MINIMUM DISTRIBUTION REQUIREMENT.—For purposes of this section—

"(1) IN GENERAL.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid or incurred during the deferral period of the taxable year (determined without regard to subsection (b)) equal or exceed the lesser of—

---

[110] Copy read "WILLFULL"

"(A) the product of—

"(i) the applicable amounts paid or incurred during the preceding taxable year, divided by the number of months in such taxable year, multiplied by

"(ii) the number of months in the deferral period of the preceding taxable year, or

"(B) the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

"(2) APPLICABLE PERCENTAGE.—[110a] The term 'applicable percentage' means the percentage (not in excess of 95 percent) determined by dividing—

"(A) the applicable amounts paid or incurred during the 3 taxable years immediately preceding the taxable year, by

"(B) the adjusted taxable income of such corporation for such 3 taxable years.

"(d) MAXIMUM DEDUCTIBLE AMOUNT.—For purposes of this section, the term 'maximum deductible amount' means the sum of—

"(1) the applicable amounts paid or incurred during the deferral period, plus

"(2) an amount equal to the product of—

"(A) the amount determined under paragraph (1), divided by the number of months in the deferral period, multiplied by

"(B) the number of months in the nondeferral period.

"(e) DISALLOWANCE OF NET OPERATING LOSS CARRYBACKS.—No net operating loss carryback shall be allowed to (or from) any taxable year of a personal service corporation to which an election under section 444 applies.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE AMOUNT.—The term 'applicable amount' means any amount paid to an employee-owner which is includible in the gross income of such employee, other than—

"(A) any gain from the sale or exchange of property between the owner-employee and the corporation, or

"(B) any dividend paid by the corporation.

"(2) EMPLOYEE-OWNER.—The term 'employee-owner' has the meaning given such term by section 296A(b)(2).

"(3) NONDEFERRAL AND DEFERRAL PERIODS.—

"(A) DEFERRAL PERIOD.—The term 'deferral period' has the meaning given to such term by section 444(b)(4).

"(B) NONDEFERRAL PERIOD.—The term 'nondeferral period' means the portion of the taxable year of the personal service corporation which occurs after the portion of such year constituting the deferral period.[111]

"(4) ADJUSTED TAXABLE INCOME.—The term 'adjusted taxable income' means taxable income increased by any amount paid or incurred to an employee-owner which was includible in the gross income of such employee-owner."

(2) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following item:

[110a] Copy read "PERCENTAGE.—".

[111] Copy read "period.' ".

"Sec. 280H. Limitation on certain amounts paid to owner-employees by personal service corporations electing alternative taxable years."

(d) EFFECTIVE DATES.—

26 USC 444 note.

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) REQUIRED PAYMENTS.—The amendments made by subsection (b) shall apply to applicable election years beginning after December 31, 1986.

(3) ELECTIONS.—Any election under section 444 of the Internal Revenue Code of 1986 (as added by subsection (a)) for an entity's 1st taxable year beginning after December 31, 1986, shall not be required to be made before the 90th day after the date of the enactment of this Act.

(4) SPECIAL RULE FOR EXISTING ENTITIES ELECTING S CORPORATION STATUS.—If a C corporation (within the meaning of section 1361(a)(2)[112] of the Internal Revenue Code of 1986) with a taxable year other than the calendar year—

(A) made an election after September 18, 1986, and before January 1, 1988, under section 1362 of such Code to be treated as an S corporation, and

(B) elected to have the calendar year as the taxable year of the S corporation,

then section 444(b)(2)(B) of such Code shall be applied by taking into account the deferral period of the last taxable year of the C corporation rather than the deferral period of the taxable year being changed.

PART II—PARTNERSHIP PROVISIONS

SEC. 10211. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by adding at the end thereof the following new section:

"SEC. 7704. CERTAIN PUBLICLY TRADED PARTNERSHIPS TREATED AS CORPORATIONS.

26 USC 7704.

"(a) GENERAL RULE.—For purposes of this title, except as provided in subsection (c), a publicly traded partnership shall be treated as a corporation.

"(b) PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term 'publicly traded partnership' means any partnership if—

"(1) interests in such partnership are traded on an established securities market, or

"(2) interests in such partnership are readily tradable on a secondary market (or the substantial equivalent thereof).

"(c) EXCEPTION FOR PARTNERSHIPS WITH PASSIVE-TYPE INCOME.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any publicly traded partnership for any taxable year if such partnership met the gross income requirements of paragraph (2) for such taxable year and each preceding taxable year beginning after December 31, 1987, during which the partnership (or any predecessor) was in existence.

"(2) GROSS INCOME REQUIREMENTS.—A partnership meets the gross income requirements of this paragraph for any taxable year if 90 percent or more of the gross income of such partnership for such taxable year consists of qualifying income.

---

[112] Copy read "1361(a)(2)".

"(3) EXCEPTION NOT TO APPLY TO CERTAIN PARTNERSHIPS WHICH COULD QUALIFY AS REGULATED INVESTMENT COMPANIES.—This subsection shall not apply to any partnership which would be described in section 851(a) if such partnership were a domestic corporation. To the extent provided in regulations, the preceding sentence shall not apply to any partnership a principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to commodities.

"(d) QUALIFYING INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualifying income' means—

"(A) interest,

"(B) dividends,

"(C) real property rents,

"(D) gain from the sale or other disposition of real property (including property described in section 1221(1)),

"(E) income and gains derived from the exploration, development, mining or production, processing, refining, transportation (including pipelines transporting gas, oil, or products thereof), or the marketing of any mineral or natural resource (including fertilizer, geothermal energy, and timber),

"(F) any gain from the sale or disposition of a capital asset (or property described in section 1231(b)) held for the production of income described in any of the foregoing subparagraphs of this paragraph, and

"(G) in the case of a partnership described in the second sentence of subsection (c)(3), income and gains from commodities (not described in section 1221(1)) or futures, forwards, and options with respect to commodities.

"(2) CERTAIN INTEREST NOT QUALIFIED.—Interest shall not be treated as qualifying income if—

"(A) such interest is derived in the conduct of a financial or insurance business, or

"(B) such interest would be excluded from the term 'interest' under section 856(f).

"(3) REAL PROPERTY RENT.—The term 'real property rent' means amounts which would qualify as rent from real property under section 856(d) if such section were applied without regard to paragraph (2)(C) thereof (relating to independent contractor requirements).

"(4) CERTAIN INCOME QUALIFYING UNDER REGULATED INVESTMENT COMPANY OR REAL ESTATE TRUST PROVISIONS.—The term 'qualifying income' also includes any income which would qualify under section 851(b)(2) or 856(c)(2).

"(5) SPECIAL RULE FOR DETERMINING GROSS INCOME FROM CERTAIN REAL PROPERTY SALES.—In the case of the sale or other disposition of real property described in section 1221(1), gross income shall not be reduced by inventory costs.

"(e) INADVERTENT TERMINATIONS.—If—

"(1) a partnership fails to meet the gross income requirements of subsection (c)(2),

"(2) the Secretary determines that such failure was inadvertent, "(3) no later than a reasonable time after the discovery of such failure, steps are taken so that such partnership once more meets such gross income requirements, and

"(4) such partnership agrees to make such adjustments (including adjustments with respect to the partners) as may be required by the Secretary with respect to such period,

then, notwithstanding such failure, such entity shall be treated as continuing to meet such gross income requirements for such period.

"(f) EFFECT OF BECOMING CORPORATION.—As of the 1st day that a partnership is treated as a corporation under this section, for purposes of this title, such partnership shall be treated as—

"(1) transferring all of its assets (subject to its liabilities) to a newly formed corporation in exchange for the stock of the corporation, and

"(2) distributing such stock to its partners in liquidation of their interests in the partnership."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by adding at the end thereof the following new item:

"Sec. 7704. Certain publicly traded partnerships treated as corporations."

(c) EFFECTIVE DATE.— 26 USC 7704 note.

(1) IN GENERAL.—The amendments made by this section shall apply—

(A) except as provided in subparagraph (B), to taxable years beginning after December 31, 1987, or

(B) in the case of an existing partnership, to taxable years beginning after December 31, 1997.

(2) EXISTING PARTNERSHIP.—For purposes of this subsection—

(A) IN GENERAL.—The term "existing partnership" means any partnership if—

(i) such partnership was a publicly traded partnership on December 17, 1987,

(ii) a registration statement indicating that such partnership was to be a publicly traded partnership was filed with the Securities and Exchange Commission with respect to such partnership on or before such date, or

(iii) with respect to such partnership, an application was filed with a State regulatory commission on or before such date seeking permission to restructure a portion of a corporation as a publicly traded partnership.

(B) SPECIAL RULE WHERE SUBSTANTIAL NEW LINE OF BUSINESS ADDED AFTER DECEMBER 17, 1987.—A partnership which, but for this subparagraph, would be treated as an existing partnership shall cease to be treated as an existing partnership as of the 1st day after December 17, 1987, on which there has been an addition of a substantial new line of business with respect to such partnership.

SEC. 10212. TREATMENT OF PUBLICLY TRADED PARTNERSHIPS UNDER SECTION 469.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) SEPARATE APPLICATION OF SECTION IN CASE OF PUBLICLY TRADED PARTNERSHIPS.—

"(1) IN GENERAL.—This section shall be applied separately with respect to items attributable to each publicly traded partnership (and subsection (i) shall not apply with respect to items attributable to any such partnership). The preceding sentence shall not apply to any credit determined under section 42, or any rehabilitation investment credit (within the meaning of section 48(o)), attributable to a publicly traded partnership to the extent the amount of any such credits exceeds the regular tax liability attributable to income from such partnership.

"(2) PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term 'publicly traded partnership' means any partnership if—

"(A) interests in such partnership are traded on an established securities market, or

"(B) interests in such partnership are readily tradable on a secondary market (or the substantial equivalent thereof)."

(b) CONFORMING AMENDMENTS.—Paragraph (3) of section 58(b) and subparagraph (E) of section 163(d)(4) are each amended by striking out "469(l)" and inserting in lieu thereof "469(m)".

26 USC 58 note. (c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 501 of the Tax Reform Act of 1986.

SEC. 10213. TREATMENT OF PUBLICLY TRADED PARTNERSHIPS FOR UNRELATED BUSINESS TAX.

(a) GENERAL RULE.—Subsection (c) of section 512 (relating to special rules for partnerships) is amended to read as follows:

"(c) SPECIAL RULES FOR PARTNERSHIPS.—

"(1) IN GENERAL.—If a trade or business regularly carried on by a partnership of which an organization is a member is an unrelated trade or business with respect to such organization, such organization in computing its unrelated business taxable income shall, subject to the exceptions, additions, and limitations contained in subsection (b), include its share (whether or not distributed) of the gross income of the partnership from such unrelated trade or business and its share of the partnership deductions directly connected with such gross income.

"(2) SPECIAL RULE FOR PUBLICLY TRADED PARTNERSHIPS.—Notwithstanding any other provision of this section—

"(A) any organization's share (whether or not distributed) of the gross income of a publicly traded partnership (as defined in section 469(k)(2)) shall be treated as gross income derived from an unrelated trade or business, and

"(B) such organization's share of the partnership deductions shall be allowed in computing unrelated business taxable income.

"(3) SPECIAL RULE WHERE PARTNERSHIP YEAR IS DIFFERENT FROM ORGANIZATION'S YEAR.—If the taxable year of the organization is different from that of the partnership, the amounts to be included or deducted in computing the unrelated business taxable income under paragraph (1) or (2) shall be based upon the income and deductions of the partnership for any taxable year of the partnership ending within or with the taxable year of the organization."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to partnership interests acquired after December 17, 1987. 26 USC 512 note.

SEC. 10214. TREATMENT OF CERTAIN PARTNERSHIP ALLOCATIONS.

(a) GENERAL RULE.—Clause (vi) of section 514(c)(9)(B) is amended to read as follows:

"(vi) the real property is held by a partnership unless the partnership meets the requirements of clauses (i) through (v) and unless—

"(I) all of the partners of the partnership are qualified organizations,

"(II) each allocation to a partner of the partnership which is a qualified organization is a qualified allocation (within the meaning of section 168(h)(6)), or

"(III) such partnership meets the requirements of subparagraph (E)."

(b) CERTAIN ALLOCATIONS PERMITTED.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

"(E) CERTAIN ALLOCATIONS PERMITTED.—

"(i) IN GENERAL.—A partnership meets the requirements of this subparagraph if—

"(I) the allocation of items to any partner other than a qualified organization cannot result in such partner having a share of the overall partnership loss for any taxable year greater than such partner's share of the overall partnership income for the taxable year for which such partner's income share will be the smallest,

"(II) the allocation of items to any partner which is a qualified organization cannot result in such partner having a share of the overall partnership income for any taxable year greater than such partner's share of the overall partnership loss for the taxable year for which such partner's loss share will be the smallest, and

"(III) each allocation with respect to the partnership has substantial economic effect within the meaning of section 704(b)(2).

For purposes of this clause, items allocated under section 704(c) shall not be taken into account.

"(ii) SPECIAL RULES.—

"(I) CHARGEBACKS.—Except as provided in regulations, a partnership may without violating the requirements of this subparagraph provide for chargebacks with respect to disproportionate losses previously allocated to qualified organizations and disproportionate income previously allocated to other partners. Any chargeback referred to in the preceding sentence shall not be at a ratio in excess of the ratio under which the loss or income (as the case may be) was allocated.

"(II) PREFERRED RATES OF RETURN, ETC.—To the extent provided in regulations, a partnership may without violating the requirements of this subparagraph provide for reasonable preferred returns or reasonable guaranteed payments."

26 USC 514 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) property acquired by the partnership after October 13, 1987, and

(2) partnership interests acquired after October 13, 1987,

except that such amendments shall not apply in the case of any property (or partnership interest) acquired pursuant to a written binding contract in effect on October 13, 1987, and at all times thereafter before such property (or interest) is acquired.

SEC. 10215. STUDY.

The Secretary of the Treasury or his delegate shall conduct a study of—

(1) the issue of treating publicly traded limited partnerships (and other partnerships which significantly resemble corporations) as corporations for Federal income tax purposes, including the issues of disincorporation and opportunities for avoidance of the corporate tax, and

(2) the administrative and compliance issues related to the tax treatment of publicly traded partnerships and other large partnerships.

Reports.

Not later than January 1, 1989, the Secretary of the Treasury or his delegate shall submit a report on such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, together with such recommendations as he may deem appropriate. Not later than May 1, 1988, an interim report with respect to the issues referred to in paragraph (2) shall be submitted to such Committees.

PART III—CORPORATE PROVISIONS

SEC. 10221. REDUCTION IN DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS FROM CORPORATIONS NOT 20-PERCENT OWNED.

(a) GENERAL RULE.—The following provisions are each amended by striking out "80 percent" and inserting in lieu thereof "70 percent":

(1) Section 243(a)(1) (relating to dividends received by corporations).

(2) Subsections (a)(3) and (b)(2) of section 244 (relating to dividends received on certain preferred stock).

(b) RETENTION OF 80-PERCENT DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS FROM 20-PERCENT OWNED CORPORATIONS.—Section 243 is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) RETENTION OF 80-PERCENT DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS FROM 20-PERCENT OWNED CORPORATIONS.—

"(1) IN GENERAL.—In the case of any dividend received from a 20-percent owned corporation—

"(A) subsection (a)(1) of this section, and

"(B) subsections (a)(3) and (b)(2) of section 244,

shall be applied by substituting '80 percent' for '70 percent'.

"(2) 20-PERCENT OWNED CORPORATION.—For purposes of this section, the term '20-percent owned corporation' means any corporation if 20 percent or more of the stock of such corporation (by vote and value) is owned by the taxpayer. For purposes of the preceding sentence, stock described in section 1504(a)(4) shall not be taken into account."

(c) MODIFICATIONS TO TAXABLE YEAR LIMITATIONS.—

(1) Subsection (b) of section 246 (relating to limitation on aggregate amount of deductions) is amended—

(A) by striking out "80 percent" in paragraph (1) and inserting in lieu thereof "the percentage determined under paragraph (3)", and

(B) by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULES.—The provisions of paragraph (1) shall be applied—

"(A) first separately with respect to dividends from 20-percent owned corporations (as defined in section 243(c)(2)) and the percentage determined under this paragraph shall be 80 percent, and

"(B) then separately with respect to dividends not from 20-percent owned corporations and the percentage determined under this paragraph shall be 70 percent and the taxable income shall be reduced by the aggregate amount of dividends from 20-percent owned corporations (as so defined)."

(2) Subparagraph (B) of section 805(a)(4) is amended by striking out "shall be 80 percent of the life insurance company taxable income" and inserting in lieu thereof "shall be the percentage determined under section 246(b)(3) of the life insurance company taxable income (and such limitation shall be applied as provided in section 246(b)(3))".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 245(c)(1) is amended by striking out "85 percent" and inserting in lieu thereof "70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2))".

(2) Paragraph (1) of section 246A(a) is amended by striking out "80 percent" and inserting in lieu thereof "70 percent (80 percent in the case of any dividend from a 20-percent owned corporation as defined in section 243(c)(2))".

(3) Subparagraph (A) of section 854(b)(1) is amended by inserting before the period at the end thereof the following: "and such dividend shall be treated as received from a corporation which is not a 20-percent owned corporation".

(4) Paragraph (2) of section 861(a) is amended—

(A) by striking out "100/85th" and inserting in lieu thereof "100/70th", and

(B) by adding at the end thereof the following new sentence:

"In the case of any dividend from a 20-percent owned corporation (as defined in section 243(c)(2)), subparagraph (B) shall be applied by substituting '100/80th' for '100/70th'."

(e) EFFECTIVE DATES.— 26 USC 243 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to dividends received or accrued after December 31, 1987, in taxable years ending after such date.

(2) AMENDMENTS RELATING TO LIMITATIONS.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1987.

SEC. 10222. CERTAIN EARNINGS AND PROFITS ADJUSTMENTS NOT TO APPLY FOR CERTAIN PURPOSES.

(a) SPECIAL RULE FOR DETERMINING ADJUSTED BASIS OF STOCK OF MEMBERS OF AFFILIATED GROUP.—

(1) IN GENERAL.—Section 1503 (relating to computation and payment of tax by affiliated group) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR DETERMINING ADJUSTMENTS TO BASIS.—

"(1) IN GENERAL.—Solely for purposes of determining gain or loss on the disposition of intragroup stock, in determining the adjustments to the basis of such intragroup stock on account of the earnings and profits of any member of an affiliated group for any consolidated year—

"(A) such earnings and profits shall be determined as if section 312 were applied for such taxable year (and all preceding consolidated years of the member with respect to such group) without regard to subsections (k) and (n) thereof, and

"(B) earnings and profits shall not include any amount excluded from gross income under section 108 to the extent the amount so excluded was not applied to reduce tax attributes (other than basis in property).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) INTRAGROUP STOCK.—The term 'intragroup stock' means any stock which—

"(i) is in a corporation which is or was a member of an affiliated group of corporations, and

"(ii) is held by another member of such group.

Such term includes any other property the basis of which is determined (in whole or in part) by reference to the basis of stock described in the preceding sentence.

"(B) CONSOLIDATED YEAR.—The term 'consolidated year' means any taxable year for which the affiliated group makes a consolidated return."

26 USC 1503 note.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to any intragroup stock disposed of after December 15, 1987. For purposes of determining the adjustments to the basis of such stock, such amendment shall be deemed to have been in effect [113] for all periods whether before, on, or after December 15, 1987.

(B) EXCEPTION.—The amendment made by paragraph (1) shall not apply to any intragroup stock disposed of after December 15, 1987, and before January 1, 1989, if such disposition is pursuant to a written binding contract, governmental order, letter of intent or preliminary agreement, or stock acquisition agreement, in effect on or before December 15, 1987.

(b) DISTRIBUTIONS RECEIVED BY 20-PERCENT CORPORATE SHAREHOLDERS.—

---

[113] Copy read "been effect".

(1) IN GENERAL.—Paragraph (1) of section 301(f) (relating to special rule for certain distributions received by 20-percent corporate shareholders) is amended by striking out "subsection (n) thereof" and inserting in lieu thereof "subsections (k) and (n) thereof".

(2) EFFECTIVE DATES.— 26 USC 301 note.

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to distributions after December 15, 1987. For purposes of applying such amendment to any such distribution—

(i) for purposes of determining earnings and profits, such amendment shall be deemed to be in effect for all periods whether before, on, or after December 15, 1987, but

(ii) such amendment shall not affect the determination of whether any distribution on or before December 15, 1987, is a dividend and the amount of any reduction in accumulated earnings and profits on account of any such distribution.

(B) EXCEPTION.—The amendment made by paragraph (1) shall not apply for purposes of determining gain or loss on any disposition described in subsection (a)(2)(B) of this section.

SEC. 10223. TREATMENT OF MIRROR SUBSIDIARY TRANSACTIONS.

(a) CONSOLIDATED RETURN REGULATIONS NOT TO APPLY FOR [114] PURPOSES OF NONRECOGNITION UNDER SECTION 337.—Subsection (c) of section 337 (defining 80-percent distributee) is amended by adding at the end thereof the following new sentence: "For purposes of this section, the determination of whether any corporation is an 80-percent distributee shall be made without regard to any consolidated return regulation."

(b) AMENDMENT TO SECTION 355.—Subparagraph (D) of section 355(b)(2) (relating to requirements as to active business) is amended—

(1) by amending clause (i) to read as follows:

"(i) was not acquired by any distributee corporation directly (or through 1 or more corporations, whether through the distributing corporation or otherwise) within the period described in subparagraph (B), or",

(2) by striking out "by another corporation" in clause (ii) and inserting in lieu thereof "such distributee corporation", and

(3) by adding at the end thereof the following new sentence: "For purposes of subparagraph (D), all distributee corporations which are members of the same affiliated group (as defined in section 1504(a) without regard to section 1504(b)) shall be treated as 1 distributee corporation."

(c) AMENDMENT TO SECTION 304.—Subsection (b) of section 304 (relating to redemption through use of related corporations) is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF CERTAIN INTRAGROUP TRANSACTIONS.—

"(A) IN GENERAL.—In the case of any transfer described in subsection (a) of stock of 1 member of an affiliated group to another member of such group, proper adjustments shall be made to—

---

[114] Copy read "TO APPLY FOR PURPOSES".

"(i) the adjusted basis of any intragroup stock, and

"(ii) the earnings and profits of any member of such group,

to the extent necessary to carry out the purposes of this section.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) AFFILIATED GROUP.—The term 'affiliated group' has the meaning given such term by section 1504(a).

"(ii) INTRAGROUP STOCK.—The term 'intragroup stock' means any stock which—

"(I) is in a corporation which is a member of an affiliated group, and

"(II) is held by another member of such group."

26 USC 304 note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions or transfers after December 15, 1987.

(2) EXCEPTIONS.—

(A) DISTRIBUTIONS.—The amendments made by this section shall not apply to any distribution after December 15, 1987, and before January 1, 1993, if—

(i) 80 percent or more of the stock of the distributing corporation was acquired by the distributee before December 15, 1987, or

Contracts.

(ii) 80 percent or more of the stock of the distributing corporation was acquired by the distributee before January 1, 1989, pursuant to a binding written contract or tender offer in effect on December 15, 1987.

For purposes of the preceding sentence, stock described in section 1504(a)(4) of the Internal Revenue Code of 1986 shall not be taken into account.

(B) SECTION 304 TRANSFERS.—The amendment made by subsection (c) shall not apply to any transfer after December 15, 1987, and before January 1, 1993, if such transfer is—

(i) between corporations which are members of the same affiliated group on December 15, 1987, or

Contracts.

(ii) between corporations which become members of the same affiliated group before January 1, 1989, pursuant to a binding written contract or tender offer in effect on December 15, 1987.

(C) DISTRIBUTIONS COVERED BY PRIOR TRANSITION RULE.—The amendments made by this section shall not apply to any distribution to which the amendments made by subtitle D of title VI of the Tax Reform Act of 1986 do not apply.

SEC. 10224. BENEFITS OF GRADUATED CORPORATE RATES NOT ALLOWED TO PERSONAL SERVICE CORPORATIONS.

(a) GENERAL RULE.—Subsection (b) of section 11 (relating to corporate tax rates) is amended to read as follows:

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(A) 15 percent of so much of the taxable income as does not exceed $50,000,

"(B) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000, and

"(C) 34 percent of so much of the taxable income as exceeds $75,000.

In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (i) 5 percent of such excess, or (ii) $11,750.

"(2) CERTAIN PERSONAL SERVICE CORPORATIONS NOT ELIGIBLE FOR GRADUATED RATES.—Notwithstanding paragraph (1), the amount of the tax imposed by subsection (a) on the taxable income of a qualified personal service corporation (as defined in section 448(d)(2)) shall be equal to 34 percent of the taxable income."

26 USC 11 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 10225. AMENDMENTS TO SECTION 382.

(a) TREATMENT OF WORTHLESS STOCK.—Paragraph (4) of section 382(g) (defining ownership change) is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF WORTHLESS STOCK.—If any stock held by a 50-percent shareholder is treated by such shareholder as becoming worthless during any taxable year of such shareholder and such stock is held by such shareholder as of the close of such taxable year, for purposes of determining whether an ownership change occurs after the close of such taxable year, such shareholder—

"(i) shall be treated as having acquired such stock on the 1st day of his 1st succeeding taxable year, and

"(ii) shall not be treated as having owned such stock during any prior period.

For purposes of the preceding sentence, the term '50-percent shareholder' means any person owning 50 percent or more of the stock of the corporation at any time during the 3-year period ending on the last day of the taxable year with respect to which the stock was so treated."

(b) TREATMENT OF DEPRECIATION UNDER BUILT-IN LOSS RULES.—Subparagraph (B) of section 382(h)(2) (defining recognized built-in loss) is amended by adding at the end thereof the following new sentence:

"Such term includes any amount allowable as depreciation, amortization, or depletion for any period within the recognition period except to the extent the new loss corporation establishes that the amount so allowable is not attributable to the excess described in clause (ii)."

26 USC 382 note.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply in the case of stock treated as becoming worthless in taxable years beginning after December 31, 1987.

Contracts.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply in the case of ownership changes (as defined in section 382 of the Internal Revenue Code of 1986 as amended by subsection (a)) after December 15, 1987; except that such amendment shall not apply in the case of any ownership change pursuant to a binding written contract which was in effect on December 15, 1987, and at all times thereafter before such ownership change.

SEC. 10226. LIMITATION ON USE OF PREACQUISITION LOSSES TO OFFSET BUILT-IN GAINS.

(a) General Rule.—Part V of subchapter C of chapter 1 (relating to carryovers) is amended by adding at the end thereof the following new section:

26 USC 384.

"SEC. 384. LIMITATION ON USE OF PREACQUISITION LOSSES TO OFFSET BUILT-IN GAINS.

"(a) General Rule.—

"(1) Stock acquisitions, etc.—If—

"(A) a corporation (hereinafter in this section referred to as the 'gain corporation') becomes a member of an affiliated group, and

"(B) such corporation has a net unrealized built-in gain,

the income of such corporation for any recognition period taxable year (to the extent attributable to recognized built-in gains) shall not be offset by any preacquisition loss of any other member of such group.

"(2) Asset acquisitions.—If—

"(A) the assets of a corporation (hereinafter in this section referred to as the 'gain corporation') are acquired by another corporation—

"(i) in a liquidation to which section 332 applies, or

"(ii) in a reorganization described in subparagraph (A), (C), or (D) of section 368(a)(1), and

"(B) the gain corporation has a net unrealized built-in gain,

the income of the acquiring corporation for any recognition period taxable year (to the extent attributable to recognized built-in gains of the gain corporation) shall not be offset by any preacquisition loss of any corporation (other than the gain corporation).

"(b) Exception Where 50 Percent of Gain Corporation Held.—Subsection (a) shall not apply if more than 50 percent of the stock (by vote and value) of the gain corporation was held throughout the 5-year period ending on the acquisition date—

"(1) in any case described in subsection (a)(1), by members of the affiliated group referred to in subsection (a)(1), or

"(2) in any case described in subsection (a)(2), by the acquiring corporation or members of such acquiring corporation's affiliated group.

For purposes of the preceding sentence, stock described in section 1504(a)(4) shall not be taken into account.

"(c) Definitions.—For purposes of this section—

"(1) Recognized built-in gain.—

"(A) In general.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset except to the extent the gain corporation (or, in any case described in subsection (a)(2), the acquiring corporation) establishes that—

"(i) such asset was not held by the gain corporation on the acquisition date, or

"(ii) such gain exceeds the excess (if any) of—

"(I) the fair market value of such asset on the acquisition date, over

"(II) the adjusted basis of such asset on such date.

"(B) TREATMENT OF CERTAIN INCOME ITEMS.—Any item of income which is properly taken into account for any recognition period taxable year but which is attributable to periods before the acquisition date shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account and shall be taken into account in determining the amount of the net unrealized built-in gain.

"(C) LIMITATION.—The amount of the recognized built-in gains for any recognition period taxable year shall not exceed—

"(i) the net unrealized built-in gain, reduced by

"(ii) the recognized built-in gains for prior years ending in the recognition period which (but for this section) would have been offset by preacquisition losses.

"(2) ACQUISITION DATE.—The term 'acquisition date' means the date on which the gain corporation becomes a member of the affiliated group or, in any case described in subsection (a)(2), the date of the distribution or transfer in the liquidation or reorganization.

"(3) PREACQUISITION LOSS.—

"(A) IN GENERAL.—The term 'preacquisition loss' means—

"(i) any net operating loss carryforward to the taxable year in which the acquisition date occurs, and

"(ii) any net operating loss for the taxable year in which the acquisition date occurs to the extent such loss is allocable to the period in such year on or before the acquisition date.

Except as provided in regulations, the net operating loss shall, for purposes of clause (ii), be allocated ratably to each day in the year.

"(B) TREATMENT OF RECOGNIZED BUILT-IN LOSS.—In the case of a corporation with a net unrealized built-in loss, the term 'preacquisition loss' includes any recognized built-in loss.

"(4) OTHER DEFINITIONS.—Except as provided in regulations, the terms 'net unrealized built-in gain', 'net unrealized built-in loss', 'recognized built-in loss', 'recognition period', and 'recognition period taxable year', have the same respective meanings as when used in section 382(h), except that the acquisition date shall be taken into account in lieu of the change date.

"(d) LIMITATION ALSO TO APPLY TO EXCESS CREDITS OR NET CAPITAL LOSSES.—Rules similar to the rules of subsection (a) shall also apply in the case of any excess credit (as defined in section 383(a)(2)) or net capital loss.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to ensure that the purposes of this section may not be circumvented through—

"(1) the use of any provision of law or regulations (including subchapter K of this chapter), or

"(2) contributions of property to the gain corporation."

(b) CLERICAL AMENDMENT.—The table of sections for part V of subchapter C of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 384. Limitation on use of preacquisition losses to offset built-in gains."

26 USC 384 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in cases where the acquisition date (as defined in section 384(c)(2) of the Internal Revenue Code of 1986 as added by this section) is after December 15, 1987; except that such amendments shall not apply in the case of any transaction pursuant to—

(1) a binding written contract in effect on or before December 15, 1987, or

(2) a letter of intent or agreement of merger signed on or before December 15, 1987.

SEC. 10227. RECAPTURE OF LIFO AMOUNT IN THE CASE OF ELECTIONS BY S CORPORATIONS.

(a) GENERAL RULE.—Section 1363 (relating to effect of election on corporations) is amended by adding at the end thereof the following new subsection:

"(d) RECAPTURE OF LIFO BENEFITS.—

"(1) IN GENERAL.—If—

"(A) an S corporation was a C corporation for the last taxable year before the first taxable year for which the election under section 1362(a) was effective, and

"(B) the corporation inventoried goods under the LIFO method for such last taxable year,

the LIFO recapture amount shall be included in the gross income of the corporation for such last taxable year (and appropriate adjustments to the basis of inventory shall be made to take into account the amount included in gross income under this paragraph).

"(2) ADDITIONAL TAX PAYABLE IN INSTALLMENTS.—

"(A) IN GENERAL.—Any increase in the tax imposed by this chapter by reason of this subsection shall be payable in 4 equal installments.

"(B) DATE FOR PAYMENT OF INSTALLMENTS.—The first installment under subparagraph (A) shall be paid on or before the due date (determined without regard to extensions) for the return of the tax imposed by this chapter for the last taxable year for which the corporation was a C corporation and the 3 succeeding installments shall be paid on or before the due date (as so determined) for the corporation's return for the 3 succeeding taxable years.

"(C) NO INTEREST FOR PERIOD OF EXTENSION.—Notwithstanding section 6601(b), for purposes of section 6601, the date prescribed for the payment of each installment under this paragraph shall be determined under this paragraph.

"(3) LIFO RECAPTURE AMOUNT.—For purposes of this subsection, the term 'LIFO recapture amount' means the amount (if any) by which—

"(A) the inventory amount of the inventory asset under the first-in, first-out method authorized by section 471, exceeds

"(B) the inventory amount of such assets under the LIFO method.

For purposes of the preceding sentence, inventory amounts shall be determined as of the close of the last taxable year referred to in paragraph (1).

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) LIFO METHOD.—The term 'LIFO method' means the method authorized by section 472.

"(B) INVENTORY ASSETS.—The term 'inventory assets' means stock in trade of the corporation, or other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year.

"(C) METHOD OF DETERMINING INVENTORY AMOUNT.—The inventory amount of assets under a method authorized by section 471 shall be determined—

"(i) if the corporation uses the retail method of valuing inventories under section 472, by using such method, or

"(ii) if clause (i) does not apply, by using cost or market, whichever is lower."

(b) EFFECTIVE DATES.— 26 USC 1363 note.

(1) IN GENERAL.—Except as provided in paragraph (2) the amendment made by subsection (a) shall apply in the case of elections made after December 17, 1987.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply in the case of any election made by a corporation after December 17, 1987, and before January 1, 1989, if, on or before December 17, 1987—

(A) there was a resolution adopted by the board of directors of such corporation to make an election under subchapter S of chapter 1 of the Internal Revenue Code of 1986, or

(B) there was a ruling request with respect to the business filed with the Internal Revenue Service expressing an intent to make such an election.

SEC. 10228. EXCISE TAX ON RECEIPT OF GREENMAIL.

(a) IN GENERAL.—Subtitle E is amended by adding at the end thereof the following new chapter:

"CHAPTER 54—GREENMAIL

"Sec. 5881. Greenmail.

"SEC. 5881. GREENMAIL.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any person who receives greenmail a tax equal to 50 percent of gain realized by such person on such receipt.

"(b) GREENMAIL.—For purposes of this section, the term 'greenmail' means any consideration transferred by a corporation to directly or indirectly acquire its stock from any shareholder if—

"(1) such shareholder held such stock (as determined under section 1223) for less than 2 years before entering into the agreement to make the transfer,

"(2) at some time during the 2-year period ending on the date of such acquisition—

"(A) such shareholder,

"(B) any person acting in concert with such shareholder, or

"(C) any person who is related to such shareholder or person described in subparagraph (B), made or threatened to make a public tender offer for stock of such corporation, and

"(3) such acquisition is pursuant to an offer which was not made on the same terms to all shareholders.

For purposes of the preceding sentence, payments made in connection with, or in transactions related to, an acquisition shall be treated as paid in such acquisition.

"(c) OTHER DEFINITIONS.—For purposes of this section—

"(1) PUBLIC TENDER OFFER.—The term 'public tender offer' means any offer to purchase or otherwise acquire stock or assets in a corporation if such offer was or would be required to be filed or registered with any Federal or State agency regulating securities.

"(2) RELATED PERSON.—A person is related to another person if the relationship between such persons would result in the disallowance of losses under section 267 or 707(b).

"(d) TAX APPLIES WHETHER OR NOT GAIN RECOGNIZED.—The tax imposed by this section shall apply whether or not the gain referred to in subsection (a) is recognized."

(b) DENIAL OF INCOME TAX DEDUCTION FOR GREENMAIL TAX.—Paragraph (6) of section 275(a) is amended by striking out "and 46" and inserting in lieu thereof "46, and 54".

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end thereof the following new item:

"CHAPTER 54. GREENMAIL."

26 USC 5881 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to consideration received after the date of the enactment of this Act in taxable years ending after such date; except that such amendments shall not apply in the case of any acquisition pursuant to a written binding contract in effect on December 15, 1987, and at all times thereafter before the acquisition.

PART IV—FOREIGN TAX PROVISIONS

SEC. 10231. DENIAL OF FOREIGN TAX CREDIT FOR TAXES PAID OR ACCRUED TO SOUTH AFRICA.

(a) GENERAL RULE.—Paragraph (2) of section 901(j) (relating to denial of foreign tax credit, etc., with respect to certain foreign countries) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR SOUTH AFRICA.—

"(i) IN GENERAL.—In addition to any period during which this subsection would otherwise apply to South Africa, this subsection shall apply to South Africa during the period—

Effective date. Termination date.

"(I) beginning on January 1, 1988, and

"(II) ending on the date the Secretary of State certifies to the Secretary of the Treasury that South Africa meets the requirements of section 311(a) of the Comprehensive Anti-Apartheid Act of 1986 (as in effect on the date of the enactment of this subparagraph).

"(ii) SOUTH AFRICA DEFINED.—For purposes of clause (i), the term 'South Africa' has the meaning given to such term by paragraph (6) of section 3 of the Comprehensive Anti-Apartheid Act of 1986 (as so in effect)."

(b) TECHNICAL AMENDMENTS.—Paragraph (1) of section 901(j) is amended—

(1) by striking out "to which" in subparagraph (A) and inserting in lieu thereof "during which", and

(2) by striking out "any country so identified" and inserting in lieu thereof "such country".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987. 26 USC 901 note.

PART V—INSURANCE PROVISIONS

SEC. 10241. INTEREST RATE USED IN COMPUTING TAX RESERVES FOR LIFE INSURANCE COMPANIES MAY NOT BE LESS THAN APPLICABLE FEDERAL RATE.

(a) IN GENERAL.—Subparagraph (B) of section 807(d)(2) (relating to method of computing reserves for purposes of determining income) is amended to read as follows:

"(B) the greater of—

"(i) the applicable Federal interest rate, or

"(ii) the prevailing State assumed interest rate, and".

(b) APPLICABLE FEDERAL INTEREST RATE.—

(1) IN GENERAL.—Paragraph (4) of section 807(d) (defining State assumed interest rate) is amended to read as follows:

"(4) APPLICABLE FEDERAL INTEREST RATE; PREVAILING STATE ASSUMED INTEREST RATE.—For purposes of this subsection—

"(A) APPLICABLE FEDERAL INTEREST RATE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'applicable Federal interest rate' means the annual rate determined by the Secretary under section 846(c)(2) for the calendar year in which the contract was issued.

"(ii) ELECTION TO RECOMPUTE FEDERAL INTEREST RATE EVERY 5 YEARS.—

"(I) IN GENERAL.—In computing the amount of the reserve with respect to any contract to which an election under this clause applies for periods during any recomputation period, the applicable Federal interest rate shall be the annual rate determined by the Secretary under section 846(c)(2) for the 1st year of such period. No change in the applicable Federal interest rate shall be made under the preceding sentence unless such change would equal or exceed ½ of 1 percentage point.

"(II) RECOMPUTATION PERIOD.—For purposes of subclause (I), the term 'recomputation period' means, with respect to any contract, the 5 calendar year period beginning with the 5th calendar year beginning after the calendar year in which the contract was issued (and each subsequent 5 calendar year period).

"(III) ELECTION.—An election under this clause shall apply to all contracts issued during the calendar year for which the election was made or during any subsequent calendar year unless such election is revoked with the consent of the Secretary. Contracts.

"(IV) SPREAD NOT AVAILABLE.—Subsection (f) shall not apply to any adjustment required under this clause.

"(B) PREVAILING STATE ASSUMED INTEREST RATE.—

"(i) IN GENERAL.—The term 'prevailing State assumed interest rate' means, with respect to any contract, the highest assumed interest rate permitted to be used in computing life insurance reserves for insurance contracts or annuity contracts (as the case may be) under the insurance laws of at least 26 States. For purposes of the preceding sentence, the effect of nonforfeiture laws of a State on interest rates for reserves shall not be taken into account.

Contracts.

"(ii) WHEN RATE DETERMINED.—The prevailing State assumed interest rate with respect to any contract shall be determined as of the beginning of the calendar year in which the contract was issued."

(2) TECHNICAL AMENDMENTS.—

(A) The third to the last sentence of section 807(c) is amended by striking out "the higher of" and all that follows and inserting in lieu thereof "whichever of the following rates is the highest as of the time such obligation first did not involve life, accident, or health contingencies: the applicable Federal interest rate under subsection (d)(2)(B)(i), the prevailing State assumed interest rate under subsection (d)(2)(B)(ii), or the rate of interest assumed by the company in determining the guaranteed benefit."

(B) Paragraph (2) of section 812(b) is amended—

(i) by striking out "at the prevailing State assumed rate or, where such rate is not used, another appropriate rate" and inserting in lieu thereof "at the greater of the prevailing State assumed rate or the applicable Federal interest rate", and

(ii) by adding at the end thereof the following new sentence:

"In any case where the prevailing State assumed rate is not used, another appropriate rate shall be treated as the prevailing State assumed rate for purposes of subparagraph (A)."

26 USC 807 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts issued in taxable years beginning after December 31, 1987.

SEC. 10242. TREATMENT OF FOREIGN INSURANCE COMPANIES.

(a) IN GENERAL.—Section 842 (relating to foreign corporations carrying on insurance business) is amended to read as follows:

26 USC 842.

"SEC. 842. FOREIGN COMPANIES CARRYING ON INSURANCE BUSINESS.

"(a) TAXATION UNDER THIS SUBCHAPTER.—If a foreign company carrying on an insurance business within the United States would qualify under part I or II of this subchapter for the taxable year if (without regard to income not effectively connected with the conduct of any trade or business within the United States) it were a domestic corporation, such company shall be taxable under such part on its income effectively connected with its conduct of any trade or business within the United States. With respect to the remainder of its income which is from sources within the United States, such a foreign company shall be taxable as provided in section 881.

"(b) MINIMUM EFFECTIVELY CONNECTED NET INVESTMENT INCOME.—

"(1) IN GENERAL.—In the case of a foreign company taxable under part I or II of this subchapter for the taxable year, its net investment income for such year which is effectively connected with the conduct of an insurance business within the United States shall be not less than the product of—

"(A) the required United States [115] assets of such company, and

"(B) the domestic investment yield applicable to such company for such year.

"(2) REQUIRED U.S. ASSETS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the required United States[115] assets of any foreign company for any taxable year is an amount equal to the product of—

"(i) the mean of such foreign company's total insurance liabilities on United States business, and

"(ii) the domestic asset/liability percentage applicable to such foreign company for such year.

"(B) TOTAL INSURANCE LIABILITIES.—For purposes of this paragraph—

"(i) COMPANIES TAXABLE UNDER PART I [116].—In the case of a company taxable under part I, the term 'total insurance liabilities' means the sum of the total reserves (as defined in section 816(c)) plus (to the extent not included in total reserves) the items referred to in paragraphs (3), (4), (5), and (6) of section 807(c).

"(ii) COMPANIES TAXABLE UNDER PART [117] II.—In the case of a company taxable under part II, the term 'total insurance liabilities' means the sum of unearned premiums and unpaid losses.

"(C) DOMESTIC ASSET/LIABILITY PERCENTAGE.—The domestic asset/liability percentage applicable for purposes of subparagraph (A)(ii) to any foreign company for any taxable year is a percentage determined by the Secretary on the basis of a ratio—

"(i) the numerator of which is the mean of the assets of domestic insurance companies taxable under the same part of this subchapter as such foreign company, and

"(ii) the denominator of which is the mean of the total insurance liabilities of the same companies.

"(3) DOMESTIC INVESTMENT YIELD.—The domestic investment yield applicable for purposes of paragraph (1)(B) to any foreign company for any taxable year is the percentage determined by the Secretary on the basis of a ratio—

"(A) the numerator of which is the net investment income of domestic insurance companies taxable under the same part of this subchapter as such foreign company, and

"(B) the denominator of which is the mean of the assets of the same companies held for the production of such income.

"(4) ELECTION TO USE WORLDWIDE YIELD.—

---

[115] Copy read "U.S.".

[116] Copy read "PART I.—".

[117] Copy read "PART II.—".

"(A) IN GENERAL.—If the foreign company makes an election under this paragraph, such company's worldwide current investment yield shall be taken into account in lieu of the domestic investment yield for purposes of paragraph (1)(B).

"(B) WORLDWIDE CURRENT INVESTMENT YIELD.—For purposes of subparagraph (A), the term 'worldwide current investment yield' means the percentage obtained by dividing—

"(i) the net investment income of the company from all sources, by

"(ii) the mean of all assets of the company (whether or not held in the United States) held for the production of investment income.

"(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(5) NET INVESTMENT INCOME.—For purposes of this subsection, the term 'net investment income' means—

"(A) gross investment income (within the meaning of section 834(b)), reduced by

"(B) expenses allocable to such income.

"(c) SPECIAL RULES FOR PURPOSES OF SUBSECTION (b).—

"(1) COORDINATION WITH SMALL LIFE INSURANCE COMPANY DEDUCTION.—In the case of a foreign company taxable under part I, subsection (b) shall be applied before computing the small life insurance company deduction.

"(2) REDUCTION IN SECTION 881 TAXES.—

"(A) IN GENERAL.—The tax under section 881 (determined without regard to this paragraph) shall be reduced (but not below zero) by an amount which bears the same ratio to such tax as—

"(i) the amount of the increase in effectively connected income of the company resulting from subsection (b), bears to

"(ii) the amount which would be subject to tax under section 881 if the amount taxable under such section were determined without regard to sections 103 and 894.

"(B) LIMITATION ON REDUCTION.—The reduction under subparagraph (A) shall not exceed the increase in taxes under part I or II (as the case may be) by reason of the increase in effectively connected income of the company resulting from subsection (b).

"(3) ADJUSTMENT TO LIMITATION ON DEDUCTION FOR POLICYHOLDER DIVIDENDS IN THE CASE OF FOREIGN MUTUAL LIFE INSURANCE COMPANIES.—For purposes of section 809, the equity base of any foreign mutual life insurance company as of the close of any taxable year shall be increased by the excess of—

"(A) the required United States [118] assets of the company (determined under subsection (b)(2)), over

"(B) the mean of the assets held in the United States during the taxable year.

---

[118] Copy read "U.S.".

"(4) DATA USED IN DETERMINING DOMESTIC ASSET/LIABILITY PERCENTAGES AND DOMESTIC INVESTMENT YEILDS.—Each domestic asset/liability percentage, and each domestic investment yield, for any taxable year shall be based on such representative data with respect to domestic insurance companies for the second preceding taxable year as the Secretary considers appropriate.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) providing for the proper treatment of segregated asset accounts,

"(2) providing for proper adjustments in succeeding taxable years where the company's actual net investment income for any taxable year which is effectively connected with the conduct of an insurance business within the United States exceeds the amount required under subsection (b)(1), and

"(3) providing for the proper treatment of investments in domestic subsidiaries."

(b) PART II COMPANIES SUBJECT TO SAME EFFECTIVELY CONNECTED INCOME RULE AS PART I COMPANIES.—Subparagraph (C) of section 864(c)(4) (relating to income from sources without the United States) is amended by inserting "or part II" after "part I".

(c) REPEAL OF SECTION [119] 813.—

(1) Section 813 (relating to foreign life insurance companies) is hereby repealed.

(2) Subsection (h) of section 816 is amended by striking out "section 813(a)(4)(B)" and inserting in lieu thereof "section 842(c)(1)(A)".

(3) Paragraph (2) of section 4371 is amended by striking out "section 813" and inserting in lieu thereof "section 842(b)".

(4) The table of sections for part I of subchapter L of chapter 1 is amended by striking out the item relating to section 813.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

26 USC 816 note.

SEC. 10243. TREATMENT OF MUTUAL LIFE INSURANCE COMPANY POLICYHOLDER DIVIDENDS FOR PURPOSES OF BOOK PREFERENCE.

(a) GENERAL RULE.—Paragraph (2) of section 56(f) (defining adjusted net book income) is amended by redesignating subparagraph (H) as subparagraph (I) and by inserting after subparagraph (G) the following new subparagraph:

"(H) SPECIAL RULES FOR LIFE INSURANCE COMPANIES.—

"(i) POLICYHOLDER DIVIDENDS OF MUTUAL COMPANIES.—In determining the adjusted net book income of any mutual life insurance company, a reduction shall be allowed for policyholder dividends with respect to any taxable year only to the extent such dividends exceed the differential earnings amount determined for such taxable year under section 809.

"(ii) OTHER ADJUSTMENTS.—To the extent provided by the Secretary, such additional adjustments shall be made as may be necessary to make the calculation of adjusted net book income in the case of any life insurance company consistent with the calculation of adjusted net book income generally."

---

[119] Copy read "SECTION 813—".

26 USC 56 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 10244. CERTAIN INSURANCE SYNDICATES.

(a) STUDY.—The Secretary of the Treasury (or his delegate) shall conduct a study of the proper Federal income tax treatment of income earned by members of insurance or reinsurance syndicates. Not later than April 1, 1988, the Secretary shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the results of the study conducted under this subsection, together with such recommendations as he may deem advisable.

Reports.

(b) RENEGOTIATION OF CLOSING AGREEMENT.—Not later than January 1, 1990, the Secretary of the Treasury (or his delegate) shall renegotiate the closing agreement with the underwriters participating in certain insurance or reinsurance syndicates which was signed by the Internal Revenue Service on April 1, 1980, to implement the conclusions reached in the study conducted under subsection (a).

Subtitle C—Estimated Tax Provisions

SEC. 10301. REVISION OF CORPORATE ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended to read as follows:

26 USC 6655.

"SEC. 6655. FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.

"(a) ADDITION TO TAX.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by a corporation, there shall be added to the tax under chapter 1 for the taxable year an amount determined by applying—

"(1) the underpayment rate established under section 6621,

"(2) to the amount of the underpayment,

"(3) for the period of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; PERIOD OF UNDERPAYMENT.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment shall be the excess of—

"(A) the required installment, over

"(B) the amount (if any) of the installment paid on or before the due date for the installment.

"(2) PERIOD OF UNDERPAYMENT.—The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

"(A) the 15th day of the 3rd month following the close of the taxable year, or

"(B) with respect to any portion of the underpayment, the date on which such portion is paid.

"(3) ORDER OF CREDITING PAYMENTS.—For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(c) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this section—

"(1) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each taxable year.

"(2) TIME FOR PAYMENT OF INSTALLMENTS.—

"In the case of the following required installments:	The due date is:
1st	April 15
2nd	June 15
3rd	September 15
4th	December 15.

"(d) AMOUNT OF REQUIRED INSTALLMENTS.—For purposes of this section—

"(1) AMOUNT.—

"(A) IN GENERAL.—Except as otherwise provided in this section, the amount of any required installment shall be 25 percent of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—Except as otherwise provided in this subsection, the term 'required annual payment' means the lesser of—

"(i) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

"(ii) 100 percent of the tax shown on the return of the corporation for the preceding taxable year.

Clause (ii) shall not apply if the preceding taxable year was not a taxable year of 12 months, or the corporation did not file a return for such preceding taxable year showing a liability for tax.

"(2) LARGE CORPORATIONS REQUIRED TO PAY 90 PERCENT OF CURRENT YEAR TAX.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), clause (ii) of paragraph (1)(B) shall not apply in the case of a large corporation.

"(B) MAY USE LAST YEAR'S TAX FOR 1ST INSTALLMENT.—Subparagraph (A) shall not apply for purposes of determining the amount of the 1st required installment for any taxable year. Any reduction in such 1st installment by reason of the preceding sentence shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction.

"(e) LOWER REQUIRED INSTALLMENT WHERE ANNUALIZED INCOME INSTALLMENT OR ADJUSTED SEASONAL INSTALLMENT IS LESS THAN AMOUNT DETERMINED UNDER SUBSECTION (d).—

"(1) IN GENERAL.—In the case of any required installment, if the corporation establishes that the annualized income installment or the adjusted seasonal installment is less than the amount determined under section (d)(1) (as modified by subsection (d)(2))—

"(A) the amount of such required installment shall be the annualized income installment (or, if lesser, the adjusted seasonal installment), and

"(B) any reduction in a required installment resulting from the application of this paragraph shall be recaptured by increasing the amount of the next required installment determined under subsection (d)(1) (as so modified) by the amount of such reduction (and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this subparagraph). A reduction shall be treated as recaptured for purposes of subparagraph (B) if 90 percent of the reduction is recaptured.

"(2) DETERMINATION OF ANNUALIZED INCOME INSTALLMENT.—

"(A) IN GENERAL.—In the case of any required installment, the annualized income installment is the excess (if any) of—

"(i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income, alternative minimum taxable income, and modified alternative minimum taxable income—

"(I) for the first 3 months of the taxable year, in the case of the 1st required installment,

"(II) for the first 3 months or for the first 5 months of the taxable year, in the case of the 2nd required installment,

"(III) for the first 6 months or for the first 8 months of the taxable year in the case of the 3rd required installment, and

"(IV) for the first 9 months or for the first 11 months of the taxable year, in the case of the 4th required installment, over

"(ii) the aggregate amount of any prior required installments for the taxable year.

"(B) SPECIAL RULES.—For purposes of this paragraph—

"(i) ANNUALIZATION.—The taxable income, alternative minimum taxable income, and modified alternative minimum taxable income shall be placed on an annualized basis under regulations prescribed by the Secretary.

"(ii) APPLICABLE PERCENTAGE.—

"In the case of the following required installments:	The applicable percentage is:
1st	22.5
2nd	45
3rd	67.5
4th	90

"(iii) MODIFIED ALTERNATIVE MINIMUM TAXABLE INCOME.—The term 'modified alternative minimum taxable income' has the meaning given to such term by section 59A(b).

"(3) DETERMINATION OF ADJUSTED SEASONAL INSTALLMENT.—

"(A) IN GENERAL.—In the case of any required installment, the amount of the adjusted seasonal installment is the excess (if any) of—

"(i) 90 percent of the amount determined under subparagraph (C), over

"(ii) the aggregate amount of all prior required installments for the taxable year.

"(B) LIMITATION ON APPLICATION OF PARAGRAPH.—This paragraph shall apply only if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70 percent.

"(C) DETERMINATION OF AMOUNT.—The amount determined under this subparagraph for any installment shall be determined in the following manner—

"(i) take the taxable income for all months during the taxable year preceding the filing month,

"(ii) divide [120] such amount by the base period percentage for all months during the taxable year preceding the filing month,

"(iii) determine the tax on the amount determined under clause (ii), and

"(iv) multiply the tax computed under clause (iii) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

"(D) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) BASE PERIOD PERCENTAGE.—The base period percentage for any period of months shall be the average percent which the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income for the 3 preceding taxable years.

"(ii) FILING MONTH.—The term 'filing month' means the month in which the installment is required to be paid.

"(iii) REORGANIZATION, ETC.—The Secretary may by regulations provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances. Regulations.

"(f) EXCEPTION WHERE TAX IS [121] SMALL AMOUNT.—No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax) is less than $500.

"(g) DEFINITIONS AND SPECIAL RULES.—

"(1) TAX.—For purposes of this section, the term 'tax' means the excess of—

"(A) the sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever applies,

"(ii) the tax imposed by section 55,

"(iii) the tax imposed by section 59A, plus

"(iv) the tax imposed by section 887, over

"(B) the sum of—

"(i) the credits against tax provided by part IV of subchapter A of chapter 1, plus

"(ii) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).

For purposes of the preceding sentence, in the case of a foreign corporation subject to taxation under section 11 or 1201(a), or under subchapter L of chapter 1, the tax imposed by section 881 shall be treated as a tax imposed by section 11.

"(2) LARGE CORPORATION.—

---

[120] Copy read "divided".

[121] Copy read "is".

"(A) IN GENERAL.—For purposes of this section, the term 'large corporation' means any corporation if such corporation (or any predecessor corporation) had taxable income of $1,000,000 or more for any taxable year during the testing period.

"(B) RULES FOR APPLYING SUBPARAGRAPH (A).—

"(i) TESTING PERIOD.—For purposes of subparagraph (A), the term 'testing period' means the 3 taxable years immediately preceding the taxable year involved.

"(ii) MEMBERS OF CONTROLLED GROUP.—For purposes of applying subparagraph (A) to any taxable year in the testing period with respect to corporations which are component members of a controlled group of corporations for such taxable year, the $1,000,000 amount specified in subparagraph (A) shall be divided among such members under rules similar to the rules of section 1561.

"(iii) CERTAIN CARRYBACKS AND CARRYOVERS NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), taxable income shall be determined without regard to any amount carried to the taxable year under section 172 or 1212(a).

"(3) CERTAIN TAX-EXEMPT ORGANIZATIONS.—For purposes of this section—

"(A) Any organization subject to the tax imposed by section 511, and any private foundation, shall be treated as a corporation subject to tax under section 11.

"(B) Any tax imposed by section 511, and any tax imposed by section 1 or 4940 on a private foundation, shall be treated as a tax imposed by section 11.

"(C) Any reference to taxable income shall be treated as including a reference to unrelated business taxable income or net investment income (as the case may be).

In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting '5th month' for '3rd month'.

"(h) EXCESSIVE ADJUSTMENT UNDER SECTION 6425.—

"(1) ADDITION TO TAX.—If the amount of an adjustment under section 6425 made before the 15th day of the 3rd month following the close of the taxable year is excessive, there shall be added to the tax under chapter 1 for the taxable year an amount determined at the underpayment rate established under section 6621 upon the excessive amount from the date on which the credit is allowed or the refund is paid to such 15th day.

"(2) EXCESSIVE AMOUNT.—For purposes of paragraph (1), the excessive amount is equal to the amount of the adjustment or (if smaller) the amount by which—

"(A) the income tax liability (as defined in section 6425(c)) for the taxable year as shown on the return for the taxable year, exceeds

"(B) the estimated income tax paid during the taxable year, reduced by the amount of the adjustment.

"(i) FISCAL YEARS AND SHORT YEARS.—

"(1) FISCAL YEARS.—In applying this section to a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

"(2) SHORT TAXABLE YEAR.—This section shall be applied to taxable years of less than 12 months in accordance with regulations prescribed by the Secretary.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 6154 of such Code is hereby repealed.

(2) Subparagraph (C) of section 585(c)(3) of such Code is amended by striking out "section 6655(d)(3)" and inserting in lieu thereof "section 6655(e)(2)(A)(i)".

(3) Paragraph (1) of section 6201(b) of such Code is amended by striking out "section 6154 or 6654" and inserting in lieu thereof "section 6654 or 6655".

(4) Subsection (c) of section 6425 of such Code is amended by striking out "section 6655(g)" and inserting in lieu thereof "section 6655(h)".

(5) Subsection (h) of section 6601 of such Code is amended by striking out "section 6154 or 6654" and inserting in lieu thereof "section 6654 or 6655".

(6) Subsection (e) of section 6651 of such Code is amended by striking out "section 6154 or 6654" and inserting in lieu thereof "section 6654 or 6655".

(7) The table of sections for subchapter A of chapter 62 of such Code is amended by striking out the item relating to section 6154.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

26 USC 585 note.

SEC. 10302. REVISED WITHHOLDING CERTIFICATES REQUIRED TO BE PUT INTO EFFECT MORE PROMPTLY.

(a) GENERAL RULE.—Subparagraph (B) of section 3402(f)(3) (relating to when certificate takes effect) is amended to read as follows:

"(B) FURNISHED TO TAKE PLACE OF EXISTING CERTIFICATE.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), a withholding exemption certificate furnished to the employer in cases in which a previous such certificate is in effect shall take effect as of the beginning of the 1st payroll period ending (or the 1st payment of wages made without regard to a payroll period) on or after the 30th day after the day on which such certificate is so furnished.

"(ii) EMPLOYER MAY ELECT EARLIER EFFECTIVE DATE.—At the election of the employer, a certificate described in clause (i) may be made effective beginning with any payment of wages made on or after the day on which the certificate is so furnished and before the 30th day referred to in clause (i).

"(iii) CHANGE OF STATUS WHICH AFFECTS NEXT YEAR.—Any certificate furnished pursuant to paragraph (2)(C) shall not take effect, and may not be made effective, with respect to any payment of wages made in the calendar year in which the certificate is furnished."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certificates furnished after the day 30 days after the date of the enactment of this Act.

26 USC 3402 note.

SEC. 10303. ESTIMATED TAX PENALTIES FOR 1987.

26 USC 6654 note.

(a) DELAY OF INCREASE IN CURRENT YEAR LIABILITY TEST FOR INDIVIDUALS.—Notwithstanding section 1541(c) of the Tax Reform Act of 1986, the amendments made by section 1541 of such Act shall apply only to taxable years beginning after December 31, 1987.

(b) CORPORATE PROVISIONS.—

(1) RATIFICATION OF SECRETARIAL WAIVER.—The Congress hereby ratifies the safe harbor provided by paragraph (b) of the Treasury Temporary Regulation 1.6655–2T.

26 USC 6655 note.

(2) CORPORATIONS ALSO MAY USE 1986 TAX TO DETERMINE AMOUNT OF CERTAIN ESTIMATED TAX INSTALLMENTS DUE ON OR BEFORE JUNE 15, 1987.—

(A) IN GENERAL.—In the case of a large corporation, no addition to tax shall be imposed by section 6655 of the Internal Revenue Code of 1986 with respect to any underpayment of an estimated tax installment to which this subsection applies if no addition would be imposed with respect to such underpayment by reason of section 6655(d)(1) of such Code if such corporation were not a large corporation. The preceding sentence shall apply only to the extent the underpayment is paid on or before the last date prescribed for payment of the most recent installment of estimated tax due on or before September 15, 1987.

(B) INSTALLMENT TO WHICH SUBSECTION APPLIES.—This subsection applies to any installment of estimated tax for a taxable year beginning after December 31, 1986, which is due on or before June 15, 1987.

(C) LARGE CORPORATION.—For purposes of this subsection, the term "large corporation" has the meaning given such term by section 6655(i)(2) of such Code (as in effect on the day before the date of the enactment of this Act).

Subtitle D—Estate and Gift Tax Provisions

PART I—GENERAL PROVISIONS

SEC. 10401. 5-YEAR EXTENSION OF EXISTING RATES; PHASEOUT OF BENEFITS OF EXISTING RATES AND UNIFIED CREDIT.

(a) 5-YEAR EXTENSION OF GRADUATED RATES.—Paragraph (2) of section 2001(c) (relating to phasein of 50 percent maximum rate) is amended—

(1) by striking out "1988" in subparagraph (A) and inserting in lieu thereof "1993",

(2) by striking out "in 1984, 1985, 1986, or 1987" in the text of subparagraph (D) and inserting in lieu thereof "after 1983 and before 1993", and

(3) by amending the heading of subparagraph (D) to read as follows:

"(D) AFTER 1983 AND BEFORE 1993.—".

(b) PHASEOUT OF BENEFITS OF GRADUATED RATES AND UNIFIED CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 2001 is amended by adding at the end thereof the following new paragraph:

"(3) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much of the amount (with respect to which the tentative tax is to be computed) as exceeds $10,000,000 but does not exceed $21,040,000 ($18,340,000 in the case of decedents dying, and gifts made, after 1992)."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (b) of section 2001 is amended—

(i) by striking out "in accordance with the rate schedule set forth in subsection (c)" in paragraph (1) and inserting in lieu thereof "under subsection (c)", and

(ii) by striking out "the rate schedule set forth in subsection (c) (as in effect at the decedent's death)" in paragraph (2) and inserting in lieu thereof "the provisions of subsection (c) (as in effect at the decedent's death)".

(B) Subsection (a) of section 2502 is amended—

(i) by striking out "in accordance with the rate schedule set forth in section 2001(c)" in paragraph (1) and inserting in lieu thereof "under section 2001(c)", and

(ii) by striking out "in accordance with such rate schedule" in paragraph (2) and inserting in lieu thereof "under such section".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of decedents dying, and gifts made, after December 31, 1987.

26 USC 2001 note.

SEC. 10402. INCLUSION RELATED TO VALUATION FREEZES.

(a) IN GENERAL.—Section 2036 (relating to transfers with retained life estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) INCLUSION RELATED TO VALUATION FREEZES.—

"(1) IN GENERAL.—For purposes of subsection (a), if—

"(A) any person holds a substantial interest in an enterprise, and

"(B) such person in effect transfers after December 17, 1987, property having a disproportionately large share of the potential appreciation in such person's interest in the enterprise while retaining a disproportionately large share in the income of, or rights in, the enterprise,

then the retention of the retained interest shall be considered to be a retention of the enjoyment of the transferred property.

"(2) SPECIAL RULE FOR SALES TO FAMILY MEMBERS.—The exception contained in subsection (a) for a bona fide sale shall not apply to a transfer described in paragraph (1) if such transfer is to a member of the transferor's family.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) SUBSTANTIAL INTEREST.—A person holds a substantial interest in an enterprise if such person owns (directly or indirectly) 10 percent or more of the voting power or income stream, or both, in such enterprise. For purposes of the preceding sentence, an individual shall be treated as owning any interest in an enterprise which is owned (directly or indirectly) by any member of such individual's family.

"(B) FAMILY.—The term 'family' means, with respect to any individual, such individual's spouse, any lineal descendant of such individual or of such individual's spouse, any parent or grandparent of such individual, and any spouse of any of the foregoing. For purposes of the preceding sentence, a relationship by legal adoption shall be treated as a relationship by blood.

"(C) TREATMENT OF SPOUSE.—An individual and such individual's spouse shall be treated as 1 person.

"(4) COORDINATION WITH SECTION 2035.—For purposes of applying section 2035, any transfer of the retained interest referred to in paragraph (1) shall be treated as a transfer of an interest in the transferred property referred to in paragraph (1).

"(5) COORDINATION WITH SECTION 2043.—In lieu of applying section 2043, appropriate adjustments shall be made for the value of the retained interest." [122]

26 USC 2036 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to estates of decedents dying after December 31, 1987, but only in the case of property transferred after December 17, 1987.

PART II—ESTATE TAX PROVISIONS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 10411. CONGRESSIONAL CLARIFICATION OF ESTATE TAX DEDUCTION FOR SALES OF EMPLOYER SECURITIES.

(a) INTENT OF CONGRESS IN ENACTING SECTION 2057 OF THE INTERNAL REVENUE CODE OF 1986.—Section 2057 (relating to sales of employer securities to employee stock ownership plans or worker-owned cooperatives) is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and by inserting after subsection (c) the following new subsection:

"(d) QUALIFIED PROCEEDS FROM QUALIFIED SALES.—

"(1) IN GENERAL.—For purposes of this section, the proceeds of a sale of employer securities by an executor to an employee stock ownership plan or an eligible worker-owned cooperative shall not be treated as qualified proceeds from a qualified sale unless—

"(A) the decedent directly owned the securities immediately before death, and

"(B) after the sale, the employer securities—

"(i) are allocated to participants, or

"(ii) are held for future allocation in connection with—

"(I) an exempt loan under the rules of section 4975, or

"(II) a transfer of assets under the rules of section 4980(c)(3).

"(2) NO SUBSTITUTION PERMITTED.—For purposes of paragraph (1)(B), except in the case of a bona fide business transaction (e.g., a substitution of employer securities in connection with a merger of employers), employer securities shall not be treated as allocated or held for future allocation to the extent that such securities are allocated or held for future allocation in substitution of other employer securities that had been allocated or held for future allocation."

---

[122] Copy read "interest.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 1172 of the Tax Reform Act of 1986.

26 USC 2057 note.

SEC. 10412. MODIFICATIONS OF ESTATE TAX DEDUCTION FOR SALE OF EMPLOYER SECURITIES.

(a) In General.—Section 2057 (relating to estate tax deduction for sales of employer securities to employee stock ownership plans or worker-owned cooperatives) is amended to read as follows:

"SEC. 2057. SALES OF EMPLOYER SECURITIES TO EMPLOYEE STOCK OWNERSHIP PLANS OR WORKER-OWNED COOPERATIVES.

"(a) General Rule.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to 50 percent of the proceeds of any sale of any qualified employer securities to—

"(1) an employee stock ownership plan, or

"(2) an eligible worker-owned cooperative.

"(b) Limitations.—

"(1) Maximum reduction in tax liability.—The amount allowable as a deduction under subsection (a) shall not exceed the amount which would result in an aggregate reduction in the tax imposed by section 2001 (determined without regard to any credit allowable against such tax) equal to $750,000.

"(2) Deduction shall not exceed 50 percent of taxable estate.—The amount of the deduction allowable under subsection (a) shall not exceed 50 percent of the taxable estate (determined without regard to this section).

"(c) Limitations on Proceeds Which May Be Taken Into Account.—

"(1) Dispositions by plan or cooperative within 1 year of sale.—

"(A) In general.—Proceeds from a sale which are taken into account under subsection (a) shall be reduced (but not below zero) by the net sale amount.

"(B) Net sale amount.—For purposes of subparagraph (A), the term 'net sale amount' means the excess (if any) of—

"(i) the proceeds of the plan or cooperative from the disposition of employer securities during the 1-year period immediately preceding such sale, over

"(ii) the cost of employer securities purchased by such plan or cooperative during such 1-year period.

"(C) Exceptions.—For purposes of subparagraph (B)(i), there shall not be taken into account any proceeds of a plan or cooperative from a disposition described in section 4978A(e).

"(D) Aggregation rules.—For purposes of this paragraph, all employee stock ownership plans maintained by an employer shall be treated as 1 plan.

"(2) Securities must be acquired by plan from assets which are not transferred assets.—

"(A) In general.—Proceeds from a sale shall not be taken into account under subsection (a) to the extent that such proceeds (as reduced under paragraph (1)) are attributable to transferred assets. For purposes of the preceding sentence, all assets of a plan or cooperative (other than qualified employer securities) shall be treated as first acquired out of transferred assets.

"(B) TRANSFERRED ASSETS.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'transferred assets' means assets of an employee stock ownership plan which—

"(I) are attributable to assets held by a plan exempt from tax under section 501(a) and meeting the requirements of section 401(a) (other than an employee stock ownership plan of the employer), or

"(II) were held by the plan when it was not an employee stock ownership plan.

"(ii) EXCEPTION FOR ASSETS HELD ON FEBRUARY 26, 1987.—The term 'transferred assets' shall not include any asset held by the employee stock ownership plan on February 26, 1987.

"(iii) SECRETARIAL AUTHORITY TO WAIVE TREATMENT AS TRANSFERRED ASSET.—The Secretary may provide that assets or a class of assets shall not be treated as transferred assets if the Secretary finds such treatment is not necessary to carry out the purposes of this paragraph.

"(3) OTHER PROCEEDS.—The following proceeds shall not be taken into account under subsection (a):

"(A) PROCEEDS FROM SALE AFTER DUE DATE FOR RETURN.—Any proceeds from a sale which occurs after the date on which the return of the tax imposed by section 2001 is required to be filed (determined by taking into account any extension of time for filing).

"(B) PROCEEDS FROM SALE OF CERTAIN SECURITIES.—Any proceeds from a sale of employer securities which were received by the decedent—

"(i) in a distribution from a plan exempt from tax under section 501(a) and meeting the requirements of section 401(a), or

"(ii) as a transfer pursuant to an option or other right to acquire stock to which section 83, 422, 422A, 423, or 424 applies.

Any employer security the basis of which is determined by reference to any employer security described in the preceding sentence shall be treated as an employer security to which this subparagraph applies.

"(d) QUALIFIED EMPLOYER SECURITIES.—

"(1) IN GENERAL.—The term 'qualified employer securities' means employer securities—

"(A) which are issued by a domestic corporation which has no stock outstanding which is readily tradable on an established securities market,

"(B) which are includible in the gross estate of the decedent,

"(C) which would have been includible in the gross estate of the decedent if the decedent had died at any time during the shorter of—

"(i) the 5-year period ending on the date of death, or

"(ii) the period beginning on October 22, 1986, and ending on the date of death, and

"(D) with respect to which the executor elects the application of this section.

Subparagraph (C) shall not apply if the decedent died on or before October 22, 1986.

"(2) CERTAIN ASSETS HELD BY SPOUSE.—For purposes of paragraph (1)(C), any employer security which would have been includible in the gross estate of the spouse of a decedent during any period if the spouse had died during such period shall be treated as includible in the gross estate of the decedent during such period.

"(3) PERIODS DURING WHICH DECEDENT NOT AT RISK.—For purposes of paragraph (1)(G), employer securities shall not be treated as includible in the gross estate of the decedent during any period described in section 246(c)(4).

"(e) WRITTEN STATEMENT REQUIRED.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) unless the executor of the estate of the decedent files with the Secretary the statement described in paragraph (2).

"(2) STATEMENT.—A statement is described in this paragraph if it is a verified written statement—

"(A) which is made by—

"(i) the employer whose employees are covered by the employee stock ownership plan, or

"(ii) any authorized officer of the eligible worker-owned cooperative, and

"(B) which—

"(i) acknowledges that the sale of employer securities to the plan or cooperative is a sale to which sections 4978A and 4979A apply, and

"(ii) certifies—

"(I) the net sale amount for purposes of subsection (c)(1), and

"(II) the amount of assets which are not transferred assets for purposes of subsection (c)(2).

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EMPLOYER SECURITIES.—The term 'employer securities' has the meaning given such term by section 409(l).

"(2) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' means—

"(A) a tax credit employee stock ownership plan (within the meaning of section 409(a)), or

"(B) a plan described in section 4975(e)(7).

"(3) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' has the meaning given such term by section 1042(c).

"(4) EMPLOYER.—Except to the extent provided in regulations, the term 'employer' includes any person treated as an employer under subsections (b), (c), (m), and (o) of section 414.

"(g) TERMINATION.—This section shall not apply to any sale after December 31, 1991."

(b) EFFECTIVE DATES.— 26 USC 2057 note.

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to sales after February 26, 1987.

(2) PROVISIONS TAKING EFFECT AS IF INCLUDED IN THE TAX REFORM ACT OF 1986.—The following provisions shall take effect as if included in the amendments made by section 1172 of the Tax Reform Act of 1986:

(A) Section 2057(f)(2) of the Internal Revenue Code of 1986, as added by this section.

(B) The repeal of the requirement that a sale be made by the executor of an estate to qualify for purposes of section 2057 of such Code.

(3) DIRECT OWNERSHIP REQUIREMENT.—If the requirements of section 2057(d)(1)(B) of such Code (as modified by section 2057(d)(2) of such Code), as in effect after the amendments made by this section, are met with respect to any employer securities sold after October 22, 1986, and before February 27, 1987, such securities shall be treated as having been directly owned by the decedent for purposes of section 2057 of such Code, as in effect before such amendments.

(4) REDUCTION FOR SALES ON OR BEFORE FEBRUARY 26, 1987.—In applying the limitations of subsection (b) of section 2057 of such Code to sales after February 26, 1987, there shall be taken into account sales on or before February 26, 1987, to which section 2057 of such Code applied.

SEC. 10413. EXCISE TAX ON PLANS OR COOPERATIVES DISPOSING OF EMPLOYER SECURITIES FOR WHICH ESTATE TAX DEDUCTION WAS ALLOWED.

(a) IN GENERAL.—Chapter 43 (relating to excise taxes on qualified pension, etc., plans) is amended by inserting after section 4978 the following new section:

"SEC. 4978A. TAX ON CERTAIN DISPOSITIONS OF EMPLOYER SECURITIES TO WHICH SECTION 2057 APPLIED.

"(a) IMPOSITION OF TAX.—In the case of a taxable event involving qualified employer securities held by an employee stock ownership plan or eligible worker-owned cooperative, there is hereby imposed a tax equal to the amount determined under subsection (b).

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be equal to 30 percent of—

"(A) the amount realized on the disposition in the case of a taxable event described in paragraph (1) or (2) of subsection (c), or

Loans.

"(B) the amount repaid on the loan in the case of a taxable event described in paragraph (3) of subsection (c).

"(2) DISPOSITIONS OTHER THAN SALES OR EXCHANGES.—For purposes of paragraph (1), in the case of a disposition of employer securities which is not a sale or exchange, the amount realized on such disposition shall be the fair market value of such employer securities at the time of disposition.

"(c) TAXABLE EVENT.—For purposes of this section, the term 'taxable event' means the following:

"(1) DISPOSITION WITHIN 3 YEARS OF ACQUISITION.—Any disposition of employer securities by an employee stock ownership plan or eligible worker-owned cooperative within 3 years after such plan or cooperative acquired qualified employer securities.

"(2) Stocks disposed of before allocation.—Any disposition of qualified employer securities to which paragraph (1) does not apply if—

"(A) such disposition occurs before such securities are allocated to accounts of participants or their beneficiaries, and

"(B) the proceeds from such disposition are not so allocated.

"(3) Use of assets to repay acquisition loans.—The payment by an employee stock ownership plan of any portion of any loan used to acquire employer securities from transferred assets (within the meaning of section 2057(c)(2)(B)).

"(d) Ordering Rules.—For purposes of this section and section 4978, any disposition of employer securities shall be treated as having been made in the following order:

"(1) First, from qualified employer securities acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(2) Second, from qualified employer securities acquired before such 3-year period unless such securities (or the proceeds from such disposition) have been allocated to accounts of participants or their beneficiaries.

"(3) Third, from qualified securities (within the meaning of section 4978(e)(2)) to which section 1042 applied acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(4) Finally, from any other employer securities. In the case of a disposition to which section 4978(d) or subsection (e) applies, the disposition of employer securities shall be treated as having been made in the opposite order of the preceding sentence.

"(e) Section Not To Apply to Certain Dispositions.—

"(1) In general.—This section shall not apply to any disposition described in paragraph (1) or (3) of section 4978(d).

"(2) Certain reorganizations.—For purposes of this section, any exchange of qualified employer securities for employer securities of another corporation in any reorganization described in section 368(a)(1) shall not be treated as a disposition, but the employer securities which were received shall be treated—

"(A) as qualified employer securities of the plan or cooperative, and

"(B) as having been held by the plan or cooperative during the period the qualified employer securities were held.

"(3) Disposition to meet diversification requirements.—Any disposition which is made to meet the requirements of section 401(a)(28) shall not be treated as a disposition.

"(f) Definitions and Special Rules.—For purposes of this section—

"(1) Terms used in section 2057.—Any term used in this section which is used in section 2057 shall have the meaning given such term by section 2057.

"(2) Qualified employer securities.—The term 'qualified employer securities' has the meaning given such term by section

2057, except that such term shall include employer securities sold before February 27, 1987, for which a deduction was allowed under section 2057.

"(3) DISPOSITION.—The term 'disposition' includes any distribution.

"(4) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this section shall be paid by—

"(A) the employer, or

"(B) the eligible worker-owned cooperative,

which made the written statement described in section 2057(e)."

(b) CONFORMING AMENDMENTS.—

(1) Section 4978(b)(2) is amended by striking out the parenthetical and inserting in lieu thereof "(determined as if such securities were disposed of in the order described in section 4978A(e))".

(2) The table of sections for chapter 43 is amended by inserting after the item relating to section 4978 the following new item:

"Sec. 4978A. Tax on certain dispositions of employer securities to which section 2057 applied."

26 USC 4978 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable events (within the meaning of section 4978A(c) of the Internal Revenue Code of 1986) occurring after February 26, 1987.

Subtitle E—Provisions Relating to Excise Taxes and User Fees

PART I—EXCISE TAXES

SEC. 10501. EXTENSION OF TELEPHONE EXCISE TAX.

Paragraph (2) of section 4251(b) (relating to applicable percentage) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means 3 percent; except that, with respect to amounts paid pursuant to bills first rendered after 1990, the applicable percentage shall be zero."

SEC. 10502. DIESEL FUEL AND AVIATION FUEL TAXES IMPOSED AT WHOLESALE LEVEL.

(a) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by inserting after subpart A the following new subpart:

"Subpart B—Diesel Fuel and Aviation Fuel

"Sec. 4091. Imposition of tax.
"Sec. 4092. Definitions.
"Sec. 4093. Exemptions; special rule.

26 USC 4091.

"SEC. 4091. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax on the sale of any taxable fuel by the producer or the importer thereof or by any producer of a taxable fuel.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) shall be the sum of—

"(A)(i) the Highway Trust Fund financing rate in the case of diesel fuel, and

"(ii) the Airport and Airway Trust Fund financing rate in the case of aviation fuel, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate in the case of any taxable fuel.

"(2) HIGHWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), except as provided in subsection (c), the Highway Trust Fund financing rate is 15 cents per gallon.

"(3) AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Airport and Airway Trust Fund financing rate is 14 cents per gallon.

"(4) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon.

"(5) TERMINATION OF RATES.—

"(A) The Highway Trust Fund financing rate shall not apply on and after October 1, 1993.

"(B) The Airport and Airway Trust Fund financing rate shall not apply on and after January 1, 1988.

"(C) The Leaking Underground Storage Tank Trust Fund financing rate shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply.

"(c) REDUCED RATE OF TAX FOR DIESEL FUEL IN ALCOHOL MIXTURE, ETC.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—The Highway Trust Fund financing rate shall be—

"(A) 9 cents per gallon in the case of the sale of any mixture of diesel fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the diesel fuel in such mixture was not taxed under subparagraph (B), and

"(B) 10 cents per gallon in the case of the sale of diesel fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

"(2) LATER SEPARATION.—If any person separates the diesel fuel from a mixture of the diesel fuel and alcohol on which tax was imposed under subsection (a) at a Highway Trust Fund financing rate equivalent to 9 cents a gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such diesel fuel. The amount of tax imposed on any sale of such diesel fuel by such person shall be 5 cents per gallon.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale after September 30, 1993.

"(d) EXEMPTION FROM TAX FOR AVIATION FUEL IN ALCOHOL MIXTURE, ETC.—

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall not apply to the sale of—

"(A) any mixture of aviation fuel at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), or

"(B) any aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

"(2) **Later separation.**—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which the Airport and Airway Trust Fund financing rate did not apply by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(2)), such person shall be treated as the producer of such aviation fuel.

"(3) **Termination.**—Paragraph (1) shall not apply to any sale after September 30, 1993.

26 USC 4092.

"SEC. 4092. DEFINITIONS.

"(a) **Taxable Fuel.**—For purposes of this subpart—

"(1) **In general.**—The term 'taxable fuel' means—

"(A) diesel fuel, and

"(B) aviation fuel.

"(2) **Diesel fuel.**—The term 'diesel fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in a diesel-powered highway vehicle or a diesel-powered train.

"(3) **Aviation fuel.**—The term 'aviation fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in an aircraft.

"(b) **Producer.**—For purposes of this subpart—

"(1) **Certain persons treated as producers.**—

"(A) **In general.**—The term 'producer' includes any person described in subparagraph (B) who elects to register under section 4101 with respect to the tax imposed by section 4091.

"(B) **Persons described.**—A person is described in this subparagraph if such person is—

"(i) a refiner, compounder, blender, or wholesale distributor of a taxable fuel, or

"(ii) a dealer selling any taxable fuel exclusively to producers of such taxable fuel.

"(C) **Tax-free purchasers treated as producers.**—Any person to whom any taxable fuel is sold tax-free under this subpart shall be treated as the producer of such fuel.

"(2) **Wholesale distributor.**—For purposes of paragraph (1), the term 'wholesale distributor' includes any person who sells a taxable fuel to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks. Such term does not include any person who (excluding the term 'wholesale distributor' from paragraph (1)) is a producer or importer.

26 USC 4093.

"SEC. 4093. EXEMPTIONS; SPECIAL RULE.

"(a) **Heating Oil.**—The tax imposed by section 4091 shall not apply in the case of sales of any taxable fuel which the Secretary determines is destined for use as heating oil.

Regulations.

"(b) **Sales to Producer.**—Under regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply in the case of sales of a taxable fuel to a producer of such fuel.

Regulations.

"(c) **Authority to Exempt Certain Other Uses.**—Subject to such terms and conditions as the Secretary may provide (including the application of section 4101), the Secretary may by regulation provide that-

"(1) the Highway Trust Fund financing rate under section 4091 shall not apply to diesel fuel sold for use by any purchaser as a fuel in a diesel-powered train,

"(2) the Airport and Airway Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold for use by any purchaser as a fuel in an aircraft not in noncommercial aviation (as defined in section 4041(c)(4)),

"(3) the tax imposed by section 4091 shall not apply to taxable fuel sold for use by any purchaser other than as a motor fuel, and

"(4) the tax imposed by section 4091 shall not apply to taxable fuel sold for the exclusive use of any State, any political subdivision of a State, or the District of Columbia.

"(d) SPECIAL ADMINISTRATIVE RULES.—The Secretary may require— Reports.

"(1) information reporting by each remitter of the tax imposed by section 4091, and

"(2) information reporting by, and registration of, such other persons as the Secretary deems necessary to carry out this subpart.

"(e) CROSS REFERENCES.—

"(1) For imposition of tax where certain uses of diesel fuel or aviation fuel occur before imposition of tax by section 4091, see subsections (a)(1) and (c)(1) of section 4041.

"(2) For provisions allowing a credit or refund for fuel not used for certain taxable purposes, see section 6427."

(b) RETAIL DIESEL FUEL AND AVIATION FUEL TAXES TO BE RESIDUAL TAXES.—

(1) Paragraph (1) of section 4041(a) is amended—

(A) by striking out "DIESEL FUEL" in the heading and inserting in lieu thereof "TAX ON DIESEL FUEL WHERE NO TAX IMPOSED ON FUEL UNDER SECTION 4091", and

(B) by adding at the end thereof the following new sentence:

"No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

(2) Paragraph (1) of section 4041(c) is amended—

(A) by striking out "IN GENERAL" in the heading and inserting in lieu thereof "TAX ON NONGASOLINE FUELS WHERE NO TAX IMPOSED ON FUEL UNDER SECTION 4091", and

(B) by adding at the end thereof the following new sentence:

"No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

(3) Subsection (d) of section 4041 is amended by redesignating paragraph (3) as paragraph (4) and by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) TAX ON SALES AND USES SUBJECT TO TAX UNDER SUBSECTION (a).—In addition to the taxes imposed by subsection (a), there is hereby imposed a tax of 0.1 cent a gallon on the sale or use of any liquid (other than liquefied petroleum gas) if tax is imposed by subsection (a) on such sale or use.

"(2) TAX ON DIESEL FUEL USED IN TRAINS.—There is hereby imposed a tax of 0.1 cent a gallon on any liquid (other than a product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of a diesel-powered train for use as a fuel in such train, or

"(B) used by any person as a fuel in a diesel-powered train unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091.

"(3) LIQUIDS USED IN AVIATION.—In addition to the taxes imposed by subsection (c), there is hereby imposed a tax of 0.1 cent a gallon on any liquid (other than any product taxable under section 4081)—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft, or

"(B) used by any person as a fuel in an aircraft unless there was a taxable sale of such liquid under subparagraph (A).

No tax shall be imposed by this paragraph on the sale or use of any liquid if there was a taxable sale of such liquid under section 4091."

(4) Subsection (n) of section 4041 is hereby repealed.

(c) AMENDMENTS RELATING TO CREDITS AND REFUNDS.—

(1) Section 6427 is amended by redesignating subsections (l) through (p) as subsections (m) through (q), respectively, and by inserting after subsection (k) the following new subsection:

"(l) NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL TAXED UNDER SECTION 4091.—

"(1) IN GENERAL.—Except as provided in subsection (k) and in paragraph (3) of this subsection, if any fuel on which tax has been imposed by section 4091 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4091.

"(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means, with respect to any fuel, any use of such fuel if such use is exempt from the taxes imposed by subsections (a)(1) and (c)(1) of section 4041 (other than by reason of the imposition of tax on any sale thereof).

"(3) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING TAX.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section in the case of—

"(A) fuel used in a diesel-powered train, and

"(B) fuel used in any aircraft."

(2) Paragraph (1) of section 6427(b) is amended—

(A) by striking out "subsection (a) of section 4041" the first place it appears and inserting in lieu thereof "section 4041(a) or 4091", and

(B) by striking out "subsection (a) of section 4041" the second place it appears and inserting in lieu thereof "section 4041(a) or 4091, as the case may be".

(3) Subparagraph (B) of section 6427(e)(1) is amended by inserting "or 4091" after "section 4041".

(4) Subsection (f) of section 6427 is amended to read as follows:

"(f) Gasoline, Diesel Fuel, and Aviation Fuel Used To[123] Produce Certain Alcohol Fuels.—Except as provided in subsection (k)—

"(1) Gasoline and diesel fuels.—

"(A) In general.—If any gasoline or diesel fuel on which tax was imposed by section 4081 or 4091 at the regular Highway Trust Fund financing rate is used by any person in producing a mixture described in section 4081(c) or in section 4091(c)(1)(A) (as the case may be) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular Highway Trust Fund financing rate over the incentive Highway Trust Fund Financing rate with respect to such fuel.

"(B) Definitions.—For purposes of subparagraph (A)—

"(i) Regular highway trust fund financing rate.—The term 'regular Highway Trust Fund financing rate' means—

"(I) 9 cents per gallon in the case of gasoline, and

"(II) 15 cents per gallon in the case of diesel fuel.

"(ii) Incentive highway trust fund financing rate.—The term 'incentive Highway Trust Fund Financing rate' means—

"(I) 3⅓ cents per gallon in the case of gasoline, and

"(II) 10 cents per gallon in the case of diesel fuel.

"(C) Coordination with other repayment provisions.—No amount shall be payable under subparagraph (A) with respect to any gasoline or diesel fuel with respect to which an amount is payable under subsection (d), (e), or (l) of this section or under section 6420 or 6421.

"(2) Aviation fuel.—If any aviation fuel on which tax was imposed by section 4091 is used by any person in producing a mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of tax (attributable to the Airport and Airway Trust Fund financing rate) imposed on such fuel under section 4091.

"(3) Termination.—Paragraphs (1) and (2) shall not apply with respect to any mixture sold or used after September 30, 1993."

(5)(A) Paragraph (1) of section 6427(i) is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (l)".

(B) Clause (i) of section 6427(i)(2)(A) is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (l)".

(6) Subsection (o) of section 6427 (as redesignated by paragraph (1)) is amended to read as follows:

"(o) Termination of Certain Provisions.—Except with respect to taxes imposed by section 4041(d) and sections 4081 and 4091 at the Leaking Underground Storage Tank Trust Fund financing rate, subsections (a), (b), (c), (d), (g), (h), and (l) shall only apply with respect to fuels purchased before October 1, 1993."

(d) Other Conforming Amendments.—

---

[123] Copy read "TO".

(1) Subsection (c) of section 40 is amended by striking out "or section 4081(c)" and inserting in lieu thereof ", section 4081(c), or section 4091(c)".

(2) Subparagraph (B) of section 4081(e)(2), as amended by section 1703 of the Tax Reform Act of 1986, is amended by striking out "net revenues" and all that follows and inserting in lieu thereof the following: "net revenues are at least $500,000,000 from taxes imposed by section 4041(d) and taxes attributable to Leaking Underground Storage Tank Trust Fund financing rate imposed under this section and sections 4042 and 4091."

(3) Subsection (a) of section 4101, as amended by section 1703 of the Tax Reform Act of 1986, is amended by inserting "or 4091" after "section 4081".

(4) Subsection (a) of section 4221 is amended by striking out "(other than" and all that follows through "sale by the manufacturer" and inserting in lieu thereof "(other than under section 4121, 4081, or 4091) on the sale by the manufacturer".

(5) Section 6206 is amended by striking out "or 4041" and inserting in lieu thereof "or 4041 or 4091".

(6) Paragraph (2) of section 6416(b) is amended—

(A) by striking out "(other than coal taxable under section 4121)", and

(B) by adding at the end thereof the following new sentence: "This paragraph shall not apply in the case of any tax paid under section 4091 or 4121."

(7) Subparagraph (A) of section 6416(b)(3) is amended by inserting "and other than any fuel taxable under section 4091" after "section 4081".

(8) Subparagraph (B) of section 6416(b)(3) is amended by striking out ", such gasoline" and inserting in lieu thereof "or any fuel taxable under section 4091, such gasoline or fuel".

(9) Subparagraph (C) of section 6421(e)(2) is hereby repealed.

(10) The subsection (j) of section 6421 relating to cross references is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4), as paragraphs (1), (2), and (3), respectively.

(11) Section 6652 is amended by striking out the subsection (j) added by section 1702(b) of the Tax Reform Act of 1986 and by redesignating subsections (l) and (m) as subsections (k) and (l), respectively.

(12) Subsection (b) of section 9502 is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) amounts determined by the Secretary to be equivalent to the taxes received in the Treasury before January 1, 1988, under section 4091 (to the extent attributable to the Airport and Airway Trust Fund financing rate), and".

(13) Paragraph (1) of section 9503(b) is amended by striking out subparagraph (F) and inserting in lieu thereof the following:

"(F) section 4091 (relating to tax on diesel fuel), and".

(14) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2)—

"(A) there shall not be taken into account the taxes imposed by sections 4041(d), and

"(B) there shall be taken into account the taxes imposed by sections 4081 and 4091 only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(15) Paragraph (2) of section 9503(e) is amended—

(A) by striking out "sections 4041 and 4081" and inserting in lieu thereof "sections 4041, 4081, and 4091", and

(B) by striking out "section 4041 or 4081" and inserting in lieu thereof "section 4041, 4081, or 4091".

(16) Subsection (b) of section 9508 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) taxes received in the Treasury under section 4091 (relating to tax on diesel fuel and aviation fuel) to the extent attributable to the Leaking Underground Storage Trust Fund financing rate under such section,".

(17) Subparagraph (A) of section 9508(c)(2) is amended by striking out clause (ii) and all that follows and inserting in lieu thereof the following:

"(ii) credits allowed under section 34,

with respect to the taxes imposed by section 4041(d) or by sections 4081 and 4091 (to the extent attributable to the Leaking Underground Storage Trust Fund financing rate under such sections)."

(18) The table of subparts for part III of subchapter A of chapter 32 is amended by inserting after the item relating to subpart A the following new item:

"Subpart B. Diesel fuel and aviation fuel."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after March 31, 1988. 26 USC 40 note.

(f) FLOOR STOCKS TAX.— 26 USC 4091 note.

(1) IMPOSITION OF TAX.—On any taxable fuel which on April 1, 1988, is held by a taxable person, there is hereby imposed a floor stocks tax at the rate of tax which would be imposed if such fuel were sold on such date in a sale subject to tax under section 4091 of the Internal Revenue Code of 1986 (as added by this section).

(2) OVERPAYMENT OF FLOOR STOCKS TAXES, ETC.—Sections 6416 and 6427 of such Code shall apply in respect of the floor stocks taxes imposed by this subsection so as to entitle, subject to all provisions of such sections, any person paying such floor stocks taxes to a credit or refund thereof for any reason specified in such sections. All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code (as so added) shall apply to the floor stocks taxes imposed by this subsection.

(3) DUE DATE OF TAX.—The taxes imposed by this subsection shall be paid before June 16, 1988.

(4) DEFINITIONS.—For purposes of this subsection—

(A) TAXABLE FUEL.—

(i) IN GENERAL.—The term "taxable fuel" means any taxable fuel (as defined in section 4092 of such Code, as added by this section) on which no tax has been imposed under section 4041 of such Code.

(ii) EXCEPTION FOR FUEL HELD FOR NONTAXABLE USES.—The term "taxable fuel"[124] shall not include fuel held exclusively for any use which is a nontaxable use (as defined in section 6427(l) of such Code, as added by this section).

(B) TAXABLE PERSON.—The term "taxable person" means any person other than a producer (as defined in section 4092 of such Code, as so added) or importer of taxable fuel.

(C) HELD BY A TAXABLE PERSON.—An article shall be treated as held by a person if title thereto has passed to such person (whether or not delivery to such person has been made).

(5) SPECIAL RULE FOR FUEL HELD FOR USE IN TRAINS AND COMMERCIAL AIRCRAFT.—Only the Leaking Underground Storage Tank Trust Fund financing rate under section 4091 of such Code shall apply for purposes of this subsection with respect to—

(A) diesel fuel held exclusively for use as a fuel in a diesel-powered train, and

(B) aviation fuel held exclusively for use as a fuel in an aircraft not in noncommercial aviation (as defined in section 4041(c)(4) of such Code).

(6) TRANSFER OF FLOOR STOCK REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4091 of such Code (as so added).

Effective date.
26 USC 4091 note.

(g) COORDINATION WITH AIRPORT AND AIRWAY SAFETY AND CAPACITY EXPANSION ACT OF 1987.—If the Airport and Airway Safety and Capacity Expansion Act of 1987 is enacted, effective on December 31, 1987, sections 4091(b)(5)(B) and 9502(b)(3) of such Code (as added by this section) are each amended by striking out "January 1, 1988" and inserting in lieu thereof "January 1, 1991".[125]

SEC. 10503. EXTENSION OF TEMPORARY INCREASE IN AMOUNT OF TAX IMPOSED ON COAL PRODUCERS.

Subparagraph (A) of section 4121(e)(2) (relating to temporary increase termination date) is amended by striking out "January 1, 1996" and inserting in lieu thereof "January 1, 2014".

PART II—TAX-RELATED USER FEES

26 USC 7801 note.

SEC. 10511. FEES FOR REQUESTS FOR RULING, DETERMINATION, AND SIMILAR LETTERS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate (hereinafter in this section referred to as the "Secretary") shall establish a program requiring the payment of user fees for requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters and for similar requests.

(b) PROGRAM CRITERIA.—

(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

---

[124] Copy read " 'taxable fuel' ".

[125] Copy read "1991", and.".

(A) shall vary according to categories (or subcategories) established by the Secretary,

(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

(C) shall be payable in advance.

(2) EXEMPTIONS, ETC.—The Secretary shall provide for such exemptions (and reduced fees) under such program as he determines to be appropriate.

(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

Category	Average Fee
Employee plan ruling and opinion	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination	$275
Chief counsel ruling	$200.

Effective date.

(c) APPLICATION OF SECTION.—Subsection (a) shall apply with respect to requests made on or after the 1st day of the second calendar month beginning after the date of the enactment of this Act and before September 30, 1990.

SEC. 10512. OCCUPATIONAL TAXES RELATING TO ALCOHOL, TOBACCO, AND FIREARMS.

(a) OCCUPATIONAL TAXES ON DISTILLED SPIRITS PLANTS, BONDED WINE CELLARS, BREWERIES, ETC.—

(1) DISTILLED SPIRITS PLANTS, BONDED WINE CELLARS, ETC.—

(A) IN GENERAL.—Part II of subchapter A of chapter 51 (relating to distilled spirits, wines, and beer) is amended by inserting before subpart B the following new subpart:

"Subpart A—Proprietors of Distilled Spirits Plants, Bonded Wine Cellars, Etc.

"Sec. 5081. Imposition and rate of tax.

26 USC 5081.

"SEC. 5081. IMPOSITION AND RATE OF TAX.

"(a) GENERAL RULE.—Every proprietor of—

"(1) a distilled spirits plant,

"(2) a bonded wine cellar,

"(3) a bonded wine warehouse, or

"(4) a taxpaid wine bottling house,

shall pay a tax of $1,000 per year in respect of each such premises.

"(b) REDUCED RATES FOR SMALL PROPRIETORS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '$500' for '$1,000' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than $500,000.

"(2) CONTROLLED GROUP RULES.—All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

"(3) CERTAIN RULES TO APPLY.—For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply."

(B) TECHNICAL AMENDMENTS.—

(i) Subsection (a) of section 5691 is amended by striking out "the business of a brewer, wholesale dealer in liquors, retail dealer in liquors, wholesale dealer in beer, retail dealer in beer, or limited retail dealer," and inserting in lieu thereof "a business subject to a special tax imposed by part II of subchapter A or section 5276 (relating to occupational taxes)"

(ii) The section heading of section 5691 is amended by striking out "**RELATING TO LIQUORS**".

(iii) The table of sections for part V of subchapter J of chapter 51 is amended by striking out "relating to liquors" in the item relating to section 5691.

(C) Clerical amendment.—The table of subparts for part II of subchapter A of chapter 51 is amended by inserting before the item relating to subpart B the following new item:

"Subpart A. Proprietors of distilled spirits plants, bonded wine cellars, etc."

(2) Breweries.—Section 5091 (relating to imposition and rate of tax on brewers) is amended to read as follows:

26 USC 5091.

"SEC. 5091. IMPOSITION AND RATE OF TAX.

"(a) General Rule.—Every brewer shall pay a tax of $1,000 per year in respect of each brewery.

"(b) Reduced Rates for Small Brewers.—Rules similar to the rules of section 5081(b) shall apply for purposes of subsection (a)."

(b) Wholesale Dealers in Liquors and Beer.—

(1) Liquors.—Subsection (a) of section 5111 (relating to imposition and rate of tax on wholesale dealers) is amended by striking out "$255" and inserting in lieu thereof "$500".

(2) Beer.—Subsection (b) of section 5111 is amended by striking out "$123" and inserting in lieu thereof "$500".

(c) Retail Dealers in Liquors and Beer.—

(1) Liquors.—Subsection (a) of section 5121 (relating to imposition and rate of tax on retail dealers) is amended by striking out "$54" and inserting in lieu thereof "$250".

(2) Beer.—Subsection (b) of section 5121 is amended by striking out "$24" and inserting in lieu thereof "$250".

(3) Repeal of tax on limited retail dealers.—Subsection (c) of section 5121 is hereby repealed.

(d) Tax on Nonbeverage Domestic Drawback.—Subsection (b) of section 5131 (relating to eligibility and rate of tax) is amended to read as follows:

"(b) Rate of Tax.—The special tax imposed by subsection (a) shall be $500 per year."

(e) Tax on Industrial Use of Distilled Spirits.—

(1) In general.—Subchapter D of chapter 51 (relating to industrial use of distilled spirits) is amended by adding at the end thereof the following new section:

26 USC 5276.

"SEC. 5276. OCCUPATIONAL TAX.

"(a) General Rule.—A permit issued under section 5271 shall not be valid with respect to acts conducted at any place unless the person holding such permit pays a special tax of $250 with respect to such place.

"(b) **Certain Occupational Tax Rules To Apply.**—Rules similar to the rules of subpart G of part II of subchapter A shall apply for purposes of this section."

(2) **Clerical amendment.**—The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 5276. Occupational tax."

(f) **Tobacco.**—

(1) **In general.**—Chapter 52 (relating to cigars, cigarettes, smokeless tobacco and cigarette papers and tubes) is amended by redesignating subchapters D, E, and F as subchapters E, F, and G, respectively, and by inserting after subchapter C the following new subchapter:

"Subchapter D—Occupational Tax

"Sec. 5731. Imposition and rate of tax.

"SEC. 5731. IMPOSITION AND RATE OF TAX.

26 USC 5731.

"(a) **General Rule.**—Every person engaged in business as—

"(1) a manufacturer of tobacco products,

"(2) a manufacturer of cigarette papers and tubes, or

"(3) an export warehouse proprietor,

shall pay a tax of $1,000 per year in respect of each premises at which such business is carried on.

"(b) **Reduced Rates for Small Proprietors.**—

"(1) **In general.**—Subsection (a) shall be applied by substituting '$500' for '$1,000' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than $500,000.

"(2) **Controlled group rules.**—All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

"(3) **Certain rules to apply.**—For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply.

"(c) **Certain Occupational Tax Rules To Apply.**—Rules similar to the rules of subpart G of part II of subchapter A of chapter 51 shall apply for purposes of this section.

"(d) **Penalty for Failure to Register.**—Any person engaged in a business referred to in subsection (a) who willfully fails to pay the tax imposed by subsection (a) shall be fined not more than $5,000, or imprisoned not more than 2 years, or both, for each such offense."

(2) **Clerical amendment.**—The table of subchapters for chapter 52 is amended by redesignating the items relating to subchapters D, E, and F as items relating to subchapters E, F, and G, respectively, and by inserting after the item relating to subchapter C the following new item:

"Subchapter D. Occupational tax."

(g) **Firearms.**—

(1) **In general.**—Section 5801 (relating to occupational taxes) is amended to read as follows:

26 USC 5801.

"SEC. 5801. IMPOSITION OF TAX.

"(a) General Rule.—On 1st engaging in business and thereafter on or before July 1 of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

"(1) Importers and manufacturers: $1,000 a year or fraction thereof.

"(2) Dealers: $500 a year or fraction thereof.

"(b) Reduced Rates of Tax for Small Importers and Manufacturers.—

"(1) In general.—Paragraph (1) of subsection (a) shall be applied by substituting '$500' for '$1,000' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than $500,000.

"(2) Controlled group rules.—All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

"(3) Certain rules to apply.—For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply."

(2) Clerical amendment.—The table of sections for part I of subchapter A of chapter 53 is amended by striking out the item relating to section 5801 and inserting in lieu thereof the following new item:

"Sec. 5801. Imposition of tax."

26 USC 5081 note.

(h) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on January 1, 1988.

(2) All taxpayers treated as commencing in business on January 1, 1988.—

(A) In general.—Any person engaged on January 1, 1988, in any trade or business which is subject to an occupational tax shall be treated for purposes of such tax as having 1st engaged in such trade or business on such date.

(B) Limitation on amount of tax.—In the case of a taxpayer who paid an occupational tax in respect of any premises for any taxable period which began before January 1, 1988, and includes such date, the amount of the occupational tax imposed by reason of subparagraph (A) in respect of such premises shall not exceed an amount equal to ½ the excess (if any) of—

(i) the rate of such tax as in effect on January 1, 1988, over

(ii) the rate of such tax as in effect on December 31, 1987.

(C) Occupational tax.—For purposes of this paragraph, the term "occupational tax" means any tax imposed under part II of subchapter A of chapter 51, section 5276, section 5731, or section 5801 of the Internal Revenue Code of 1986 (as amended by this section).

(D) Due date of tax.—The amount of any tax required to be paid by reason of this paragraph shall be due on April 1, 1988.

Subtitle F—Other Revenue Provisions

PART I—TARGETED JOBS CREDIT

SEC. 10601. DENIAL OF TARGETED JOBS CREDIT FOR WAGES PAID DURING PERIOD OF LABOR DISPUTE.

(a) General Rule.—Subsection (c) of section 51 (defining wages) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Payments for services during labor disputes.—If—

"(A) the principal place of employment of an individual with the employer is at a plant or facility, and

"(B) there is a strike or lockout involving employees at such plant or facility,

the term 'wages' shall not include any amount paid or incurred by the employer to such individual for services which are the same as, or substantially similar to, those services performed by employees participating in, or affected by, the strike or lockout during the period of such strike or lockout."

(b) Effective Date.—The amendment made by subsection (a) shall apply to amounts paid or incurred on or after January 1, 1987, for services rendered on or after such date.

26 USC 51 note.

PART II—TREATMENT OF CERTAIN ILLEGAL IRRIGATION SUBSIDIES

SEC. 10611. TREATMENT OF CERTAIN ILLEGAL IRRIGATION SUBSIDIES.

(a) General Rule.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 90. ILLEGAL FEDERAL IRRIGATION SUBSIDIES.

26 USC 90.

"(a) General Rule.—Gross income shall include an amount equal to any illegal Federal irrigation subsidy received by the taxpayer during the taxable year.

"(b) Illegal Federal Irrigation Subsidy.—For purposes of this section—

"(1) In general.—The term 'illegal Federal[126] irrigation subsidy' means the excess (if any) of—

"(A) the amount required to be paid for any Federal irrigation water delivered to the taxpayer during the taxpayer year, over

"(B) the amount paid for such water.

"(2) Federal irrigation water.—The term 'Federal irrigation water' means any water made available for agricultural purposes from the operation of any reclamation or irrigation project referred to in paragraph (8) of section 202 of the Reclamation Reform Act of 1982.

"(c) Denial of Deduction.—No deduction shall be allowed under this subtitle by reason of any inclusion in gross income under subsection (a)."

---

[126] Copy read "federal".

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 90. Federal irrigation subsidies."

26 USC 90 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to water delivered to the taxpayer in months beginning after the date of the enactment of this Act.

PART III—COMPLIANCE

SEC. 10621. STATE ESCHEAT LAWS NOT TO APPLY TO REFUNDS OF FEDERAL TAX.

(a) GENERAL RULE.—Subchapter A of chapter 65 (relating to procedure in general for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

26 USC 6408. **"SEC. 6408. STATE ESCHEAT LAWS NOT TO APPLY.**

"No overpayment of any tax imposed by this title shall be refunded (and no interest with respect to any such overpayment shall be paid) if the amount of such refund (or interest) would escheat to a State or would otherwise become the property of a State under any law relating to the disposition of unclaimed or abandoned property. No refund (or payment of interest) shall be made to the estate of any decedent unless it is affirmatively shown that such amount will not escheat to a State or otherwise become the property of a State under such a law."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 65 is amended by adding at the end thereof the following new item:

"Sec. 6408. State escheat laws not to apply."

26 USC 6408 note. (c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 7803 note.

SEC. 10622. SENSE OF CONGRESS AS TO INCREASED INTERNAL REVENUE SERVICE FUNDING FOR TAXPAYER ASSISTANCE AND ENFORCEMENT.

(a) FINDINGS.—The Congress hereby finds that—

(1) the Internal Revenue Service estimates that the amount of taxes owed for 1986 will exceed the amount of taxes collected for such year by $100 billion;

(2) the current taxpayer compliance rate stands at 81.5 percent;

(3) the tax gap can be significantly reduced by enhancing taxpayer assistance services and enforcement; and

(4) the Appropriations Committee of the House of Representatives, in its fiscal year 1988 Internal Revenue Service appropriation, took a step in the direction of providing additional funding for taxpayer assistance and enforcement efforts.

(b) It is the sense of the Congress that:

(1) The Congress increase outlays for the Internal Revenue Service in fiscal year 1989 and fiscal year 1990 in the areas of taxpayer assistance and enforcement by $.7 billion in fiscal year 1989 for a revenue total of $3.2 billion and by $.8 billion in fiscal year 1990 for a revenue total of $4.4 billion. The net revenue increase would be $2.5 billion in fiscal year 1989 and $3.6 billion in fiscal year 1990, or a net revenue increase over the House

Appropriations Committee recommendations of $.4 billion in fiscal year 1989 and $1.3 billion in fiscal year 1990.

(2) The Internal Revenue Service offer improved taxpayer assistance and enforcement efforts by using the aforementioned outlays in areas recommended by, or consistent with the recommendations of, the "Dorgan Task Force Report". Taxpayer assistance efforts would include providing expanded taxpayer education programs, instituting pilot programs of taxmobiles in rural areas, and upgrading the quality of telephone assistance. Taxpayer enforcement efforts would include raising the audit rate from 1.1 percent toward 2.5 percent, restoring resources to criminal investigations, and the collection of delinquent accounts.

(3) The Congress should undertake an experimental multiyear authorization and 2-year appropriation for the Internal Revenue Service consistent with the recommendations in Public Law 100-119, section [127] 201 (Increasing the Statutory Limit on the Public Debt).

(4) Increased funding should be provided for compilation and analysis of statistics of income and research.

Reports.

The Internal Revenue Service must issue a report on the extent of the tax gap and the measures that could be undertaken to decrease the tax gap. The report must utilize more current data than has been utilized recently. The report must be issued by April 15, 1989. The Internal Revenue Service must also report annually on the improvements being made in the audit rate, taxpayer assistance, and enforcement efforts.

PART IV—TAX-EXEMPT BOND PROVISIONS

SEC. 10631. ISSUES USED TO ACQUIRE NONGOVERNMENTAL OUTPUT PROPERTY.

(a) IN GENERAL.—Section 141 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN ISSUES USED TO ACQUIRE NONGOVERNMENTAL OUTPUT PROPERTY TREATED AS PRIVATE ACTIVITY BONDS.—

"(1) IN GENERAL.—For purposes of this title, the term 'private activity bond' includes any bond issued as part of an issue if the amount of the proceeds of the issue which are to be used (directly or indirectly) for the acquisition by a governmental unit of nongovernmental output property exceeds the lesser of—

"(A) 5 percent of such proceeds, or

"(B) $5,000,000.

"(2) NONGOVERNMENTAL OUTPUT PROPERTY.—Except as otherwise provided in this subsection, for purposes of paragraph (1), the term 'nongovernmental output property' means any property (or interest therein) which before such acquisition was used (or held for use) by a person other than a governmental unit in connection with an output facility (within the meaning of subsection (b)(4)) (other than a facility for the furnishing of water). For purposes of the preceding sentence, use (or the holding for use) before October 14, 1987, shall not be taken into account.

---

[127] Copy read "Sec.".

"(3) Exception for property acquired to provide output to certain areas.—For purposes of paragraph (1)—

"(A) In general.—The term 'nongovernmental output property' shall not include any property which is to be used in connection with an output facility 95 percent or more of the output of which will be consumed in—

"(i) a qualified service area of the governmental unit acquiring the property, or

"(ii) a qualified annexed area of such unit.

"(B) Definitions.—For purposes of subparagraph (A)—

"(i) Qualified service area.—The term 'qualified service area' means, with respect to the governmental unit acquiring the property, any area throughout which such unit provided (at all times during the 10-year period ending on the date such property is acquired by such unit) output of the same type as the output to be provided by such property. For purposes of the preceding sentence, the period before October 14, 1987, shall not be taken into account.

"(ii) Qualified annexed area.—The term 'qualified annexed area' means, with respect to the governmental unit acquiring the property, any area if—

"(I) such area is contiguous to, and annexed for general governmental purposes into, a qualified service area of such unit,

"(II) output from such property is made available to all members of the general public in the annexed area, and

"(III) the annexed area is not greater than 10 percent of such qualified service area.

"(C) Limitation on size of annexed area not to apply where output capacity does not increase by more than 10 percent.—Subclause (III) of subparagraph (B)(ii) shall not apply to an annexation of an area by a governmental unit if the output capacity of the property acquired in connection with the annexation, when added to the output capacity of all other property which is not treated as nongovernmental output property by reason of subparagraph (A)(ii) with respect to such annexed area, does not exceed 10 percent of the output capacity of the property providing output of the same type to the qualified service area into which it is annexed.

"(D) Rules for determining relative size, etc.—For purposes of subparagraphs (B)(ii) and (C)—

"(i) The size of any qualified service area and the output capacity of property serving such area shall be determined as the close of the calendar year preceding the calendar year in which the acquisition of nongovernmental output property or the annexation occurs.

"(ii) A qualified annexed area shall be treated as part of the qualified service area into which it is annexed for purposes of determining whether any other area an nexed in a later year is a qualified annexed area.

"(4) Exception for property converted to nonoutput use.—For purposes of paragraph (1)—

"(A) In general.—The term 'nongovernmental output property' shall not include any property which is to be converted to a use not in connection with an output facility.

"(B) Exception.—Subparagraph (A) shall not apply to any property which is part of the output function of a nuclear power facility.

"(5) Special rules.—In the case of a bond which is a private activity bond solely by reason of this subsection—

"(A) subsections (c) and (d) of section 147 (relating to limitations on acquisition of land and existing property) shall not apply, and

"(B) paragraph (8) of section 142(a) shall be applied as if it did not contain 'local'.

"(6) Treatment of joint action agencies.—With respect to nongovernmental output property acquired by a joint action agency the members of which are governmental units, this subsection shall be applied at the member level by treating each member as acquiring its proportionate share of such property."

(b) Technical Amendment.—Subparagraph (A) of section 146(f)(5) is amended to read as follows:

"(A) the purpose of issuing exempt facility bonds described in 1 of the paragraphs of section 142(a),".

(c) Effective Date.— 26 USC 141 note.

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to bonds issued after October 13, 1987 (other than bonds issued to refund bonds issued on or before such date).

(2) Binding agreements.—The amendments made by this section shall not apply to bonds (other than advance refunding bonds) with respect to a facility acquired after October 13, 1987, pursuant to a binding contract entered into on or before such date.

(3) Transitional rule.—The amendments made by this section shall not apply to bonds issued—

(A) after October 13, 1987, by an authority created by a statute—

(i) approved by the State Governor on July 24, 1986 and

(ii) sections 1 through 10 of which became effective on January 15, 1987, and

(B) to provide facilities serving the area specified in such statute on the date of its enactment.

SEC. 10632. BONDS ISSUED BY INDIAN TRIBAL GOVERNMENTS.

(a) In General.—Section 7871 is amended by adding at the end thereof the following new subsection:

"(e) Essential Governmental Function.—For purposes of this section, the term 'essential governmental function' shall not include any function which is not customarily performed by State and local governments with general taxing powers."

(b) Exception for Certain Private Activity Bonds.—

(1) In general.—Subsection (c) of section 7871 (relating to additional requirements for tax-exempt bonds) is amended by adding at the end thereof the following new paragraph:

"(3) Exception for certain private activity bonds.—

"(A) In general.—In the case of an obligation to which this paragraph applies—

"(i) paragraph (2) shall not apply,

"(ii) such obligation shall be treated for purposes of this title as a qualified small issue bond, and

"(iii) section 146 shall not apply.

"(B) OBLIGATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any obligation issued as part of an issue if—

"(i) 95 percent or more of the net proceeds of the issue are to be used for the acquisition, construction, reconstruction, or improvement of property which is of a character subject to the allowance for depreciation and which is part of a manufacturing facility (as defined in section 144(a)(12)(C)),

"(ii) such issue is issued by an Indian tribal government or a subdivision thereof,

"(iii) 95 percent or more of the net proceeds of the issue are to be used to finance property which—

"(I) is to be located on land which, throughout the 5-year period ending on the date of issuance of such issue, is part of the qualified Indian lands of the issuer, and

"(II) is to be owned and operated by such issuer,

"(iv) such obligation would not be a private activity bond without regard to subparagraph (C),

"(v) it is reasonably expected (at the time of issuance of the issue) that the employment requirement of subparagraph (D)(i) will be met with respect to the facility to be financed by the net proceeds of the issue, and

"(vi) no principal user of such facility will be a person (or group of persons) described in section 144(a)(6)(B).

For purposes of clause (iii), section 150(a)(5) shall apply.

"(C) PRIVATE ACTIVITY BOND RULES TO APPLY.—An obligation to which this paragraph applies (other than an obligation described in paragraph (1)) shall be treated for purposes of this title as a private activity bond.

"(D) EMPLOYMENT REQUIREMENTS.—

"(i) IN GENERAL.—The employment requirements of this subparagraph are met with respect to a facility financed by the net proceeds of an issue if, as of the close of each calendar year in the testing period, the aggregate face amount of all outstanding tax-exempt private activity bonds issued to provide financing for the establishment which includes such facility is not more than 20 times greater than the aggregate wages (as defined by section 3121(a)) paid during the preceding calendar year to individuals (who are enrolled members of the Indian tribe of the issuer or the spouse of any such member) for services rendered at such establishment.

"(ii) FAILURE TO MEET REQUIREMENTS.—

"(I) IN GENERAL.—If, as of the close of any calendar year in the testing period, the requirements of this subparagraph are not met with respect to an establishment, section 103 shall cease to apply to interest received or accrued (on all private activity bonds issued to provide financing for the establishment) after the close of such calendar year.

"(II) EXCEPTION.—Subclause (I) shall not apply if the requirements of this subparagraph would be met if the aggregate face amount of all tax-exempt private activity bonds issued to provide financing for the establishment and outstanding at the close of the 90th day after the close of the calender year were substituted in clause (i) for such bonds outstanding at the close of such calendar year.

"(iii) TESTING PERIOD.—For purposes of this subparagraph, the term 'testing period' means, with respect to an issue, each calendar year which begins more than 2 years after the date of issuance of the issue (or, in the case of a refunding obligation, the date of issuance of the original issue).

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFIED INDIAN LANDS.—The term 'qualified Indian lands' means land which is held in trust by the United States for the benefit of an Indian tribe.

"(ii) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(iii) NET PROCEEDS.—The term 'net proceeds' has the meaning given such term by section 150(a)(3)."

(2) TECHNICAL AMENDMENT.—Paragraph (2) of section 7871(c) is amended by striking out "Subsection (a)" and inserting in lieu thereof "Except as provided in paragraph (3), subsection (a)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after October 13, 1987.

26 USC 7871 note.

Subtitle G—Lobbying and Political Activities of Tax-Exempt Organizations

PART I—DISCLOSURE REQUIREMENTS

SEC. 10701. REQUIRED DISCLOSURE OF NONDEDUCTIBILITY OF CONTRIBUTIONS.

(a) GENERAL RULE.—Subchapter B of chapter 61 (relating to miscellaneous provisions) is amended by redesignating section 6113 as section 6114 and by inserting after section 6112 the following new section:

"SEC. 6113. DISCLOSURE OF NONDEDUCTIBILITY OF CONTRIBUTIONS.

26 USC 6113.

"(a) GENERAL RULE.—Each fundraising solicitation by (or on behalf of) an organization to which this section applies shall contain an express statement (in a conspicuous and easily recognizable format) that contributions or gifts to such organization are not deductible as charitable contributions for Federal income tax purposes.

"(b) ORGANIZATIONS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall apply to any organization which is not described in section 170(c) and which—

"(A) is described in subsection (c) (other than paragraph (1) thereof) or (d) of section 501 and exempt from taxation under section 501(a),

"(B) is a political organization (as defined in section 527(e)), or

"(C) was an organization described in subparagraph (A) or (B) at any time during the 5-year period ending on the date of the fundraising solicitation or is a successor to an organization so described at any time during such 5-year period.

"(2) EXCEPTION FOR SMALL ORGANIZATIONS.—

"(A) ANNUAL GROSS RECEIPTS DO NOT EXCEED $100,000.—This section shall not apply to any organization the gross receipts of which in each taxable year are normally not more than $100,000.

"(B) MULTIPLE ORGANIZATION RULE.—The Secretary may treat any group of 2 or more organizations as 1 organization for purposes of subparagraph (A) where necessary or appropriate to prevent the avoidance of this section through the use of multiple organizations.

"(3) SPECIAL RULE FOR CERTAIN FRATERNAL ORGANIZATIONS.—For purposes of paragraph (1), an organization described in section 170(c)(4) shall be treated as described in section 170(c) only with respect to solicitations for contributions or gifts which are to be used exclusively for purposes referred to in section 170(c)(4).

"(c) FUNDRAISING SOLICITATION.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'fundraising solicitation' means any solicitation of contributions or gifts which is made—

"(A) in written or printed form,

"(B) by television or radio, or

"(C) by telephone.

"(2) EXCEPTION FOR CERTAIN LETTERS OR CALLS.—The term 'fundraising solicitation' shall not include any letter or telephone call if such letter or call is not part of a coordinated fundraising campaign soliciting more than 10 persons during the calendar year."

(b) PENALTY.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

26 USC 6710.

"SEC. 6710. FAILURE TO DISCLOSE THAT CONTRIBUTIONS ARE NONDEDUCTIBLE.

"(a) IMPOSITION OF PENALTY.—If there is a failure to meet the requirement of section 6113 with respect to a fundraising solicitation by (or on behalf of) an organization to which section 6113 applies, such organization shall pay a penalty of $1,000 for each day on which such a failure occurred. The maximum penalty imposed under this subsection on failures by any organization during any calendar year shall not exceed $10,000.

"(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

"(c) $10,000 LIMITATION NOT TO APPLY WHERE INTENTIONAL DISREGARD.—If any failure to which subsection (a) applies is due to intentional disregard of the requirement of section 6113—

"(1) the penalty under subsection (a) for the day on which such failure occurred shall be the greater of—

"(A) $1,000, or

"(B) 50 percent of the aggregate cost of the solicitations which occurred on such day and with respect to which there was such a failure,

"(2) the $10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

"(3) such penalty shall not be taken into account in applying such limitation to other penalties under subsection (a).

"(d) DAY ON WHICH FAILURE OCCURS.—For purposes of this section, any failure to meet the requirement of section 6113 with respect to a solicitation—

"(1) by television or radio, shall be treated as occurring when the solicitation was telecast or broadcast,

"(2) by mail, shall be treated as occurring when the solicitation was mailed,

"(3) not by mail but in written or printed form, shall be treated as occurring when the solicitation was distributed, or

"(4) by telephone, shall be treated as occurring when the solicitation was made."

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking out the item relating to section 6113 and inserting in lieu thereof the following:

"Sec. 6113. Disclosure of nondeductibility of contributions.
"Sec. 6114. Cross reference."

(2) The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6710. Failure to disclose that contributions are nondeductible."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to solicitations after January 31, 1988.

26 USC 6113 note.

SEC. 10702. PUBLIC INSPECTION OF ANNUAL RETURNS AND APPLICATIONS FOR TAX-EXEMPT STATUS.

(a) GENERAL RULE.—Section 6104 (relating to publicity of information required from certain tax-exempt organizations and certain trusts) is amended by adding at the end thereof the following new subsection:

"(e) PUBLIC INSPECTION OF CERTAIN ANNUAL RETURNS AND APPLICATIONS FOR EXEMPTION.—

"(1) ANNUAL RETURNS.—

Public information.

"(A) IN GENERAL.—During the 3-year period beginning on the filing date, a copy of the annual return filed under section 6033 (relating to returns by exempt organizations) by any organization to which this paragraph applies shall be made available by such organization for inspection during regular business hours by any individual at the principal office of the organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office.

"(B) ORGANIZATIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any organization which—

"(i) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), and

"(ii) is not a private foundation (within the meaning of section 509(a)).

"(C) NONDISCLOSURE OF CONTRIBUTORS.—Subparagraph (A) shall not require the disclosure of the name or address of any contributor to the organization.

"(D) FILING DATE.—For purposes of subparagraph (A), the term 'filing date' means the last day prescribed for filing the return under section 6033 (determined with regard to any extension of time for filing).

"(2) APPLICATION FOR EXEMPTION.—

"(A) IN GENERAL.—If—

"(i) an organization described in subsection (c) or (d) of section 501 is exempt from taxation under section 501(a), and

Public information.

"(ii) such organization filed an application for recognition of exemption under section 501,

a copy of such application (together with a copy of any papers submitted in support of such application and any letter or other document issued by the Internal Revenue Service with respect to such application) shall be made available by the organization for inspection during regular business hours by any individual at the principal office of the organization and, if the organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office.

"(B) NONDISCLOSURE OF CERTAIN INFORMATION.—Subparagraph (A) shall not require the disclosure of any information if the Secretary withheld such information from public inspection under subsection (a)(1)(D)."

26 USC 6104 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply—

(1) to returns for years beginning after December 31, 1986, and

(2) on and after the 30th day after the date of the enactment of this Act in the case of applications submitted to the Internal Revenue Service—

(A) after July 15, 1987, or

(B) on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987.

SEC. 10703. ADDITIONAL INFORMATION REQUIRED ON ANNUAL RETURNS OF SECTION 501(c)(3) ORGANIZATIONS.

(a) GENERAL RULE.—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) [128] is amended by striking out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting in lieu thereof a comma, and by inserting after paragraph (8) the following new paragraphs:

---

[128] Copy read "503(c)(3))".

"(9) such other information with respect to direct or indirect transfers to, and other direct or indirect transactions and relationships with, other organizations described in section 501(c) (other than paragraph (3) thereof) or section 527 as the Secretary may require to prevent—

"(A) diversion of funds from the organization's exempt purpose, or

"(B) misallocation of revenues or expenses, and

"(10) such other information for purposes of carrying out the internal revenue laws as the Secretary may require."

(b) Effective Date.—The amendments made by subsection (a) shall apply to returns for years beginning after December 31, 1987. 26 USC 6033 note.

SEC. 10704. PENALTIES.

(a) General Rule.—Subsection (c) of section 6652 (relating to returns by exempt organizations and by certain trusts) is amended to read as follows:

"(c) Returns by Exempt Organizations and by Certain Trusts.—

"(1) Annual returns under section 6033.—

"(A) Penalty on organization.—In the case of—

"(i) a failure to file a return required under section 6033 (relating to returns by exempt organizations) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), or

"(ii) a failure to include any of the information required to be shown on a return filed under section 6033 or to show the correct information,

there shall be paid by the exempt organization $10 for each day during which such failure continues. The maximum penalty under this subparagraph on failures with respect to any 1 return shall not exceed the lesser of $5,000 or 5 percent of the gross receipts of the organization for the year.

"(B) Managers.—

"(i) In general.—The Secretary may make a written demand on any organization subject to penalty under subparagraph (A) specifying therein a reasonable future date by which the return shall be filed (or the information furnished) for purposes of this subparagraph.

"(ii) Failure to comply with demand.—If any person fails to comply with any demand under clause (i) on or before the date specified in such demand, there shall be paid by the person failing to so comply $10 for each day after the expiration of the time specified in such demand during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed $5,000.

"(C) Public inspection of annual returns.—In the case of a failure to comply with the requirements of subsection (d) or (e)(1) of section 6104 (relating to public inspection of annual returns) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the person failing to meet such requirements $10 for each day during which such failure continues. The maximum penalty imposed under this subparagraph on all persons for failures with respect to any 1 return shall not exceed $5,000.

"(D) PUBLIC INSPECTION OF APPLICATIONS FOR EXEMPTION.—In the case of a failure to comply with the requirements of section 6104(e)(2) (relating to public inspection of applications for exemption) on the date and in the manner prescribed therefor, there shall be paid by the person failing to meet such requirements $10 for each day during which such failure continues.

"(2) RETURNS UNDER SECTION 6034 OR 6043(b).—

"(A) PENALTY ON ORGANIZATION OR TRUST.—In the case of a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), there shall be paid by the exempt organization or trust failing so to file $10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization or trust for failure to file any 1 return shall not exceed $5,000.

"(B) MANAGERS.—The Secretary may make written demand on an organization or trust failing to file under subparagraph (A) specifying therein a reasonable future date by which such filing shall be made for purposes of this subparagraph. If such filing is not made on or before such date, there shall be paid by the person failing so to file $10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return shall not exceed $5,000.

"(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

"(4) OTHER SPECIAL RULES.—

"(A) TREATMENT AS TAX.—Any penalty imposed under this subsection shall be paid on notice and demand of the Secretary and in the same manner as tax.

"(B) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable under this subsection for any penalty with respect to any failure, all such persons shall be jointly and severally liable with respect to such failure.

"(C) PERSON.—For purposes of this subsection, the term 'person' means any officer, director, trustee, employee, or other individual who is under a duty to perform the act in respect of which the violation occurs."

(b) WILLFUL FAILURE TO PERMIT PUBLIC INSPECTION.—

(1) IN GENERAL.—Section 6685 (relating to assessable penalty with respect to private foundation annual returns) is amended to read as follows:

"SEC. 6685. ASSESSABLE PENALTY WITH RESPECT TO PUBLIC INSPECTION REQUIREMENTS FOR CERTAIN TAX-EXEMPT ORGANIZATIONS.

26 USC 6685.

"In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of subsection (d) or (e) of section 6104 and who fails to so comply with respect to any return or application, if such failure is willful, shall pay a penalty of $1,000 with respect to each such return or application."

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking out the item relating to section 6685 and inserting in lieu thereof the following:

"Sec. 6685. Assessable penalty with respect to public inspection requirements for certain tax-exempt organizations."

(c) FURNISHING FRAUDULENT INFORMATION.—Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out "subsection (d) of section 6104" and inserting in lieu thereof "subsection (d) or (e) of section 6104".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply— 26 USC 6652 note.

(1) to returns for years beginning after December 31, 1986, and

(2) on and after the date of the enactment of this Act in the case of applications submitted to the Internal Revenue Service—

(A) after July 15, 1987, or

(B) on or before July 15, 1987, if the organization has a copy of the application on July 15, 1987.

SEC. 10705. REQUIRED DISCLOSURE THAT CERTAIN INFORMATION OR SERVICE AVAILABLE FROM FEDERAL GOVERNMENT.

(a) GENERAL RULE.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6711. FAILURE BY TAX-EXEMPT ORGANIZATION TO DISCLOSE THAT CERTAIN INFORMATION OR SERVICE AVAILABLE FROM FEDERAL GOVERNMENT.

26 USC 6711.

"(a) IMPOSITION OF PENALTY.—If—

"(1) a tax-exempt organization offers to sell (or solicits money for) specific information or a routine service for any individual which could be readily obtained by such individual free of charge (or for a nominal charge) from an agency of the Federal Government,

"(2) the tax-exempt organization, when making such offer or solicitation, fails to make an express statement (in a conspicuous and easily recognizable format) that the information or service can be so obtained, and

"(3) such failure is due to intentional disregard of the requirements of this subsection,

such organization shall pay a penalty determined under subsection (b) for each day on which such a failure occurred.

"(b) AMOUNT OF PENALTY.—The penalty under subsection (a) for any day on which a failure referred to in such subsection occurred shall be the greater of—

"(1) $1,000, or

"(2) 50 percent of the aggregate cost of the offers and solicitations referred to in subsection (a)(1) which occurred on such day and with respect to which there was such a failure.

"(c) DEFINITIONS.—For purposes of this section—

"(1) TAX-EXEMPT ORGANIZATION.—The term 'tax-exempt organization' means any organization which—

"(A) is described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a), or

"(B) is a political organization (as defined in section 527(e)).

"(2) DAY ON WHICH FAILURE OCCURS.—The day on which any failure referred to in subsection (a) occurs shall be determined under rules similar to the rules of section 6710(d)."

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6711. Failure by tax-exempt organization to disclose that certain information or service available from Federal Government."

26 USC 6711 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to offers and solicitations after January 31, 1988.

PART II—POLITICAL ACTIVITIES

SEC. 10711. CLARIFICATION OF PROHIBITED POLITICAL ACTIVITIES.

(a) GENERAL RULE.—The following provisions are each amended by striking out "on behalf of any candidate" and inserting in lieu thereof "on behalf of (or in opposition to) any candidate":

(1) Section 170(c)(2)(D).

(2) Section 501(c)(3).

(3) Paragraphs (2) and (3) of section 2055(a).

(4) Clauses (ii) and (iii) of section 2106(a)(2)(A).

(5) Section 2522(a)(2).

(6) Paragraphs (2) and (3) of section 2522(b).

(b) STATUS AFTER DISQUALIFICATION BECAUSE OF POLITICAL ACTIVITIES.—

(1) IN GENERAL.—Paragraph (2) of section 504(a) (relating to status after organization ceases to qualify for exemption under section 501(c)(3) because of substantial lobbying) is amended to read as follows:

"(2) is not an organization described in section 501(c)(3)—

"(A) by reason of carrying on propaganda, or otherwise attempting, to influence legislation, or

"(B) by reason of participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office,".

(2) CLERICAL AMENDMENTS.—

(A) The section heading for section 504 is amended by striking out "SUBSTANTIAL LOBBYING" and inserting in lieu thereof "SUBSTANTIAL LOBBYING OR BECAUSE OF POLITICAL ACTIVITIES".

(B) The table of sections for part I of subchapter F of chapter 1 is amended by striking out "substantial lobbying" in the item relating to section 504 and inserting in lieu thereof "substantial lobbying or because of political activities".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to activities after the date of the enactment of this Act. 26 USC 170 note.

SEC. 10712. EXCISE TAXES ON POLITICAL EXPENDITURES BY SECTION 501(c)(3) ORGANIZATIONS.

(a) GENERAL RULE.—Chapter 42 (relating to excise taxes on private foundations and black lung benefit trusts) is amended by redesignating subchapter C as subchapter D and by inserting after subchapter B the following new subchapter:

"Subchapter C—Political Expenditures of Section 501(c)(3) Organizations

"Sec. 4955. Taxes on political expenditures of section 501(c)(3) organizations.

"SEC. 4955. TAXES ON POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS.

26 USC 4955.

"(a) INITIAL TAXES.—

"(1) ON THE ORGANIZATION.—There is hereby imposed on each political expenditure by a section 501(c)(3) organization a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the organization.

"(2) ON THE MANAGEMENT.—There is hereby imposed on the agreement of any organization manager to the making of any expenditure, knowing that it is a political expenditure, a tax equal to 2½ percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who agreed to the making of the expenditure.

"(b) ADDITIONAL TAXES.—

"(1) ON THE ORGANIZATION.—In any case in which an initial tax is imposed by subsection (a)(1) on a political expenditure and such expenditure is not corrected within the taxable period, there is hereby imposed a tax equal to 100 percent of the amount of the expenditure. The tax imposed by this paragraph shall be paid by the organization.

"(2) ON THE MANAGEMENT.—In any case in which an additional tax is imposed by paragraph (1), if an organization manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the political expenditure. The tax imposed by this paragraph shall be paid by any organization manager who refused to agree to part or all of the correction.

"(c) SPECIAL RULES.—For purposes of subsections (a) and (b)—

"(1) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable under subsection (a)(2) or (b)(2) with respect to the making of a political expenditure, all such persons shall be jointly and severally liable under such subsection with respect to such expenditure.

"(2) LIMIT FOR MANAGEMENT.—With respect to any 1 political expenditure, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $5,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

"(d) POLITICAL EXPENDITURE.—For purposes of this section—

"(1) IN GENERAL.—The term 'political expenditure' means any amount paid or incurred by a section 501(c)(3) organization in any participation in, or intervention in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

"(2) CERTAIN OTHER EXPENDITURES INCLUDED.—In the case of an organization which is formed primarily for purposes of promoting the candidacy (or prospective candidacy) of an individual for public office (or which is effectively controlled by a candidate or prospective candidate and which is availed of primarily for such purposes), the term 'political expenditure' includes any of the following amounts paid or incurred by the organization:

"(A) Amounts paid or incurred to such individual for speeches or other services.

"(B) Travel expenses of such individual.

"(C) Expenses of conducting polls, surveys, or other studies, or preparing papers or other materials, for use by such individual.

"(D) Expenses of advertising, publicity, and fundraising for such individual.

"(E) Any other expense which has the primary effect of promoting public recognition, or otherwise primarily accruing to the benefit, of such individual.

"(e) COORDINATION WITH SECTION 4945.—If tax is imposed under this section with respect to any political expenditure, such expenditure shall not be treated as a taxable expenditure for purposes of section 4945.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) SECTION 501(C)(3) ORGANIZATION.—The term 'section 501(c)(3) organization' means any organization which (without regard to any political expenditure) would be described in section 501(c)(3) and exempt from taxation under section 501(a).

"(2) ORGANIZATION MANAGER.—The term 'organization manager' means—

"(A) any officer, director, or trustee of the organization (or individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization), and

"(B) with respect to any expenditure, any employee of the organization having authority or responsibility with respect to such expenditure.

"(3) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any political expenditure, recovering part or all of the expenditure to the extent recovery is possible, establishment of safeguards to prevent future political expenditures, and where full recovery is not possible, such additional corrective action as is prescribed by the Secretary by regulations.

"(4) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any political expenditure, the period beginning with the date on which the political expenditure occurs and ending on the earlier of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

"(B) the date on which tax imposed by subsection (a)(1) is assessed."

(b) ABATEMENT OF FIRST TIER TAX IN CERTAIN CASES.—

(1) Section 4962 (relating to abatement of private foundation first tier taxes in certain cases) is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) QUALIFIED FIRST TIER TAX.—For purposes of this section, the term 'qualified first tier tax' means any first tier tax imposed by subchapter A or C of this chapter, except that such term shall not include the tax imposed by section 4941(a) (relating to initial tax on self-dealing).

"(c) SPECIAL RULE FOR TAX ON POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS.—In the case of the tax imposed by section 4955(a), subsection (a)(1) shall be applied by substituting 'not willful and flagrant' for 'due to reasonable cause and not to willful neglect'."

(2) Subsection (a) of section 4962 is amended by striking out "any private foundation first tier tax" and inserting in lieu thereof "any qualified first tier tax".

(3) Subsections (a), (b), and (c) of section 4963 are each amended by striking out "4952," and inserting in lieu thereof "4952, 4955,".

(4) The section heading for section 4962 is amended by striking out "**PRIVATE FOUNDATION**".

(5) The table of sections for subchapter D of chapter 42 (as redesignated by this section) is amended by striking out "private foundation" in the item relating to section 4962.

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (e) of section 6213 is amended by striking out "4971" and inserting in lieu thereof "4955 (relating to taxes on political expenditures), 4971".

(2) Paragraph (1) of section 6501(l) is amended by striking out "plan, or trust" and inserting in lieu thereof "plan, trust, or other organization".

(3) Subsection (g) of section 6503 is amended by striking out "4951, 4952,".

(4) Section 6684 is amended by striking out "private foundations" and inserting in lieu thereof "private foundations and certain other tax-exempt organizations".

(5) Paragraphs (2) and (3) of section 7422(g) are each amended by striking out "4952," and inserting in lieu thereof "4952, 4955,".

(6) Subsection (b) of section 7454 is amended by striking out "the burden of proof" and inserting in lieu thereof "or whether an organization manager (as defined in section 4955(e)(2)) has 'knowingly' agreed to the making of a political expenditure (within the meaning of section 4955), the burden of proof".

(7) The chapter heading for chapter 42 is amended by striking out "**BLACK LUNG BENEFIT TRUSTS**" and inserting in lieu thereof "**AND CERTAIN OTHER TAX-EXEMPT ORGANIZATIONS**".

(8) The table of chapters for subtitle D of such Code is amended by striking out "black lung benefit trusts" in the item relating to chapter 42 and inserting in lieu thereof "and certain other tax-exempt organizations".

(9) The table of subchapters for chapter 42 is amended by striking out the item relating to subchapter C and inserting in lieu thereof the following:

"SUBCHAPTER C. Political expenditures of section 501(c)(3) organizations.

"SUBCHAPTER D. Abatement of first and second-tier taxes in certain cases."

26 USC 4955 note.

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 10713. ADDITIONAL ENFORCEMENT AUTHORITY IN THE CASE OF FLAGRANT POLITICAL EXPENDITURES.

(a) AUTHORITY TO ENJOIN FLAGRANT POLITICAL EXPENDITURES.—

(1) IN GENERAL.—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7409 as section 7410 and by inserting after section 7408 the following new section:

26 USC 7409.

"SEC. 7409. ACTION TO ENJOIN FLAGRANT POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS.

"(a) AUTHORITY TO SEEK INJUNCTION.—

"(1) IN GENERAL.—If the requirements of paragraph (2) are met, a civil action in the name of the United States may be commenced at the request of the Secretary to enjoin any section 501(c)(3) organization from further making political expenditures and for such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3). Any action under this section shall be brought in the district court of the United States for the district in which such organization has its principal place of business or for any district in which it has made political expenditures. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such organization.

"(2) REQUIREMENTS.—An action may be brought under subsection (a) only if—

"(A) the Internal Revenue Service has notified the organization of its intention to seek an injunction under this section if the making of political expenditures does not immediately cease, and

"(B) the Commissioner of Internal Revenue has personally determined that—

"(i) such organization has flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and

"(ii) injunctive relief is appropriate to prevent future political expenditures.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds on the basis of clear and convincing evidence that—

"(1) such organization has flagrantly participated in, or intervened in (including the publication or distribution of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, and

"(2) injunctive relief is appropriate to prevent future political expenditures,

the court may enjoin such organization from making political expenditures and may grant such other relief as may be appropriate to ensure that the assets of such organization are preserved for charitable or other purposes specified in section 501(c)(3).

"(c) DEFINITIONS.—For purposes of this section, the terms 'section 501(c)(3) organization' and 'political expenditures' have the respective meanings given to such terms by section 4955."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 76 is amended by striking the item relating to section 7409 and inserting in lieu thereof the following:

"Sec. 7409. Action to enjoin flagrant political expenditures of section 501(c)(3) organizations.
"Sec. 7410. Cross references."

(b) AUTHORITY TO MAKE IMMEDIATE ASSESSMENTS.—

(1) IN GENERAL.—Part I of subchapter A of chapter 70 (relating to termination of taxable year) is amended by adding at the end thereof the following new section:

"SEC. 6852. TERMINATION ASSESSMENTS IN CASE OF FLAGRANT POLITICAL EXPENDITURES OF SECTION 501(c)(3) ORGANIZATIONS. 26 USC 6852.

"(a) AUTHORITY TO MAKE.—

"(1) IN GENERAL.—If the Secretary finds that—

"(A) a section 501(c)(3) organization has made political expenditures, and

"(B) such expenditures constitute a flagrant violation of the prohibition against making political expenditures,

the Secretary shall immediately make a determination of any income tax payable by such organization for the current or immediately preceding taxable year, or both, and shall immediately make a determination of any tax payable under section 4955 by such organization or any manager thereof with respect to political expenditures during the current or preceding taxable year, or both. Notwithstanding any other provision of law, any such tax shall become immediately due and payable. The Secretary shall immediately assess the amount of tax so determined (together with all interest, additional amounts, and additions to the tax provided by law) for the current year or the preceding taxable year, or both, and shall cause notice of such determination and assessment to be given to the organization or any manager thereof, as the case may be, together with a demand for immediate payment of such tax.

"(2) COMPUTATION OF TAX.—In the case of a current taxable year, the Secretary shall determine the taxes for the period beginning on the 1st day of such current taxable year and ending on the date of the determination under paragraph (1) as though such period were a taxable year of the organization, and shall take into account any prior determination made under this subsection with respect to such current taxable year.

"(3) TREATMENT OF AMOUNTS COLLECTED.—Any amounts collected as a result of any assessments under this subsection shall, to the extent thereof, be treated as a payment of income tax for such taxable year, or tax under section 4955 with respect to the expenditure, as the case may be.

"(4) SECTION INAPPLICABLE TO ASSESSMENTS AFTER DUE DATE.—This section shall not authorize any assessment of tax for the preceding taxable year which is made after the due date of the organization's return for such taxable year (determined with regard to any extensions).

"(b) **Definitions and Special Rules.**—

"(1) **Definitions.**—For purposes of this section, the terms 'section 501(c)(3) organization', 'political expenditure', and 'organization manager' have the respective meanings given to such terms by section 4955.

"(2) **Certain rules made applicable.**—The provisions of sections 6851(b), 6861(f), and 6861(g) shall apply with respect to any assessment made under subsection (a), except that determinations under section 6861(g) shall be made on the basis of whether the requirements of subsection (a)(1)(B) of this section are met in lieu of whether jeopardy exists."

(2) **Technical and conforming amendments.**—

(A) Clause (v) of section 6091(b)(1)(B) is amended by striking out "section 6851(a)" and inserting in lieu thereof "section 6851(a) or 6852(a)".

(B) Paragraph (1) of section 6211(b) is amended by striking out "section 6851" and inserting in lieu thereof "section 6851 or 6852".

(C) Paragraph (1) of section 6212(c) is amended by striking out "section 6851" and inserting in lieu thereof "section 6851 or 6852".

(D) Subsection (a) of section 6213 is amended by striking out "section 6851 or section 6861" and inserting in lieu thereof "section 6851, 6852, or 6861".

(E) Section 6863 is amended—

(i) by striking out "6851" in subsection (a) and inserting in lieu thereof "6851, 6852,",

(ii) by striking out "6851 or 6861" in subsection (b)(3)(A) and inserting in lieu thereof "6851, 6852, or 6861", and

(iii) by striking out "6851(a) or 6861(a)" and inserting in lieu thereof "6851(a), 6852(a), or 6861(a)".

(F) Section 7429 is amended—

(i) by striking out "6851(a)," each place it appears and inserting in lieu thereof "6851(a), 6852(a),", and

(ii) by striking out "6851," each place it appears and inserting in lieu thereof "6851, 6852,".

(G) Paragraph (3) of section 7611(i) is amended by striking out "or section 6861" and inserting in lieu thereof "section 6852 relating to termination assessments in case of political expenditures of section 501(c)(3), or 6861".

(H) The table of sections for part I of subchapter 70 is amended by adding at the end thereof the following new item:

"Sec. 6852. Termination assessments in case of flagrant political expenditures of section 501(c)(3) organizations."

26 USC 6091 note.

(c) **Effective Date.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 10714. TAX ON DISQUALIFYING LOBBYING EXPENDITURES.

(a) **General Rule.**—Chapter 41 (relating to public charities) is amended by adding at the end thereof the following new section:

26 USC 4912.

"SEC. 4912. TAX ON DISQUALIFYING LOBBYING EXPENDITURES OF CERTAIN ORGANIZATIONS.

"(a) **Tax on Organization.**—If an organization to which this section applies is not described in section 501(c)(3) for any taxable year by reason of making lobbying expenditures, there is hereby imposed a tax on the lobbying expenditures of such organization for such taxable year equal to 5 percent of the amount of such expenditures. The tax imposed by this subsection shall be paid by the organization.

"(b) ON MANAGEMENT.—If tax is imposed under subsection (a) on the lobbying expenditures of any organization, there is hereby imposed on the agreement of any organization manager to the making of any such expenditures, knowing that such expenditures are likely to result in the organization not being described in section 501(c)(3), a tax equal to 5 percent of the amount of such expenditures, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this subsection shall be paid by any manager who agreed to the making of the expenditures.

"(c) ORGANIZATIONS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to any organization which was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3).

"(2) EXCEPTIONS.—This section shall not apply to any organization—

"(A) to which an election under section 501(h) applies,

"(B) which is a disqualified organization (within the meaning of section 501(h)(5)), or

"(C) which is a private foundation.

"(d) DEFINITIONS.—

"(1) LOBBYING EXPENDITURES.—The term 'lobbying expenditure' means any amount paid or incurred by the organization in carrying on propaganda, or otherwise attempting to influence legislation.

"(2) ORGANIZATION MANAGER.—The term 'organization manager' has the meaning given to such term by section 4955(f)(2).

"(3) JOINT AND SEVERAL LIABILITY.—If more than 1 person is liable under subsection (b), all such persons shall be jointly and severally liable under such subsection."

(b) BURDEN OF PROOF.—Subsection (b) of section 7454 (as amended by this Act) is amended by striking out "the burden of proof" and inserting in lieu thereof ", or whether an organization manager (as defined in section 4912(d)(2)) has 'knowingly' agreed to the making of disqualifying lobbying expenditures within the meaning of section 4912(b), the burden of proof".

(c) TECHNICAL AMENDMENT.—Paragraph (1) of section 6501(l) is amended by striking out "by chapter 42 (other than section 4940)" and inserting in lieu thereof "by section 4912, by chapter 42 (other than section 4940),".

(d) CLERICAL AMENDMENT.—The table of sections for chapter 41 is amended by adding at the end thereof the following new item:

"Sec. 4912. Tax on disqualifying lobbying expenditures of certain organizations."

26 USC 4912 note.

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Approved December 22, 1987.

Certified April 20, 1988.

Editorial note: This printed version of the original hand enrollment is published pursuant to section 8004(c) of this law. The following memorandum for the Archivist of the United States was signed by the President on January 28, 1988, and was printed in the *Federal Register* on February 1, 1988:

By the authority vested in me as President by the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, I hereby authorize you to ascertain whether the printed enrollments of H.J. Res. 395, Joint Resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202), and H.R. 3545, the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), are correct printings of the hand enrollments, which were approved on December 22, 1987, and if so to make on my behalf the certifications required by Section 101(n)(4) of H.J. Res. 395 and Section 8004(c) of H.R. 3545.

Attached are the printed enrollments of H.J. Res. 395 and H.R. 3545, which were received at the White House on January 27, 1988.

This memorandum shall be published in the *Federal Register.*

The Archivist on April 20, 1988, certified this to be a correct printing of the hand enrollment of Public Law 100-203.

LEGISLATIVE HISTORY—H.R. 3545 (S. 1920):

HOUSE REPORTS: No. 100-391 (Comm. on the Budget) and No. 100-495 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Oct. 29, considered and passed House.
  Dec. 9, S. 1920 considered in Senate.
  Dec. 10, H.R. 3545 considered and passed Senate, amended, in lieu of S. 1920.
  Dec. 21, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
  Dec. 22, Presidential remarks.

○

Public Law 100-204
100th Congress

An Act

To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

Dec. 22, 1987
[H.R. 1777]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.
22 USC 2651 note.

(a) Short Title.—This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1988 and 1989".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—THE DEPARTMENT OF STATE

Part A—Authorization of Appropriations; Allocations of Funds; Restrictions

Sec. 101. Administration of Foreign Affairs.
Sec. 102. Contributions to International Organizations and Conferences; International Peacekeeping Activities.
Sec. 103. International Commissions.
Sec. 104. Migration and refugee assistance.
Sec. 105. Other programs.
Sec. 106. Reduction in earmarks if appropriations are less than authorizations.
Sec. 107. Transfer of funds.
Sec. 108. Compliance with Presidential-Congressional summit agreement on deficit reduction.
Sec. 109. Prohibition on use of funds for political purposes.
Sec. 110. Latin American and Caribbean data bases.

Part B—Department of State Authorities and Activities; Foreign Missions

Sec. 121. Reprogramming of funds appropriated for the Department of State.
Sec. 122. Consular and diplomatic posts abroad.
Sec. 123. Closing of diplomatic and consular posts in Antigua and Barbuda.
Sec. 124. Report on expenditures made from appropriation for emergencies in the diplomatic and consular service.
Sec. 125. Requirements applicable to gifts used for representational purposes.
Sec. 126. Protection of historic and artistic furnishings of reception areas of the Department of State building.
Sec. 127. Inclusion of coercive population control information in annual human rights report.
Sec. 128. Limitation on the use of a foreign mission in a manner incompatible with its status as a foreign mission.
Sec. 129. Allocation of shared costs at missions abroad.
Sec. 130. Prohibition on the use of funds for facilities in Israel, Jerusalem, or the West Bank.
Sec. 131. Purchasing and leasing of residences.
Sec. 132. Prohibition on acquisition of house for Secretary of State.
Sec. 133. United States Department of State freedom of expression.
Sec. 134. Repeal of Office of Policy and Program Review.
Sec. 135. Studies and planning for a consolidated training facility for the Foreign Service Institute.
Sec. 136. Restriction on supervision of Government employees by chiefs of mission.
Sec. 137. Study and report concerning the status of individuals with diplomatic immunity in the United States.
Sec. 138. Federal jurisdiction of direct actions against insurers of diplomatic agents.
Sec. 139. Enforcement of Case-Zablocki Act requirements.

Sec. 140. Annual country reports on terrorism.
Sec. 141. Restriction on use of funds for public diplomacy efforts.
Sec. 142. Authority to invest and recover expenses from international claims settlement funds.

PART C—DIPLOMATIC RECIPROCITY AND SECURITY

Sec. 151. United States-Soviet Embassy Agreement; prohibition on use of Mt. Alto Site.
Sec. 152. Recovery of damages incurred as a result of Soviet intelligence activities directed at the new United States Embassy in Moscow.
Sec. 153. United States-Soviet reciprocity in matters relating to embassies.
Sec. 154. Report on personnel of Soviet state trading enterprises.
Sec. 155. Personnel security program for embassies in high intelligence threat countries.
Sec. 156. Accountability Review Boards.
Sec. 157. Prohibition on certain employment at United States diplomatic and consular missions in Communist Countries.
Sec. 158. Termination of retirement benefits for foreign national employees engaging in hostile intelligence activities.
Sec. 159. Report on employment of foreign nationals at foreign service posts abroad.
Sec. 160. Construction security certification.
Sec. 161. Protection from future hostile intelligence activities in the United States.
Sec. 162. Application of travel restrictions to personnel of certain countries and organizations.
Sec. 163. Counterintelligence polygraph screening of Diplomatic Security Service personnel.
Sec. 164. United States Embassy in Hungary.

PART D—PERSONNEL MATTERS

Sec. 171. Commission to study Foreign Service personnel system.
Sec. 172. Protection of Civil Service employees.
Sec. 173. Compensation for certain State Department officials.
Sec. 174. Audit of merit personnel system of Foreign Service.
Sec. 175. Performance pay.
Sec. 176. Extension of limited appointments.
Sec. 177. Chief of missions salary.
Sec. 178. Pay level of ambassadors at large.
Sec. 179. Foreign Service career candidates tax treatment.
Sec. 180. Prohibition on member of a Foreign Service union negotiating on behalf of the Department of State.
Sec. 181. Clarification of jurisdiction of foreign service grievance board.
Sec. 182. Record of grievances awarded.
Sec. 183. Women and minorities in the Foreign Service.
Sec. 184. Compliance with law requiring reports to Congress.
Sec. 185. Changes in reporting requirements.
Sec. 186. Disposition of personal property abroad.
Sec. 187. Authorities for service of Fascell fellows.
Sec. 188. Benefits for certain former spouses of members of the Foreign Service.

TITLE II—UNITED STATES INFORMATION AGENCY

Sec. 201. Authorization of appropriations; allocation of funds.
Sec. 202. Funds appropriated for the United States Information Agency.
Sec. 203. Receipts from English-teaching and library programs.
Sec. 204. USIA posts and personnel overseas.
Sec. 205. Forty-year leasing authority.
Sec. 206. United States Information Agency programming on Afghanistan.
Sec. 207. Television service of the United States Information Agency.
Sec. 208. Limitation on Worldnet funding.
Sec. 209. Audience survey of Worldnet program.
Sec. 210. National Endowment for Democracy.
Sec. 211. Separate accounts for NED grantees.
Sec. 212. NED treatment of independent labor unions.
Sec. 213. United States Advisory Commission on Public Diplomacy.
Sec. 214. Distribution within the United States of USIA film entitled "America The Way I See It".
Sec. 215. Availability of certain USIA photographs for distribution within the United States by the Department of Defense.
Sec. 216. USIA undergraduate scholarship program.

TITLE III—EDUCATIONAL AND CULTURAL AFFAIRS

Sec. 301. Authorizations of appropriations.
Sec. 302. Samantha Smith Memorial Exchange Program.
Sec. 303. The Arts America Program.
Sec. 304. Professorship on constitutional democracy.
Sec. 305. United States-India Fund.
Sec. 306. The Edward Zorinsky Memorial Library.
Sec. 307. Cultural Property Advisory Committee.

TITLE IV—VOICE OF AMERICA

Sec. 401. Authorizations of appropriations.
Sec. 402. Voice of America/Europe.
Sec. 403. Contractor requirements.

TITLE V—THE BOARD FOR INTERNATIONAL BROADCASTING

Sec. 501. Authorization of appropriations; allocation of funds.
Sec. 502. Reserve for offsetting downward fluctuations in overseas rates.
Sec. 503. Certification of certain creditable service.

TITLE VI—ASIA FOUNDATION

Sec. 601. Authorization of appropriations.

TITLE VII—INTERNATIONAL ORGANIZATIONS

PART A—UNITED NATIONS

Sec. 701. Probable exemptions to the United Nations employee hiring freeze.
Sec. 702. Reform in the budget decisionmaking procedures of the United Nations and its specialized agencies.
Sec. 703. Housing allowances of international civil servants.
Sec. 704. United States participation in the United Nations if Israel is illegally expelled.
Sec. 705. United Nations projects whose primary purpose is to benefit the Palestine Liberation Organization.
Sec. 706. Public access to United Nations War Crimes Commission files.
Sec. 707. Report on policies pursued by other countries in international organizations.
Sec. 708. Protection of Tyre by the United Nations Interim Force in Lebanon.

PART B—UNITED STATES COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

Sec. 721. Establishment of Commission.
Sec. 722. Purposes of the Commission.
Sec. 723. Membership of the Commission.
Sec. 724. Powers of the Commission.
Sec. 725. Staff.
Sec. 726. Report.
Sec. 727. Funding for the Commission.
Sec. 728. General Accounting Office audits of the Commission.
Sec. 729. Termination of the Commission.
Sec. 730. Effective date.

PART B—OTHER INTERNATIONAL ORGANIZATIONS

Sec. 741. Privileges and immunities to offices of mission to the United States of the Commission of the European Communities.
Sec. 742. Contribution to the regular budget of the International Committee of the Red Cross and sense of Congress concerning recognition of Red Shield of David.
Sec. 743. Immunities for the International Committee on the Red Cross.
Sec. 744. North Atlantic Assembly.
Sec. 745. United States membership in Intergovernmental Committee for European Migration.
Sec. 746. Recognition of CARICOM.
Sec. 747. Asian-Pacific regional human rights convention.

TITLE VIII—INTERNATIONAL NARCOTICS CONTROL

Sec. 801. Assignment of Drug Enforcement Administration agents abroad.
Sec. 802. Quarterly reports on prosecution of those responsible for the torture and murder of Drug Enforcement Administration agents in Mexico.

Sec. 803. Requirement that extradition of drug traffickers be a priority issue of United States missions in major illicit drug producing or transit countries.
Sec. 804. Information-sharing system so that visas are denied to drug traffickers.
Sec. 805. Certification procedures for drug producing and drug-transit countries and inclusion of specific agency comments.
Sec. 806. Sanctions on drug producing and drug-transit countries.

TITLE IX—IMMIGRATION AND REFUGEE PROVISIONS

Sec. 901. Prohibition on exclusion or deportation of aliens on certain grounds.
Sec. 902. Adjustment to lawful resident status of certain nationals of countries for which extended voluntary departure has been made available.
Sec. 903. Processing of Cuban nationals for admission to the United States.
Sec. 904. Indochinese refugee resettlement.
Sec. 905. Amerasian children in Vietnam.
Sec. 906. Refugees from Southeast Asia.
Sec. 907. Release of Yang Wei.

TITLE X—ANTI-TERRORISM ACT OF 1987

Sec. 1001. Short title.
Sec. 1002. Findings; determinations.
Sec. 1003. Prohibitions regarding the PLO.
Sec. 1004. Enforcement.
Sec. 1005. Effective date.

PART XI—GLOBAL CLIMATE PROTECTION

Sec. 1101. Short title.
Sec. 1102. Findings.
Sec. 1103. Mandate for action on the global climate.
Sec. 1104. Report to Congress.
Sec. 1105. International year of global climate protection.
Sec. 1106. Climate protection and United States-Soviet relations.

TITLE XII—REGIONAL FOREIGN RELATIONS MATTERS

PART A—SOVIET UNION AND EASTERN EUROPE

Sec. 1201. Soviet ballistic missile tests near Hawaii.
Sec. 1202. Emigration of Jews and others who wish to emigrate from the Soviet Union.
Sec. 1203. Systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union.
Sec. 1204. United States Policy against persecution of Christians in Eastern Europe and the Soviet Union.
Sec. 1205. Observance by the Government of Romania of the human rights of Hungarians in Transylvania.
Sec. 1206. Self-determination of the people from the Baltic states of Estonia, Latvia, and Lithuania.
Sec. 1207. Assistance in support of democracy in Poland.

PART B—LATIN AMERICA AND CUBA

Sec. 1211. Cuban human rights violations and the failure of the United Nations to place Cuba on its human rights agenda.
Sec. 1212. Partial lifting of the trade embargo against Nicaragua.
Sec. 1213. Terrorist bombing in Honduras.
Sec. 1214. Human rights in Paraguay.

PART C—AFRICA

Sec. 1221. Human rights in Ethiopia.
Sec. 1222. United States policy on Angola.
Sec. 1223. Forced detention by the African National Congress and the South African Government.
Sec. 1224. Detention of children in South Africa.

PART D—MIDDLE EAST

Sec. 1231. Middle East peace conference.
Sec. 1232. United States policy toward Lebanon.
Sec. 1233. Acting in accordance with international law in the Persian Gulf.

Sec. 1234. United States policy toward the Iran-Iraq war.
Sec. 1235. Iran human rights violations.
Sec. 1236. Iranian persecution of the Baha'is.

Part E—Asia

Sec. 1241. Soviet occupation of Afghanistan.
Sec. 1242. Report on Administration policy on Afghanistan.
Sec. 1243. Human rights violations in Tibet by the People's Republic of China.
Sec. 1244. Support for the right of self-determination for the Cambodian people.
Sec. 1245. Human rights in the People's Republic of China.
Sec. 1246. Democracy in Taiwan.

Part F—Miscellaneous

Sec. 1251. Reports on illegal technology transfers.
Sec. 1252. Report on progress toward a world summit on terrorism.
Sec. 1253. Protection of Americans endangered by the appearance of their place of birth on their passports.
Sec. 1254. Support of mutual defense alliances.
Sec. 1255. Arms export control enforcement and coordination.

TITLE XIII—EFFECTIVE DATE

Sec. 1301. Effective date.

TITLE I—THE DEPARTMENT OF STATE

PART A—AUTHORIZATION OF APPROPRIATIONS; ALLOCATIONS OF FUNDS; RESTRICTIONS

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) Diplomatic and Ongoing Operations.—The following amounts are authorized to be appropriated under "Administration of Foreign Affairs" for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States:

(1) For "Salaries and Expenses" of the Department of State (other than the Diplomatic Security Program), $1,431,908,000 for the fiscal year 1988 and $1,460,546,000 for the fiscal year 1989, of which not less than $250,000 for each fiscal year shall be available only for use by the Bureau of International Communications and Information Policy to support international institutional development and other activities which promote international communications and information development.

(2) For "Acquisition and Maintenance of Buildings Abroad" (other than the Diplomatic Security Program), $313,124,000 for the fiscal year 1988 and $319,386,000 for the fiscal year 1989.

(3) For "Representation Allowances", $4,460,000 for the fiscal year 1988 and $4,549,000 for the fiscal year 1989.

(4) For "Emergencies in the Diplomatic and Consular Service", $4,000,000 for the fiscal year 1988 and $4,080,000 for the fiscal year 1989.

(5) For "Payment to the American Institute in Taiwan", $9,379,000 for the fiscal year 1988 and $9,567,000 for the fiscal year 1989.

(b) Diplomatic Security Program.—In addition to amounts authorized to be appropriated by subsection (a), the following amounts are authorized to be appropriated under "Administration of Foreign Affairs" for the Department of State to carry out the diplomatic security program:

(1) For "Salaries and Expenses", $350,000,000 for the fiscal year 1988 and $357,000,000 for the fiscal year 1989.

(2) For "Protection of Foreign Missions and Officials", $9,100,000 for the fiscal year 1988 and $9,282,000 for the fiscal year 1989.

(c) DIPLOMATIC SECURITY PROGRAM CAPITAL CONSTRUCTION.—Section 401(a)(3) of the Diplomatic Security Act (22 U.S.C. 4851(a)(3)) is amended by adding at the end thereof "Authorizations of appropriations under this paragraph shall remain available until the appropriations are made.".

SEC. 102. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND CONFERENCES; INTERNATIONAL PEACEKEEPING ACTIVITIES.

(a) INTERNATIONAL ORGANIZATIONS.—There are authorized to be appropriated to the Department of State under "Contributions to International Organizations", $571,000,000 for the fiscal year 1988 and $582,420,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations, of which amount—

(1) $193,188,000 for the fiscal year 1988 and $193,188,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the United Nations;

(2) $63,857,000 for the fiscal year 1988 and $63,857,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the World Health Organization;

(3) $31,443,000 for the fiscal year 1988 and $31,443,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Atomic Energy Agency;

(4) $44,915,000 for the fiscal year 1988 and $44,915,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Organization of American States;

(5) $38,659,000 for the fiscal year 1988 and $38,659,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Pan-American Health Organization;

(6) $7,849,000 for the fiscal year 1988 and $7,849,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Civil Aviation Organization;

(7) $645,000 for the fiscal year 1988 and $645,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Maritime Organization;

(8) $4,471,000 for the fiscal year 1988 and $4,471,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Telecommunication Union;

(9) $25,110,000 for the fiscal year 1988 and $25,110,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the North Atlantic Treaty Organization;

(10) $29,385,000 for the fiscal year 1988 and $29,385,000 for the fiscal year 1989 shall be available only for the United States

assessed contribution to the Organization for Economic Cooperation and Development; and

(11) $388,000 for the fiscal year 1988 and $388,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Wheat Council.

(b) INTERNATIONAL PEACEKEEPING ACTIVITIES.—There are authorized to be appropriated to the Department of State under "Contributions to International Peacekeeping Activities", $29,400,000 for fiscal year 1988 and $29,988,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities.

(c) INTERNATIONAL CONFERENCES AND CONTINGENCIES.—There are authorized to be appropriated to the Department of State under "International Conferences and Contingencies", $6,000,000 for fiscal year 1988 and $6,120,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies, of which amount such funds as may be necessary shall be available for the expense of hosting the 1987 General Assembly of the Organization of American States.

SEC. 103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under "International Commissions" for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international commissions:

(1) For "International Boundary and Water Commission, United States and Mexico", $14,700,000 for the fiscal year 1988 and $14,994,000 for the fiscal year 1989.

(2) For "International Boundary Commission, United States and Canada", $721,000 for the fiscal year 1988 and $735,000 for the fiscal year 1989.

(3) For "International Joint Commission", $2,979,000 for the fiscal year 1988 and $3,039,000 for the fiscal year 1989.

(4) For "International Fisheries Commissions", $10,800,000 for the fiscal year 1988 and $11,016,000 for the fiscal year 1989.

SEC. 104. MIGRATION AND REFUGEE ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of State under "Migration and Refugee Assistance", $336,750,000 for the fiscal year 1988 and $343,485,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to migration and refugee assistance.

(b) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated by subsection (a)—

(1) $25,000,000 for the fiscal year 1988 and $25,000,000 for the fiscal year 1989 shall be available only for assistance for refugees resettling in Israel; and

(2) $5,000,000 for the fiscal year 1988 and $5,000,000 for the fiscal year 1989 shall be available only for the United Nations High Commissioner for Refugees and other international relief organizations for the protection of, and improvements in edu-

cational, nutritional, and medical assistance for, the Indochinese refugees in Thailand, of which $1,000,000 for the fiscal year 1988 and $1,000,000 for the fiscal year 1989 shall be used only for such educational purposes.

SEC. 105. OTHER PROGRAMS.

There are authorized to be appropriated to the Department of State for the following programs:

(1) "Bilateral Science and Technology Agreements", $1,900,000 for the fiscal year 1988 and $1,938,000 for the fiscal year 1989.

(2) "Soviet-East European Research and Training", $4,600,000 for the fiscal year 1988 and $5,000,000 for the fiscal year 1989.

SEC. 106. REDUCTION IN EARMARKS IF APPROPRIATIONS ARE LESS THAN AUTHORIZATIONS.

If the amount appropriated for a fiscal year pursuant to any authorization of appropriations provided by this Act is less than the authorization amount and a provision of this Act provides that a specified amount of the authorization amount shall be available only for a certain purpose, then the amount so specified shall be deemed to be reduced for that fiscal year to the amount which bears the same ratio to the specified amount as the amount appropriated bears to the authorization amount.

SEC. 107. TRANSFER OF FUNDS.

(a) Transfers for Salaries and Expenses.—The Secretary of State may transfer, without regard to section 1502 of title 31, United States Code, to the "Salaries and Expenses" account of the Department of State amounts appropriated for any fiscal year prior to fiscal year 1989 under "Acquisition and Maintenance of Buildings Abroad" which are allocated for capital programs. Any transfer under this subsection shall be treated as a reprogramming for purposes of section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).

(b) Limitations.—

(1) Subsection (a) shall not apply to amounts appropriated for purposes of the diplomatic security program under section 401(a) of the Diplomatic Security Act (22 U.S.C. 4851).

(2) The aggregate of—

(A) the amounts transferred under this section for a fiscal year, and

(B) the amounts appropriated for "Salaries and Expenses" for that fiscal year,

may not exceed the amount authorized to be appropriated for "Salaries and Expenses" for that fiscal year.

(3) The authority contained in subsection (a) may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 108. COMPLIANCE WITH PRESIDENTIAL-CONGRESSIONAL SUMMIT AGREEMENT ON DEFICIT REDUCTION.

Notwithstanding the specific authorizations of appropriations contained in this Act, budget authority may not be provided pursuant to those authorizations in an amount which would cause the aggregate amount of discretionary budget authority provided for international affairs (budget function 150) for a fiscal year to exceed the amount of discretionary budget authority for international affairs for that fiscal year as specified in laws implementing the agreement between the President and the joint Congressional leadership on November 20, 1987.

SEC. 109. PROHIBITION ON USE OF FUNDS FOR POLITICAL PURPOSES.

22 USC 2656 note.

No funds authorized to be appropriated by this Act or by any other Act authorizing funds for any entity engaged in any activity concerning the foreign affairs of the United States shall be used—

(1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress;

(2) to influence in any way the outcome of a political election in the United States; or

(3) for any publicity or propaganda purposes not authorized by Congress.

SEC. 110. LATIN AMERICAN AND CARIBBEAN DATA BASES.

(a) AUTHORIZATION.—The Secretary of State, in consultation with the heads of appropriate departments and agencies of the United States, shall use not less than $1,300,000 of the funds authorized to be appropriated for each of the fiscal years 1988 and 1989 by section 101(a)(1) of this Act to provide for the establishment of a Latin American and Caribbean Data Base.

(b) CONDITIONS.—In developing these data bases the Secretary of State shall be required to satisfy the following conditions:

(1) Any new agreement for an on-line bibliographic data base entered into for purposes of this section shall be subject to full and open competition or merit review among qualified United States institutions with strong Latin American and Caribbean programs.

(2) The Secretary shall ensure that funds are not awarded to maintain services which are significantly duplicative of existing services.

PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES; FOREIGN MISSIONS

SEC. 121. REPROGRAMMING OF FUNDS APPROPRIATED FOR THE DEPARTMENT OF STATE.

Section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) is amended—

(1) by inserting "(a)" after "SEC. 34."; and

(2) by adding at the end the following:

"(b) Funds appropriated for the Department of State may not be available for obligation or expenditure through any reprogramming described in subsection (a) during the period which is the last 15 days in which such funds are available unless notice of such reprogramming is made before such period."

SEC. 122. CONSULAR AND DIPLOMATIC POSTS ABROAD.

22 USC 2656 note.

(a) PROHIBITED USES OF FUNDS.—

(1) CLOSING POSTS.—No funds authorized to be appropriated by this or any other Act shall be available to pay any expense related to the closing of any United States consular or diplomatic post abroad.

(2) FUNDING FOR BUREAU OF ADMINISTRATION IF POSTS CLOSED.—No funds authorized to be appropriated by this Act

shall be used to pay for any expense related to the Bureau of Administration of the Department of State (or to carrying out any of its functions) if any United States consular or diplomatic post is closed after January 1, 1987, and is not reopened.

(b) FUNDS FOR OPERATING CERTAIN CONSULATES.—

(1) ALLOCATION.—Of the funds authorized to be appropriated by section 101(a)(1) for "Salaries and Expenses", not less than $50,000,000 for each of the fiscal years 1988 and 1989 shall be available only to operate United States consulates in Salzburg, Strasbourg, Goteborg, Lyon, Dusseldorf, Tangier, Genoa, Nice, Porto Alegre, and Maracaibo.

(2) EXCESS FUNDS.—Funds allocated by paragraph (1) which are in excess of the amount needed to operate the consulates specified in that paragraph may be used for other purposes under "Administration of Foreign Affairs" if all the specified consulates are open and functioning.

(c) EXCEPTIONS.—Subsection (a) does not apply with respect to—

(1) any post closed after January 1, 1987, and before the date of enactment of this Act if the host government will not allow that post to be reopened;

(2) any post closed because of a break or downgrading of diplomatic relations between the United States and the country in which the post is located;

(3) any post closed because there is a real and present threat to United States diplomatic or consular personnel in the city where the post is located, and a travel advisory warning against American travel to that city has been issued by the Department of State;

(4) any post closed in order to provide funds to open a new consular or diplomatic post which will be staffed by the Department of State on a full-time basis with at least one Foreign Service officer or member of the Senior Foreign Service, if the Secretary of State, prior to the closing of the post, prepares and transmits to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report stating that—

(A) the new post is a higher priority than the post proposed to be closed; and

(B) the total number of consular and diplomatic posts abroad is not less than the number of such posts in existence on January 1, 1987 (excluding the posts exempted under paragraphs (1) through (4)); and

(5) the post closed pursuant to section 123.

(d) SEQUESTRATION.—In the case that a sequestration order is issued pursuant to Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.; Public Law 99-177), the Secretary of State may, as part of an agencywide austerity proposal, submit a report proposing a list of consular posts to be downgraded or closed in order to comply with the sequestration order, together with a justification for the inclusion of each post on such list. Such report shall be submitted to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(e) DEFINITION.—As used in this section, the term "consular or diplomatic post" does not include a post to which only personnel of agencies other than the Department of State are assigned.

(f) EFFECTIVE DATE.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

SEC. 123. CLOSING OF DIPLOMATIC AND CONSULAR POSTS IN ANTIGUA AND BARBUDA.

22 USC 2656 note.

(a) PROHIBITION ON USE OF FUNDS.—None of the funds made available for the Department of State for any fiscal year may be used for the expenses of maintaining a United States diplomatic or consular post in Antigua and Barbuda.

President of U.S.

(b) EFFECTIVE DATE.—The prohibition contained in subsection (a) shall take effect 60 days after the date of enactment of this Act unless the President determines that closing this post would not be in the national security interests of the United States and informs the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives of such determination.

SEC. 124. REPORT ON EXPENDITURES MADE FROM APPROPRIATION FOR EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.

22 USC 2680 note.

The Secretary of State shall provide to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives within 30 days after the end of each quarter of the fiscal year a complete report, including amount, payee, and purpose, of all expenditures made from the appropriation for "Emergencies in the Diplomatic and Consular Service" for that quarter.

SEC. 125. REQUIREMENTS APPLICABLE TO GIFTS USED FOR REPRESENTATIONAL PURPOSES.

The last sentence of section 25(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2697(b)) is amended by inserting before the period the following: ", but shall not be expended for representational purposes at United States missions except in accordance with the conditions that apply to appropriated funds".

SEC. 126. PROTECTION OF HISTORIC AND ARTISTIC FURNISHINGS OF RECEPTION AREAS OF THE DEPARTMENT OF STATE BUILDING.

Gifts and property.

(a) PROTECTION AND DISPOSITION.—Title I of the State Department Basic Authorities Act of 1956, is amended—

(1) by redesignating section 41 as section 42; and

22 USC 2651 note.

(2) by inserting after section 40 the following new section:

"SEC. 41. PROTECTION OF HISTORIC AND ARTISTIC FURNISHINGS OF RECEPTION AREAS OF THE DEPARTMENT OF STATE BUILDING.

22 USC 2713.

"(a) IN GENERAL.—The Secretary of State shall administer the historic and artistic articles of furniture, fixtures, and decorative objects of the reception areas of the Department of State by such means and measures as conform to the purposes of the reception areas, which include conserving those articles, fixtures, and objects and providing for their enjoyment in such manner and by such means as will leave them for the use of the American people. Nothing shall be done under this subsection which conflicts with the administration of the Department of State or with the use of the reception areas for official purposes of the United States Government.

"(b) DISPOSITION OF HISTORIC AND ARTISTIC ITEMS.—

"(1) ITEMS COVERED.—Articles of furniture, fixtures, and decorative objects of the reception areas (and similar articles, fixtures, and objects acquired by the Secretary of State), when declared by the Secretary of State to be of historic or artistic interest, shall thereafter be considered to be the property of the Secretary in his or her official capacity and shall be subject to disposition solely in accordance with this subsection.

"(2) SALE OR TRADE.—Whenever the Secretary of State determines that—

"(A) any item covered by paragraph (1) is no longer needed for use or display in the reception areas, or

"(B) in order to upgrade the reception areas, a better use of that article would be its sale or exchange,

the Secretary may, with the advice and concurrence of the Director of the National Gallery of Art, sell the item at fair market value or trade it, without regard to the requirements of the Federal Property and Administrative Services Act of 1949. The proceeds of any such sale may be credited to the unconditional gift account of the Department of State, and items obtained in trade shall be the property of the Secretary of State under this subsection.

"(3) SMITHSONIAN INSTITUTION.—The Secretary of State may also lend items covered by paragraph (1), when not needed for use or display in the reception areas, to the Smithsonian Institution or a similar institution for care, repair, study, storage, or exhibition.

"(c) DEFINITION.—For purposes of this section, the term 'reception areas' means the areas of the Department of State Building, located at 2201 C Street, Northwest, Washington, District of Columbia, known as the Diplomatic Reception Rooms (eighth floor), the Secretary of State's offices (seventh floor), the Deputy Secretary of State's offices (seventh floor), and the seventh floor reception area.".

(b) AUTHORITY TO INSURE CERTAIN HISTORIC AND ARTISTIC FURNISHINGS.—Section 3 of that Act (22 U.S.C. 2670) is amended—

(1) by striking out "and" at the end of paragraph (i);

(2) by striking out the period at the end of paragraph (j) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(k) subject to the availability of appropriated funds, obtain insurance on the historic and artistic articles of furniture, fixtures, and decorative objects which may from time-to-time be within the responsibility of the Fine Arts Committee of the Department of State for the Diplomatic Rooms of the Department.".

Abortion.
Sterilization.

SEC. 127. INCLUSION OF COERCIVE POPULATION CONTROL INFORMATION IN ANNUAL HUMAN RIGHTS REPORT.

The Foreign Assistance Act of 1961 is amended—

(1) in section 116(d) (22 U.S.C. 2151n(d))—

(A) by striking out "and" at the end of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) wherever applicable, practices regarding coercion in population control, including coerced abortion and involuntary sterilization; and"; and

(2) in section 502B(b) (22 U.S.C. 2304(b)), by inserting after the first sentence "Wherever applicable, such report shall include information on practices regarding coercion in population control, including coerced abortion and involuntary sterilization.".

SEC. 128. LIMITATION ON THE USE OF A FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION.

(a) AMENDMENT TO FOREIGN MISSIONS ACT.—The State Department Basic Authorities Act of 1956 is amended by adding at the end of title II (22 U.S.C. 4301 et seq.; commonly referred to as the "Foreign Missions Act") the following:

"SEC. 215. USE OF FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION.

22 USC 4315.

Aliens.

"(a) ESTABLISHMENT OF LIMITATION ON CERTAIN USES.—A foreign mission may not allow an unaffiliated alien the use of any premise of that foreign mission which is inviolable under United States law (including any treaty) for any purpose which is incompatible with its status as a foreign mission, including use as a residence.

"(b) TEMPORARY LODGING.—For the purposes of this section, the term 'residence' does not include such temporary lodging as may be permitted under regulations issued by the Secretary.

"(c) WAIVER.—The Secretary may waive subsection (a) with respect to all foreign missions of a country (and may revoke such a waiver) 30 days after providing written notification of such a waiver, together with the reasons for such waiver (or revocation of such a waiver), to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

"(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Congress concerning the implementation of this section and shall submit such other reports to the Congress concerning changes in implementation as may be necessary.

"(e) DEFINITIONS.—For the purposes of this section—

"(1) the term 'foreign mission' includes any international organization as defined in section 209(b); and

"(2) the term 'unaffiliated alien' means, with respect to a foreign country, an alien who—

"(A) is admitted to the United States as a nonimmigrant, and

"(B) is not a member, or a family member of a member, of a foreign mission of that foreign country.".

22 USC 4315 note.

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to any foreign mission beginning on the date of enactment of this Act.

Aliens.

(2)(A) The amendment made by subsection (a) shall apply beginning 6 months after the date of enactment of this Act with respect to any nonimmigrant alien who is using a foreign mission as a residence or a place of business on the date of enactment of this Act.

(B) The Secretary of State may delay the effective date provided for in subparagraph (A) for not more than 6 months with respect to any nonimmigrant alien if the Secretary finds that a hardship to that alien would result from the implementation of subsection (a).

SEC. 129. ALLOCATION OF SHARED COSTS AT MISSIONS ABROAD.

Reports.

In order to provide for full reimbursement of shared administrative costs at United States missions abroad, the Secretary of State shall review, and revise if necessary, the allocation procedures under which agencies reimburse the Department of State for shared administrative costs at United States missions abroad. Within 3 months after the date of enactment of this Act, the Secretary of State shall submit a report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on such review and any revision.

SEC. 130. PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.

None of the funds authorized to be appropriated by this title may be obligated or expended for site acquisition, development, or construction of any new facility in Israel, Jerusalem, or the West Bank.

Real property.

SEC. 131. PURCHASING AND LEASING OF RESIDENCES.

It is the sense of the Congress that in its fiscal year 1989 budget presentations to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, the Department of State shall provide sufficient information on the advantages and disadvantages of purchasing rather than leasing residential properties to enable the Congress to determine the specific amount of savings that would or would not be achieved by purchasing such properties. The Department also shall make recommendations to the Congress on the purchasing and leasing of such properties.

Gifts and property.
Real property.
22 USC 2697 note.

SEC. 132. PROHIBITION ON ACQUISITION OF HOUSE FOR SECRETARY OF STATE.

The Department of State shall not solicit or receive funds for the construction, purchase, lease or rental of, nor any gift or bequest of real property or any other property for the purpose of providing living quarters for the Secretary of State.

22 USC 4301 note.

SEC. 133. UNITED STATES DEPARTMENT OF STATE FREEDOM OF EXPRESSION.

(a) Finding.—Congress finds that the United States Department of State, on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(b) Prohibition.—It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

SEC. 134. REPEAL OF OFFICE OF POLICY AND PROGRAM REVIEW.

(a) Repeal.—Subsection (b) of section 413 of the Diplomatic Security Act (22 U.S.C. 4861(b)) is repealed.

(b) Conforming Amendments.—Section 413(a) of such Act (22 U.S.C. 4861(a)) is amended—

(1) by striking out "(a)" and all that follows through "State.—"; and

(2) by redesignating paragraphs (1) through (5) as subsections (a) through (e), respectively.

SEC. 135. STUDIES AND PLANNING FOR A CONSOLIDATED TRAINING FACILITY FOR THE FOREIGN SERVICE INSTITUTE.

22 USC 4021 note.
99 Stat. 413.

Section 123(c)(1) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, is amended—

(1) by inserting "(A)" immediately after "(1)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Of the amounts authorized to be appropriated to the Department of State for fiscal years beginning after September 30, 1987, the Secretary of State may transfer a total not to exceed $11,000,000 for 'Administration of Foreign Affairs' to the Administrator of General Services for carrying out feasibility studies, site preparation, and design, architectural, and engineering planning under subsection (b).".

SEC. 136. RESTRICTION ON SUPERVISION OF GOVERNMENT EMPLOYEES BY CHIEFS OF MISSION.

Section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) is amended—

(1) in subsection (a)(1), by inserting "executive branch" after "Government";

(2) in subsection (a)(2), by inserting "executive branch" after "Government" the second place it appears; and

(3) in subsection (b), by inserting "executive branch" after "Any".

SEC. 137. STUDY AND REPORT CONCERNING THE STATUS OF INDIVIDUALS WITH DIPLOMATIC IMMUNITY IN THE UNITED STATES.

Insurance.

(a) Study.—The Secretary shall undertake a study of the minimum liability insurance coverage required for members of foreign missions and their families and the feasibility of requiring an increase in such minimum coverage. In conducting such study, the Secretary shall consult with members of the insurance industry, officials of State insurance regulatory bodies, and other experts, as appropriate. The study shall consider the following:

(1) The adequacy of the currently required insurance minimums, including the experiences of injured parties.

(2) The feasibility and projected cost of increasing the current minimum coverages to $1,000,000 or some lesser amount in the commercial insurance market, including consideration of individual umbrella policies to provide additional coverage above the current minimum.

(3) The feasibility and cost of requiring additional coverage up to $1,000,000 through a single group insurance arrangement, administered by the Department, providing umbrella coverage for the entire class of foreign officials who are immune from the jurisdiction of the United States.

(4) The consequences to United States missions abroad, including their costs of operation, that might reasonably be anticipated as a result of requiring an increase in the insurance costs of foreign missions in the United States.

(5) Any other issues and recommendations the Secretary may consider appropriate.

Law enforcement and crime.

(b) Report.—The Secretary shall compile a report to the Congress concerning the problem arising from diplomatic immunity from criminal prosecution and from civil suit. The report shall set forth the background of the various issues arising from the problem, the extent of the problem, an analysis of proposed and other potential measures to address the problem (including an analysis of the costs associated with and difficulties of implementing the various proposals), consider the potential and likely impact upon United States diplomatic personnel of actions in other nations that are comparable to such proposals, and make recommendations for addressing the problem with respect to the following:

(1) The collection of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

(2) A detailed catalog of incidents of serious criminal offenses by persons entitled to immunity under the Vienna Convention on Diplomatic Relations and other treaties to assist in developing an understanding of the extent of the problem.

(3) The feasibility of having the Department of State develop and periodically submit to the Congress a report concerning—

(A) serious criminal offenses committed in the United States by individuals entitled to immunity from the criminal jurisdiction of the United States; and

(B) delinquency in the payment of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

(4) Methods for improving the education of law enforcement officials on the extent of immunity provided to members of foreign missions and their families under the Vienna Convention on Diplomatic Relations and other treaties.

(5) Proposals to assure that law enforcement officials fully investigate, charge, and institute and maintain prosecution of members of foreign missions and their families to the extent consistent with the obligations of the United States under the Vienna Convention on Diplomatic Relations and other treaties.

(6) The extent to which existing practices regarding the circumstances under which diplomatic visas under section 101(a)(15)(A) of the Immigration and Nationality Act are issued and revoked are adequate to ensure the integrity of the diplomatic visa category.

(7) The extent to which current registration and documentation requirements fully and accurately identify individuals entitled to diplomatic immunity.

(8) The extent to which the Department of State is able to identify diplomats allegedly involved in serious crimes in the United States so as to initiate their removal from the United States and the extent to which existing law may be inadequate to prevent the subsequent readmission of such individuals under nonimmigrant and immigrant categories unrelated to section 101(a)(15)(A) of the Immigration and Nationality Act.

International organizations.

(9) A comparison of the procedures for the issuance of visas to diplomats from foreign nations to the United States and international organizations with the procedures accorded to United States diplomats to such nations and to international organizations in such nations, and recommendations to achieve reciprocity in such procedures.

(10)(A) A review of the definition of the term "family" under the Diplomatic Relations Act.

(B) An evaluation of the effect of amendments to the term "family" on the number of persons entitled to diplomatic immunity in the United States.

(C) An evaluation of the potential effect of various amendments to the term "family" under the Diplomatic Relations Act on the number of serious criminal offenses committed in the United States by members of foreign missions and their families entitled to immunity from the criminal jurisdiction of the United States.

Drugs and drug abuse.
Arms and munitions.

(11) An examination of all possible measures to prevent the use of diplomatic pouches for the illicit transportation of narcotics, explosives, or weapons.

(12) An examination of the considerations in establishing a fund for compensating the victims of crimes committed by persons entitled to immunity from criminal prosecution under the Vienna Convention on Diplomatic Relations and other treaties, including the feasibility of establishing an insurance fund financed by foreign missions.

(c) CONGRESS.—Not more than 90 days after the date of enactment of this Act, the findings and recommendations of the study under subsection (a) and the report under subsection (b) shall be submitted to the Committee on the Judiciary and the Committee on Foreign Relations of the Senate and the Committee on the Judiciary and the Committee on Foreign Affairs of the House of Representatives.

SEC. 138. FEDERAL JURISDICTION OF DIRECT ACTIONS AGAINST INSURERS OF DIPLOMATIC AGENTS.

(a) PERIOD OF LIABILITY.—Section 1364 of title 28, United States Code, is amended by inserting after "who is" the following: ", or was at the time of the tortious act or omission,".

Effective date.
28 USC 1364 note.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to the first tortious act or omission occurring after the date of enactment of this Act.

SEC. 139. ENFORCEMENT OF CASE-ZABLOCKI ACT REQUIREMENTS.

International agreements.
1 USC 112b note.

(a) RESTRICTION ON USE OF FUNDS.—If any international agreement, whose text is required to be transmitted to the Congress pursuant to the first sentence of subsection (a) of section 112b of title 1, United States Code (commonly referred to as the "Case-Zablocki Act"), is not so transmitted within the 60-day period specified in that sentence, then no funds authorized to be appropriated by this or any other Act shall be available after the end of that 60-day period to implement that agreement until the text of that agreement has been so transmitted.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 60 days after the date of enactment of this Act and shall apply during fiscal years 1988 and 1989.

SEC. 140. ANNUAL COUNTRY REPORTS ON TERRORISM.

22 USC 2656f.

(a) REQUIREMENT OF ANNUAL COUNTRY REPORTS ON TERRORISM.—The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by March 31 of each year, a full and complete report providing—

(1) detailed assessments with respect to each foreign country—

(A) in which acts of international terrorism occurred which were, in the opinion of the Secretary, of major significance;

(B) about which the Congress was notified during the preceding five years pursuant to section 6(j) of the Export Administration Act of 1979; and

(C) which the Secretary determines should be the subject of such report; and

(2) all relevant information about the activities during the preceding year of any terrorist group, and any umbrella group under which such terrorist group falls, known to be responsible for the kidnapping or death of an American citizen during the preceding five years, any terrorist group known to be financed by countries about which Congress was notified during the preceding year pursuant to section 6(j) of the Export Administration Act of 1979, and any other known international terrorist group which the Secretary determines should be the subject of such report.

(b) PROVISIONS TO BE INCLUDED IN REPORT.—The report required under subsection (a) should to the extent feasible include (but not be limited to)—

(1) with respect to subsection (a)(1)—

(A) a review of major counterterrorism efforts undertaken by countries which are the subject of such report, including, as appropriate, steps taken in international fora;

(B) the response of the judicial system of each country which is the subject of such report with respect to matters relating to terrorism affecting American citizens or facilities, or which have, in the opinion of the Secretary, a significant impact on United States counterterrorism efforts, including responses to extradition requests; and

(C) significant support, if any, for international terrorism by each country which is the subject of such report, including (but not limited to)—

(i) political and financial support;

(ii) diplomatic support through diplomatic recognition and use of the diplomatic pouch;

(iii) providing sanctuary to terrorists or terrorist groups; and

International organizations.

(iv) the positions (including voting records) on matters relating to terrorism in the General Assembly of the United Nations and other international bodies and fora of each country which is the subject of such report; and

(2) with respect to subsection (a)(2), any—

(A) significant financial support provided by foreign governments to those groups directly, or provided in support of their activities;

(B) provisions of significant military or paramilitary training or transfer of weapons by foreign governments to those groups;

(C) provision of diplomatic recognition or privileges by foreign governments to those groups; and

(D) provision by foreign governments of sanctuary from prosecution to these groups or their members responsible for the commission, attempt, or planning of an act of international terrorism.

(c) CLASSIFICATION OF REPORT.—The report required under subsection (a) shall, to the extent practicable, be submitted in an unclassified form and may be accompanied by a classified appendix.

(d) Definitions.—As used in this section—

(1) the term "international terrorism" means terrorism involving citizens or the territory of more than 1 country;

(2) the term "terrorism" means premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; and

(3) the term "terrorist group" means any group practicing, or which has significant subgroups which practice, international terrorism.

(e) Reporting Period.—

(1) The report required under subsection (a) shall cover the events of the calendar year preceding the year in which the report is submitted.

(2) The report required by subsection (a) to be submitted by March 31, 1988, may be submitted no later than August 31, 1988.

SEC. 141. RESTRICTION ON USE OF FUNDS FOR PUBLIC DIPLOMACY EFFORTS.

(a) In General.—Except as provided in subsection (b), none of the funds authorized to be appropriated by this Act for the Department of State may be used by the Department of State to make any contract or purchase order agreement, on or after the date of enactment of this Act, with any individual, group, organization, partnership, corporation, or other entity for the purpose of—

District of Columbia.

(1) providing advice or assistance for any program for foreign representatives of any civic, labor, business, or humanitarian group during any visit to Washington, District of Columbia, or any other location within the United States;

Refugees. District of Columbia.

(2) providing contact with any refugee group or exile in Washington, District of Columbia, or elsewhere in the United States, including the arranging of any media event, interview, or public appearance;

(3) translating articles on regions of the world and making them available for distribution to United States news organizations or public interest groups;

Refugees.

(4) providing points of contact for public interest groups seeking to interview exiles, refugees, or other visitors;

(5) coordinating or accompanying media visits to any region of the world;

(6) providing source material relating to regional conflicts for public diplomacy efforts;

Refugees.

(7) providing or presenting, in writing or orally, factual material on security considerations, refugee problems, or political dynamics of any region of the world for use on public diplomacy efforts;

(8) editing briefs or other materials for use on public diplomacy efforts;

(9) conducting special studies or projects for use on public diplomacy efforts;

(10) designing or organizing a distribution system for materials for use on public diplomacy efforts; or

(11) directing the operation of this distribution system, including—

Mail.

(A) development of specialized, segmented addressee lists of persons or organizations which have solicited materials or information on any region of the world;

(B) computerization, coding, maintenance, or updating of lists;

(C) retrieval, storage, mailing, or shipping of individual or bulk packets of publications;

(D) maintenance or control of inventory or reserve stocks of materials;

(E) distribution of materials;

(F) coordinating publication production; or

(G) conducting systematic evaluations of the system.

Contracts.

(b) EXCEPTIONS.—

(1) Subsection (a) does not apply to any contract or purchase order agreement made, after competitive bidding, by or for the Bureau of Public Affairs of the Department of State.

(2) During fiscal years 1988 and 1989, a contract related to advocacy and policy positions may be entered into by or on behalf of the Department of State if the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified not less than 15 days in advance of the proposed contract.

(c) LIMITATION ON USE OF FUNDS.—Of the funds authorized to be appropriated by this or any other Act, not more than $389,000 may be used in any fiscal year to finance the activities set forth in subsection (a).

SEC. 142. AUTHORITY TO INVEST AND RECOVER EXPENSES FROM INTERNATIONAL CLAIMS SETTLEMENT FUNDS.

22 USC 1627.

(a) INVESTMENT AUTHORITY.—Section 8 of the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.) is amended by adding at the end thereof the following new subsection:

Securities.

"(g) The Secretary of the Treasury is authorized and directed to invest the amounts held respectively in the 'special funds' established by this section in public debt securities with maturities suitable for the needs of the separate accounts and bearing interest at rates determined by the Secretary, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest earned on the amounts in each special fund shall be used to make payments, in accordance with subsection (c), on awards payable from that special fund.".

(b) AUTHORITY TO ACCEPT REIMBURSEMENTS.—The Department of State Appropriation Act of 1937 (49 Stat. 1321; 22 U.S.C. 2661) is amended under the heading entitled "INTERNATIONAL FISHERIES COMMISSION" by inserting after the fourth undesignated paragraph the following new paragraph:

"The Secretary of State is authorized to accept reimbursement from corporations, firms, and individuals for the expenses of travel, translation, printing, special experts, and other extraordinary expenses incurred in pursuing a claim on their behalf against a foreign government or other foreign entity. Such reimbursements shall be credited to the appropriation account against which the expense was initially charged.".

PART C—DIPLOMATIC RECIPROCITY AND SECURITY

SEC. 151. UNITED STATES-SOVIET EMBASSY AGREEMENT: PROHIBITION ON USE OF MT. ALTO SITE.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Union of Soviet Socialist Republics has intentionally and substantially violated international agreements with the United States concerning the establishment and operation of the new United States Embassy complex in Moscow by significantly delaying progress and by constructing the premises of that Embassy so as to compromise the security of United States operations, thus rendering the premises unuseable for the primary purpose intended under those agreements;

(2) the Soviet Government's actions constitute a material violation of international law and a substantial default in performance under the contract for construction of the new United States Embassy complex, and the United States is entitled to claim appropriate compensation;

(3) due to actions of the Government of the Union of Soviet Socialist Republics, United States Government personnel cannot pursue their official duties in confidence, as the national security and diplomatic relations of the United States requires, within the new United States Embassy being constructed in Moscow;

(4) the Government of the Union of Soviet Socialist Republics has similarly taken steps to impair the full and proper use of the present United States Embassy in Moscow, to the detriment of the national security of the United States and its ability to conduct diplomatic relations;

(5) as a result of the substantial violations by the Soviet Union of these international agreements with the United States and other Soviet violations of international law, the United States is entitled to terminate, in whole or in part, those agreements;

District of Columbia.

(6) termination of such agreements may include withdrawal of rights and privileges otherwise granted to the Soviet Union concerning the establishment of a new Soviet Embassy complex in Washington, District of Columbia;

(7) the location of the new Soviet Embassy on Mount Alto creates serious concerns with respect to electronic surveillance and potential damage to the national security of the United States; and

(8) to protect the national security of the United States, therefore, the United States should exercise its right to terminate the Embassy agreements in view of the substantial and intentional Soviet breaches thereof, unless the threat to the national security posed by adherence to those agreements can be overcome.

President of U.S.

(b) WITHDRAWAL FROM EMBASSY AGREEMENT.—The United States shall withdraw from the Agreement between the Government of the United States and the Government of the Union of Soviet Socialist Republics on the Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington (signed at Moscow, May 16, 1969) and related agreements, notes, and understandings unless the President makes the determinations and waiver under subsection (c).

(c) WAIVER.—

(1) PRESIDENTIAL DETERMINATIONS REQUIRED.—The President may waive subsection (b) if he determines that—

(A) it is vital to the national security of the United States that the United States not withdraw from the agreement (and related agreements, notes, and understandings) referred to in subsection (b);

(B) steps have been or will be taken that will ensure that the new chancery building to be occupied by the United States Embassy in Moscow can be safely and securely used for its intended purposes; and

(C) steps have been or will be taken to eliminate, no later than 2 years after the date of enactment of this Act, the damage to the national security of the United States due to electronic surveillance from Soviet facilities on Mount Alto.

President of U.S.

(2) WHEN DETERMINATIONS MAY BE MADE.—The President may not make the determination and waiver permitted by paragraph (1) before the end of the 6-month period beginning on the date of enactment of this Act.

(3) REPORT TO CONGRESS.—The waiver permitted by paragraph (1) shall not be effective until 30 days after the determinations and waiver are reported to the Congress. Any such report shall include—

(A) a detailed justification for each of the determinations;

(B) an assessment of the impact on national security of the removal of the Soviet Embassy from Mt. Alto; and

(C) specify the steps that have been or will be taken to achieve the requirements of paragraphs (1) (B) and (C).

President of U.S.

(4) NONDELEGATABILITY.—The President may not delegate the responsibility for making the determination and waiver permitted by paragraph (1).

(d) NOTIFICATION OF UNAVAILABILITY OF MOUNT ALTO.—If the President does not waive subsection (b), the Secretary of State shall notify the Government of the Union of Soviet Socialist Republics that the Mount Alto site will cease to be available to that Government for any purpose as of the date which is 1 year and 10 days after the earliest date on which the President could make the waiver under subsection (c).

(e) PROHIBITION ON FUTURE USE OF MOUNT ALTO SITE BY FOREIGN MISSIONS.—If subsection (b) takes effect, the Mount Alto site may not be made available for use thereafter by a foreign mission for any purpose.

SEC. 152. RECOVERY OF DAMAGES INCURRED AS A RESULT OF SOVIET INTELLIGENCE ACTIVITIES DIRECTED AT THE NEW UNITED STATES EMBASSY IN MOSCOW.

It is the sense of the Congress that the arbitration process between the United States and the Union of Soviet Socialist Republics, which is currently under way with respect to damages arising from delays in the construction of the new United States Embassy in Moscow, should include Soviet reimbursement of the full costs incurred by the United States as a result of the intelligence activities of the Soviet Union directed at the new United States Embassy in Moscow.

SEC. 153. UNITED STATES-SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES.

22 USC 4301 note.

(a) Requirement for Reciprocity in Certain Matters.—The Secretary of State shall exercise the authority granted in title II of the State Department Basic Authorities Act of 1956 (relating to foreign missions) to obtain the full cooperation of the Soviet Government in achieving the following objectives by October 1, 1989:

(1) Finance.—United States diplomatic and consular posts in the Soviet Union not pay more than fair value for goods or services as a result of the Soviet Government's control over Soviet currency valuation and over the pricing of goods and services.

Utilities.

(2) Access to goods and services.—United States diplomatic and consular posts in the Soviet Union have full access to goods and services, including utilities.

(3) Real property.—The real property used for office purposes, the real property used for residential purposes, and the real property used for all other purposes by United States diplomatic and consular posts in the Soviet Union is comparable in terms of quantity and quality to the real property used for each of those purposes by diplomatic and consular posts of the Soviet mission to the United States.

(b) Soviet Consulates in the United States.—The Secretary of State shall not allow the Soviet mission to the United States to occupy any new consulate in the United States until the United States mission in Kiev is able to occupy secure permanent facilities.

(c) Secretary of the Treasury.—The Secretary of the Treasury shall provide to the Secretary of State such assistance with respect to the implementation of paragraph (1) of subsection (a) as the Secretary of State may request.

(d) Reports to Congress.—Not later than 60 days after the date of enactment of this Act and annually thereafter, the Secretary of State shall submit to the Congress a report setting forth the actions taken and planned to be taken in carrying out subsection (a).

(e) Definition of Benefit.—Paragraph (1) of section 202(a) of title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(1); commonly referred to as the Foreign Missions Act) is amended—

(1) by striking out "and" at the end of subparagraph (E);

(2) in subparagraph (F), by inserting "and" after "services,"; and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) financial and currency exchange services,".

SEC. 154. REPORT ON PERSONNEL OF SOVIET STATE TRADING ENTERPRISES.

Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report discussing whether the number of personnel of Soviet state trading enterprises in the United States should be reduced.

SEC. 155. PERSONNEL SECURITY PROGRAM FOR EMBASSIES IN HIGH INTELLIGENCE THREAT COUNTRIES.

22 USC 4802 note.

(a) Special Security Program.—The Secretary of State shall develop and implement, within three months after the date of enactment of this Act, a special personnel security program for personnel of the Department of State assigned to United States diplomatic and consular posts in high intelligence threat countries who are responsible for security at those posts and for any individuals performing guard functions at those posts. Such program shall include—

(1) selection criteria and screening to ensure suitability for assignment to high intelligence threat countries;

(2) counterintelligence awareness and related training;

(3) security reporting and command arrangements designed to counter intelligence threats; and

(4) length of duty criteria and policies regarding rest and recuperative absences.

(b) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this subsection, the Secretary of State shall report to the Congress on the special personnel security program required by subsection (a).

(c) DEFINITION.—As used in subsection (a), the term "high intelligence threat country" means—

(1) a country listed as a Communist country in section 620(f) of the Foreign Assistance Act of 1961; and

(2) any other country designated as a high intelligence threat country for purposes of this section by the Secretary of State, the Secretary of Defense, the Director of Central Intelligence, or the Director of the Federal Bureau of Investigation.

SEC. 156. ACCOUNTABILITY REVIEW BOARDS.

(a) ESTABLISHMENT OF A BOARD.—Section 301 of the Diplomatic Security Act (22 U.S.C. 4831) is amended—

(1) by inserting ", and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad," after "mission abroad"; and

(2) by inserting after the first sentence thereof the following new sentence: "With respect to breaches of security involving intelligence activities, the Secretary of State may delay establishing an Accountability Review Board if, after consultation with the Chairman of the Select Committee on Intelligence of the Senate and the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that doing so would compromise intelligence sources and methods. The Secretary shall promptly advise the Chairmen of such committees of each determination pursuant to this section to delay the establishment of an Accountability Review Board.".

(b) BOARD FINDINGS.—Section 304(a) of that Act (22 U.S.C. 4834(a)) is amended by inserting "or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be)" after "mission abroad" the first place it appears.

22 USC 3943 note.

SEC. 157. PROHIBITION ON CERTAIN EMPLOYMENT AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN COMMUNIST COUNTRIES.

Classified information.

(a) PROHIBITION.—After September 30, 1990, no national of a Communist country may be employed as a foreign national employee in any area of a United States diplomatic or consular facility in any Communist country where classified materials are maintained.

(b) DEFINITION.—As used in this section, the term "Communist country" means a country listed in section 620(f) of the Foreign Assistance Act of 1961.

(c) ADDITIONAL FUNDS FOR HIRING UNITED STATES CITIZENS.—The Congress expresses its willingness to provide additional funds to the Department of State for the expenses of employing United States nationals to replace the individuals dismissed by reason of subsection (a).

(d) REPORT AND REQUEST FOR FUNDS.—As a part of the Department of State's authorization request for fiscal years 1990 and 1991, the Secretary of State, in consultation with the heads of all relevant agencies, shall submit—

(1) a report, which shall include—

(A) a feasibility study of the implementation of this section; and

(B) an analysis of the impact of the implementation of this section on the budget of the Department of State; and

(2) a request for funds necessary for the implementation of this section pursuant to the findings and conclusions specified in the report under paragraph (1).

(e) WAIVER.—The President may waive this section— President of U.S.

(1) if funds are not specifically authorized and appropriated to carry out this section; or

(2) the President determines that it is in the national security interest of the United States to continue to employ foreign service nationals.

The President shall notify the appropriate committees of Congress each time he makes the waiver conferred on him by this section. President of U.S.

SEC. 158. TERMINATION OF RETIREMENT BENEFITS FOR FOREIGN NATIONAL EMPLOYEES ENGAGING IN HOSTILE INTELLIGENCE ACTIVITIES.

22 USC 4041 note.

(a) TERMINATION.—The Secretary of State shall exercise the authorities available to him to ensure that the United States does not provide, directly or indirectly, any retirement benefits of any kind to any present or former foreign national employee of a United States diplomatic or consular post against whom the Secretary has convincing evidence that such employee has engaged in intelligence activities directed against the United States. To the extent practicable, the Secretary shall provide due process in implementing this section.

(b) WAIVER.—The Secretary of State may waive the applicability of subsection (a) on a case-by-case basis with respect to an employee if he determines that it is vital to the national security of the United States to do so and he reports such waiver to the appropriate committees of the Congress.

SEC. 159. REPORT ON EMPLOYMENT OF FOREIGN NATIONALS AT FOREIGN SERVICE POSTS ABROAD.

Not later than 6 months after the date of enactment of this Act, the Secretary of State, in consultation with the Secretary of Commerce, the Secretary of Agriculture, the Director of Central Intelligence, the Director of the United States Information Agency, and the Director of the Peace Corps, shall submit to the Congress a report discussing the advisability of employing foreign nationals at foreign service posts abroad (including their access to automatic data processing systems and networks).

22 USC 4851 note.
Classified information.

SEC. 160. CONSTRUCTION SECURITY CERTIFICATION.

(a) CERTIFICATION.—Before undertaking any new construction or major renovation project in any foreign facility intended for the storage of classified materials or the conduct of classified activities, the Secretary of State, after consultation with the Director of Central Intelligence, shall certify to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(1) appropriate and adequate steps have been taken to ensure the security of the construction project (including an evaluation of how all security-related factors with respect to such project are being addressed); and

(2) the facility resulting from such project incorporates—

(A) adequate measures for protecting classified information and national security-related activities; and

(B) adequate protection for the personnel working in the diplomatic facility.

(b) AVAILABILITY OF DOCUMENTATION.—All documentation with respect to a certification referred to in subsection (a) and any dissenting views thereto shall be available, in an appropriately classified form, to the Chairman of the Committee on Foreign Affairs of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate.

(c) DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence shall provide to the Secretary of State such assistance with respect to the implementation of this section as the Secretary of State may request.

(d) DISSENTING VIEWS.—If the Director of Central Intelligence disagrees with the Secretary of State with respect to any project certification made pursuant to subsection (a), the Director shall submit in writing disagreeing views to the Secretary of State.

Real property.
Communications and telecommunications.

SEC. 161. PROTECTION FROM FUTURE HOSTILE INTELLIGENCE ACTIVITIES IN THE UNITED STATES.

Section 205 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4305) is amended by adding at the end the following:

"(d)(1) After the date of enactment of this subsection, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Secretary of Defense (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to intercept communications involving United States Government diplomatic, military, or intelligence matters.

"(2) After the date of enactment of this subsection, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Director of the Federal Bureau of Investigation (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to engage in intelligence activities directed against the United States Government, other than the intelligence activities described in paragraph (1).

"(3) The Secretary of State shall inform the Secretary of Defense and the Director of the Federal Bureau of Investigation immediately upon notice being given pursuant to subsection (a) of this section of a proposed acquisition of real property by or on behalf of the foreign mission of a foreign country described in paragraph (4).

"(4) For the purposes of this subsection, the term 'foreign country' means—

"(A) any country listed as a Communist country in section 620(f) of the Foreign Assistance Act of 1961;

"(B) any country determined by the Secretary of State, for purposes of section 6(j) of the Export Administration Act of 1979, to be a country which has repeatedly provided support for acts of international terrorism; and

"(C) any other country which engages in intelligence activities in the United States which are adverse to the national security interests of the United States.

"(5) As used in this section, the term 'substantially improve' shall not be construed to prevent the establishment of a foreign mission by a country which, on the date of enactment of this section—

"(A) does not have a mission in the United States, or

"(B) with respect to a city in the United States, did not maintain a mission in that city.".

SEC. 162. APPLICATION OF TRAVEL RESTRICTIONS TO PERSONNEL OF CERTAIN COUNTRIES AND ORGANIZATIONS.

(a) Amendment to Foreign Missions Act.—Title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.) as amended by section 128 is further amended by adding at the end the following new section:

"SEC. 216. APPLICATION OF TRAVEL RESTRICTIONS TO PERSONNEL OF CERTAIN COUNTRIES AND ORGANIZATIONS.

22 USC 4316.

"(a) Requirement for Restrictions.—The Secretary shall apply the same generally applicable restrictions to the travel while in the United States of the individuals described in subsection (b) as are applied under this title to the members of the missions of the Soviet Union in the United States.

"(b) Individuals Subject to Restrictions.—The restrictions required by subsection (a) shall be applied with respect to those individuals who (as determined by the Secretary) are—

"(1) the personnel of an international organization, if the individual is a national of any foreign country whose government engages in intelligence activities in the United States that are harmful to the national security of the United States;

"(2) the personnel of a mission to an international organization, if that mission is the mission of a foreign government that engages in intelligence activities in the United States that are harmful to the national security of the United States; or

"(3) the family members or dependents of an individual described in paragraphs (1) and (2);

and who are not nationals or permanent resident aliens of the United States.

"(c) Waivers.—The Secretary, after consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, may waive application of the restrictions required by subsection (a) if the Secretary determines that the national security and foreign policy interests of the United States so require.

"(d) REPORTS.—The Secretary shall transmit to the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate, and to the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives, not later than six months after the date of enactment of this section and not later than every six months thereafter, a report on the actions taken by the Secretary in carrying out this section during the previous six months.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'generally applicable restrictions' means any limitations on the radius within which unrestricted travel is permitted and obtaining travel services through the auspices of the Office of Foreign Missions for travel elsewhere, and does not include any restrictions which unconditionally prohibit the members of missions of the Soviet Union in the United States from traveling to designated areas of the United States and which are applied as a result of particular factors in relations between the United States and the Soviet Union.

"(2) the term 'international organization' means an organization described in section 209(b)(1); and

"(3) the term 'personnel' includes—

"(A) officers, employees, and any other staff member, and

"(B) any individual who is retained under contract or other arrangement to serve functions similar to those of an officer, employee, or other staff member.".

22 USC 4316 note.

(b) EFFECTIVE DATE.—Subsection (a) of the section enacted by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 163. COUNTERINTELLIGENCE POLYGRAPH SCREENING OF DIPLOMATIC SECURITY SERVICE PERSONNEL.

(a) IMPLEMENTATION OF PROGRAM.—Under the regulations issued pursuant to subsection (b), the Secretary of State shall implement a program of counterintelligence polygraph examinations for members of the Diplomatic Security Service (established pursuant to title II of the Diplomatic Security Act) during fiscal years 1988 and 1989.

(b) REGULATIONS.—The Secretary of State shall issue regulations to govern the program required by subsection (a). Such regulations shall provide that the scope of the examinations under such program, the conduct of such examinations, and the rights of individuals subject to such examinations shall be the same as those under the counterintelligence polygraph program conducted pursuant to section 1221 of the Department of Defense Authorization Act, 1986 (Public Law 99-145).

SEC. 164. UNITED STATES EMBASSY IN HUNGARY.

(a) FINDINGS.—The Congress finds that—

(1) the full implementation of the security program of a United States diplomatic mission to a Communist country cannot be accomplished if employees of that mission who are citizens of the host country are present in the same facilities where diplomatic and consular activities of a sensitive nature are performed;

(2) the facilities currently housing the offices of the United States diplomatic mission to Hungary are totally inadequate for the proper conduct of United States diplomatic activities, and unnecessarily expose United States personnel and their activi-

ties to the scrutiny of the intelligence services of the Government of Hungary;

(3) the presence of local citizens in a facility where sensitive activities are performed, as well as their access to certain unclassified administrative information, greatly enhances the ability of the host government's intelligence services to restrict our diplomatic activities in that country;

(4) since the United States Government owns a substantial amount of property in Budapest, it is in a unique position to build new facilities which will substantially enhance the security of the United States diplomatic mission to Hungary; and

(5) units such as the Navy Construction Battalion are uniquely qualified to construct such facilities in an eastern bloc country.

International agreements.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the Department of State should proceed in a timely fashion to negotiate an agreement with the Government of Hungary to allow for the construction of new chancery facilities in Budapest which would totally segregate sensitive activities from those of an unclassified and public-oriented character; and

(2) any such agreement should ensure that the United States Government will have the right to employ only American construction personnel and materials and will have complete control over access to the chancery site from the inception of construction.

PART D—PERSONNEL MATTERS

Government organization and employees.

SEC. 171. COMMISSION TO STUDY FOREIGN SERVICE PERSONNEL SYSTEM.

In consultation with the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs and the Committee on Post Office and Civil Service of the House of Representatives, and the exclusive representatives (as defined in section 1002(9) of the Foreign Service Act of 1980), the Secretary shall appoint a commission of five distinguished members, at least four of whom shall have a minimum of ten years experience in personnel management. The Commission shall conduct a study of the Foreign Service personnel system, with a view toward developing a system that provides adequate career stability to the members of the Service. Not more than 1 year after the date of enactment of this Act, the Commission shall transmit its report and recommendations to the Secretary of State, the Chairman of the Committee on Foreign Relations of the Senate, the Chairman of the Committee on Foreign Affairs of the House of Representatives, and the Chairman of the Committee on Post Office and Civil Service of the House of Representatives.

Reports.

22 USC 2664a.

SEC. 172. PROTECTION OF CIVIL SERVICE EMPLOYEES.

(a) FINDINGS.—The Congress finds that—

(1) the effectiveness and efficiency of the Department of State is dependent not only on the contribution of Foreign Service employees but equally on the contribution of the 42 percent of the Department's employees who are employed under the Civil Service personnel system;

(2) the contribution of these Civil Service employees has been overlooked in the management of the Department and greater equality of promotion, training, and career enhancement

opportunities should be accorded to the Civil Service employees of the Department; and

(3) a goal of the Foreign Service Act of 1980 was to strengthen the contribution made by Civil Service employees of the Department of State by creating a cadre of experienced specialists and managers in the Department to provide essential continuity.

(b) EQUITABLE REDUCTION OF BUDGET.—The Secretary of State shall take all appropriate steps to assure that the burden of cuts in the budget for the Department is not imposed disproportionately or inequitably upon its Civil Service employees.

(c) ESTABLISHMENT OF THE OFFICE OF THE OMBUDSMAN FOR CIVIL SERVICE EMPLOYEES.—There is established in the Office of the Secretary of State the position of Ombudsman for Civil Service Employees. The position of Ombudsman for Civil Service Employees shall be a career reserved position within the Senior Executive Service. The Ombudsman for Civil Service Employees shall report directly to the Secretary of State and shall have the right to participate in all Management Council meetings to assure that the ability of the Civil Service employees to contribute to the achievement of the Department's mandated responsibilities and the career interests of those employees are adequately represented. The position of Ombudsman for Civil Service Employees shall be designated from one of the Senior Executive Service positions (as defined in section 3132(a)(2) of title 5, United States Code) in existence on the date of enactment of this Act.

(d) DEFINITION.—For purposes of this section, the term "Civil Service employees" means employees of the Federal Government except for members of the Foreign Service (as defined in section 103 of the Foreign Service Act of 1980).

SEC. 173. COMPENSATION FOR CERTAIN STATE DEPARTMENT OFFICIALS.

(a) PAY LEVELS.—The State Department Basic Authorities Act of 1956 is amended—

22 USC 2707.

(1) in section 35(b) (22 U.S.C. 2706(b)) by inserting after the second sentence the following new sentence: "The Coordinator shall be compensated at the annual rate of pay for positions authorized by section 5315 of title 5, United States Code."; and

(2) in section 203(a) (22 U.S.C. 4303(a)) by inserting at the end "The Director shall be compensated at the annual rate of pay for positions authorized by section 5315 of title 5, United States Code.".

22 USC 2707 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

(c) BUDGET ACT.—Any new spending authority (as defined in section 401(c) of the Congressional Budget Act of 1974) provided by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 174. AUDIT OF MERIT PERSONNEL SYSTEM OF FOREIGN SERVICE.

Reports.
Discrimination, prohibition.

The Comptroller General of the United States shall conduct an audit and inspection of the operation of the merit personnel system in the Foreign Service and report to the Congress, not later than one year after the date of enactment of this Act, as to any improvements in the merit personnel system that the Comptroller General considers necessary. The report of the Comptroller General shall pay particular attention to reports of racial, ethnic, sexual, and other discriminatory practices in the recruitment, appointment, assignment, and promotion of Foreign Service employees.

SEC. 175. PERFORMANCE PAY.

22 USC 3965 note.

(a) Review of Performance Pay Programs.—

(1) Suspension of awards during review.—During the period beginning on the date of enactment of this Act, and ending on the date on which the Inspector General of the Department of State reports to the Congress pursuant to paragraph (2), performance pay may not be awarded under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) to any member of the Senior Foreign Service in the Department of State.

(2) Review by inspector general.—The Inspector General of the Department of State shall conduct a complete and thorough review of—

(A) the procedures in the Department of State under which performance pay recipients are chosen to determine whether the procedures and award determinations are free from bias and reflect fair standards; and

(B) the adequacy of the criteria and the equity of the criteria actually applied in making those awards.

The review should be conducted in accordance with generally accepted Government auditing standards. The Inspector General shall report the results of this review to the Secretary of State and to the Congress no later than May 1, 1988.

(3) Report by secretary of state.—No later than 60 days after the report of the Inspector General is submitted to the Secretary of State under paragraph (2), the Secretary shall submit to the Congress a report containing the comments of the Secretary on the report of the Inspector General and describing the actions taken and proposed to be taken by the Secretary as a result of the report.

(b) Carry-over of Senior Foreign Service Performance Pay.—Section 405(b) of the Foreign Service Act of 1980 (22 U.S.C. 3965(b)) is amended—

(1) in paragraph (4), by inserting at the end thereof the following: "Any amount which is not paid to a member of the Senior Foreign Service during a fiscal year because of this limitation shall be paid to that individual in a lump sum at the beginning of the following fiscal year. Any amount paid under this authority during a fiscal year shall be taken into account for purposes of applying the limitation in the first sentence of this subparagraph with respect to such fiscal year."; and

(2) by adding at the end thereof the following:

"(5) The Secretary of State shall prescribe regulations, consistent with section 5582 of title 5, United States Code, under which payment under this section shall be made in the case of any individual whose death precludes payment under paragraph (4) of this subsection.".

SEC. 176. EXTENSION OF LIMITED APPOINTMENTS.

Section 309 of the Foreign Service Act of 1980 (22 U.S.C. 3949) is amended—

(1) by striking out "section 311(a)" and inserting in lieu thereof "subsection (b)";

(2) by inserting "(a)" after "Limited Appointments.—"; and

(3) by adding at the end the following new subsection:

"(b) A limited appointment may be extended for continued service—

"(1) as a consular agent;

"(2) in accordance with section 311(a);

"(3) as a career candidate, if continued service is determined appropriate to remedy a matter that would be cognizable as a grievance under chapter 11; and

"(4) as a career employee in another Federal personnel system serving in a Foreign Service position on detail from another agency.".

SEC. 177. CHIEF OF MISSIONS SALARY.

(a) LIMITATION ON COMPENSATION.—Section 401(a) of the Foreign Service Act of 1980 (22 U.S.C. 3961(a)) is amended—

(1) by striking out "Except as provided in section 302(b), each" and inserting in lieu thereof "Each"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof ", except that the total compensation, exclusive of danger pay, for any chief of mission shall not exceed the annual rate payable for level II of such Executive Schedule.

(b) SALARY.—Section 302(b) of such Act (22 U.S.C. 3942(b)) is amended by striking out "may elect to continue to receive" and all that follows and inserting in lieu thereof "shall receive the salary and leave (if any) of the position to which the member is appointed by the President and shall not be eligible for performance pay under chapter 4 of this Act.".

22 USC 3942 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall not apply to the salary of any individual serving under a Presidential appointment under section 302 of the Foreign Service Act of 1980 immediately before the date of the enactment of this Act during the period such individual continues to serve in such position.

SEC. 178. PAY LEVEL OF AMBASSADORS AT LARGE.

(a) COMPENSATION.—Chapter 53 of title 5 of the United States Code is amended—

(1) in section 5313, by striking out "Ambassadors at Large."; and

(2) in section 5315, by adding at the end thereof the following: "Ambassadors at Large.".

22 USC 5313 note.

(b) EFFECTIVE DATE AND LIMITATION.—The amendments made by subsection (a) shall take effect 30 days after the date of enactment of this Act and shall not affect the salary of any individual holding the rank of Ambassador at Large immediately before the date of enactment of this Act during the period such individual continues to serve in such position.

SEC. 179. FOREIGN SERVICE CAREER CANDIDATES TAX TREATMENT.

District of Columbia.

(a) REPRESENTATION TO TAX AUTHORITIES.—Section 301(d)(3) of the Foreign Service Act of 1980 (22 U.S.C. 3941(d)(3)) is amended by adding at the end thereof "Foreign Service employees serving as career candidates or career members of the Service shall not represent to the income tax authorities of the District of Columbia or any other State or locality that they are exempt from income taxation on the basis of holding a Presidential appointment subject to Senate confirmation or that they are exempt on the basis of serving in an appointment whose tenure is at the pleasure of the President.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to tax years beginning after December 31, 1987. 22 USC 3941 note.

SEC. 180. PROHIBITION ON MEMBER OF A FOREIGN SERVICE UNION NEGOTIATING ON BEHALF OF THE DEPARTMENT OF STATE.

Labor disputes.

It is the sense of Congress that the Secretary of State should take steps to assure that in labor-management negotiations between the Department of State and the exclusive representative of the Foreign Service employees of the Department, those who direct and conduct negotiations on behalf of management are not also beneficiaries of the agreements made with the exclusive representative.

SEC. 181. CLARIFICATION OF JURISDICTION OF FOREIGN SERVICE GRIEVANCE BOARD.

(a) BOARD DECISIONS.—Section 1107(d) of the Foreign Service Act of 1980 (22 U.S.C. 4137(d)) is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following:

"(2) A recommendation under paragraph (1) shall, for purposes of section 1110 of this Act, be considered a final action upon the expiration of the 30-day period referred to in such paragraph, except to the extent that it is rejected by the Secretary by an appropriate written decision.

"(3)(A) If the Secretary makes a written decision under paragraph (1) rejecting a recommendation in whole or in part on the basis of a determination that implementing such recommendation would be contrary to law, the Secretary shall, within the 30-day period referred to in such paragraph—

"(i) submit a copy of such decision to the Board; and

"(ii) request that the Board reconsider its recommendation or, if less than the entirety is rejected, that the Board reconsider the portion rejected.

"(B)(i) Within 30 days after receiving a request under subparagraph (A), the Board shall, after reviewing the Secretary's decision, make a recommendation to the Secretary either confirming, modifying, or vacating its original recommendation or, if less than the entirety was rejected, the portion involved.

"(ii) Reconsideration under this subparagraph shall be limited to the question of whether implementing the Board's original recommendation, either in whole or in part, as applicable, would be contrary to law.

"(C) A recommendation made under subparagraph (B) shall be considered a final action for purposes of section 1110 of this Act, and shall be implemented by the Secretary.".

(b) BOARD RECOMMENDATIONS.—The first sentence of section 1107(d)(1) of such Act (as amended by subsection (a) of this section) is amended by inserting ", tenure" immediately after "relates directly to promotion".

(c) CAREER APPOINTMENTS.—Section 306 of such Act (22 U.S.C. 3946) is amended by adding at the end thereof the following new subsection:

"(c) Nothing in this section shall be construed to limit the authority of the Secretary or the Foreign Service Grievance Board under section 1107 of this Act.".

(d) SEPARATION FOR CAUSE.—Section 610(a)(2) of such Act (22 U.S.C. 4010(a)(2)) is amended by adding after the first sentence the following new sentence: "If such cause is not established at such hearing, the Grievance Board shall have the authority to direct the Department to pay reasonable attorneys fees to the extent and in the manner provided by section 1107(b)(5) of this Act.".

22 USC 3946 note.

(e) APPLICATION.—The amendments made by this section shall not apply with respect to any grievance in which the Board has issued a final decision pursuant to section 1107 of the Foreign Service Act of 1980 (22 U.S.C. 4137) before the date of enactment of this Act.

SEC. 182. RECORD OF GRIEVANCES AWARDED.

Section 1107 of the Foreign Service Act of 1980 (22 U.S.C. 4137) is hereby amended by adding the following new subsection:

"(e)(1) The Board shall maintain records of all grievances awarded in favor of the grievant in which the grievance concerns gross misconduct by a supervisor. Subject to paragraph (2), the Committee on Foreign Relations of the Senate shall be provided with a copy of the grievance decision whenever such a supervisor is nominated for any position requiring the advice and consent of the Senate and the Board shall provide access to the entire record of any proceedings of the Board concerning such a grievance decision to any Member of the Committee on Foreign Relations upon a request by the Chairman or Ranking Minority Member of such committee.

Classified information.

"(2)(A) Except as provided in subparagraph (B), all decisions, proceedings, and other records disclosed pursuant to paragraph (1) shall be treated as confidential and may be disclosed only to Committee members and appropriate staff.

"(B) Whenever material is provided to the Committee or a Member thereof pursuant to paragraph (1), the Board shall, at the same time, provide a copy of all such material to the supervisor who is the subject of such material.

"(C) A supervisor who is the subject of records disclosed to the committee pursuant to this subsection shall have the right to review such record and provide comments to the Committee concerning such record. Such comments shall be treated in a confidential manner.".

22 USC 3922a note.

SEC. 183. WOMEN AND MINORITIES IN THE FOREIGN SERVICE.

(a) FINDINGS.—The Congress finds that the Department of State and other Foreign Service agencies have not been successful in their efforts—

(1) to recruit and retain members of minority groups in order to increase significantly the number of members of minority groups in the Foreign Service; and

(2) to provide adequate career advancement for women and members of minority groups in order to increase significantly the numbers of women and members of minority groups in the senior levels of the Foreign Service.

(b) A MORE REPRESENTATIVE FOREIGN SERVICE.—The Secretary of State and the head of each of the other agencies utilizing the Foreign Service personnel system—

(1) shall substantially increase their efforts to implement effectively the plans required by section 152(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, so that the Foreign Service becomes truly representative of the American people throughout all levels of the Foreign Service; and

(2) shall ensure that those plans effectively address the need to promote increased numbers of qualified women and members of minority groups into the senior levels of the Foreign Service.

(c) DEPARTMENT OF STATE HIRING PRACTICES OF MINORITIES AND WOMEN.—The Secretary of State shall include annually as part of the report required to be submitted pursuant to section 105(d)(2) of the Foreign Service Act of 1980—

Reports.

(1) a report on the progress made at the Assistant Secretary and Bureau level of the Department of State in increasing the presence of minorities and women at all levels in the Foreign Service and Civil Service workforces of the Department of State, and

(2) the specific actions taken to address the lack of Hispanic Americans, Asian Americans, and Native Americans in the Senior Executive Service and Senior Foreign Service of the Department of State.

Minorities.

SEC. 184. COMPLIANCE WITH LAW REQUIRING REPORTS TO CONGRESS.

(a) COMPLIANCE WITH PRIOR REQUEST.—Within 90 days after the date of enactment of this Act, the Secretary of State shall submit to the chairmen and ranking members of the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate, and the Committee on Foreign Affairs, the Committee on Post Office and Civil Service, and the Committee on Government Operations of the House of Representatives, a report complying with the 1984 request of the Senate Committee on Governmental Affairs for a listing and description of all policy and supporting positions in the Department of State and related agencies. The report shall include an unclassified tabulation, as of the 1984 request, of the following:

Reports.

(1) All Foreign Service officer positions then occupied by noncareer appointees.

(2) All positions in the Senior Foreign Service subject to noncareer appointment.

(3) The name of the incumbent; location; type; level, grade, or salary; tenure; and expiration (if any) of each position.

(b) COMPLIANCE WITH FUTURE REQUESTS.—Whenever the Committee on Governmental Affairs of the Senate or the Committee on Post Office and Civil Service of the House of Representatives requests information from the Secretary of State for inclusion in the publication "U.S. Government Policy and Supporting Positions", the Secretary shall provide such information in a timely manner.

SEC. 185. CHANGES IN REPORTING REQUIREMENTS.

(a) REPORT ON PERSONNEL ACTIONS IN THE FOREIGN SERVICE.—Section 105(d)(2) of the Foreign Service Act of 1980 (22 U.S.C. 3905(d)(2)) is amended to read as follows:

"(2) The Secretary shall transmit, to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives, the Department's reports on its equal employment opportunity and affirmative action programs and its minority recruitment programs, which reports are required by law, regulation, or directive to be submitted to the Equal Employment Opportunity Commission (EEOC) or the Office of Personnel Management (OPM). Each such report shall be transmitted to the Congress at least once annually, and shall be received by the Congress not later

Minorities.

than 30 days after its original submission to the Equal Employment Opportunity Commission or the Office of Personnel Management.".

(b) REPORT ON USE OF FOREIGN SERVICE PERSONNEL BY FEDERAL AGENCIES.—Section 601(c) of such Act (22 U.S.C. 4001(c)) is amended by adding at the end thereof the following new paragraph:

"(4) Not later than March 1 of each year, the Secretary of State shall submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate which shall—

"(A) describe the steps taken and planned in furtherance of—

"(i) maximum compatibility among agencies utilizing the Foreign Service personnel system, as provided for in section 203, and

"(ii) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 204;

"(B) specify the upper and lower limits planned by each such agency for recruitment, advancement, and retention of members of the Service, as provided for in section 601(c)(2), including, with respect to each of the relevant promotion competition groups, the projected ranges of rates of appointment, promotion, and attrition over each of the next 5 fiscal years, as well as a comparison of such projections with the projections for the preceding year and with actual rates of appointment, promotion, and attrition, including a full explanation of any deviations from projections reported in the preceding year; and

"(C) specify the numbers of members of the Service who are assigned to positions classified under section 501 which are more than one grade higher or lower than the personal rank of the member.".

(c) REPEALS.—(1) Section 703(f) of the Foreign Service Act of 1980 (22 U.S.C. 4023(f)) is repealed.

22 USC 4173.

(2) Sections 2402 (a) and (b) of the Foreign Service Act of 1980 are repealed, and section 2402(c) of such Act is amended by striking out "this section" and inserting in lieu thereof "section 601(c)(4)".

(3) Section 152(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 3922a(c)) is repealed.

SEC. 186. DISPOSITION OF PERSONAL PROPERTY ABROAD.

(a) AMENDMENT TO STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—The State Department Basic Authorities Act of 1956 (Public Law 84-885; 22 U.S.C. 2269 et seq.) is amended by adding at the end thereof the following new title:

"TITLE III—DISPOSITION OF PERSONAL PROPERTY ABROAD

22 USC 4341.

"SEC. 301. DEFINITIONS.

"For purposes of this title, the following terms have the following meanings:

"(1) The term 'employee' means an individual who is under the jurisdiction of a chief of mission to a foreign country (as provided under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)) and who is—

"(A) an employee as defined by section 2105 of title 5, United States Code;

"(B) an officer or employee of the United States Postal Service or of the Postal Rate Commission;

"(C) a member of a uniformed service who is not under the command of an area military commander; or

"(D) an expert or consultant as authorized pursuant to section 3109 of title 5, United States Code, with the United States or any agency, department, or establishment thereof; but is not a national or permanent resident of the foreign country in which employed.

"(2) The term 'contractor' means—

"(A) an individual employed by personal services contract pursuant to section 2(c) of this Act (22 U.S.C. 2669(c)), section 636(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(3)), or pursuant to other similar authority, including, in the case of an organization performing services under such authority, an individual involved in the performance of such services; and

"(B) such other individuals or firms providing goods or services by contract as are designated by regulations issued pursuant to section 303;

but does not include a contractor with or under the supervision of an area military commander.

"(3) The term 'charitable contribution' means a contribution or gift as defined in section 170(c) of the Internal Revenue Code of 1986, or other similar contribution or gift to a bona fide charitable foreign entity as determined pursuant to regulations or policies issued pursuant to section 303.

"(4) The term 'chief of mission' has the meaning given such term by section 102(3) of the Foreign Service Act of 1980 (22 U.S.C. 2902(3)).

"(5) The term 'foreign country' means any country or territory, excluding the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, American Samoa, Guam, the Virgin Islands, and other territories or possessions of the United States.

"(6) The term 'personal property' means any item of personal property, including automobiles, computers, boats, audio and video equipment, and any other items acquired for personal use, but excluding items of minimal value as determined by regulation or policy issued pursuant to section 303.

"(7) The term 'profit' means any proceeds (including cash and other valuable consideration but not including amounts of such proceeds given as charitable contributions) for the sale, disposition, or assignment of personal property in excess of the basis for such property. For purposes of this title, basis shall include initial price, inland and overseas transportation costs (if not reimbursed by the United States Government), shipping insurance, taxes, customs fees, duties or other charges, and capital improvements, but shall not include insurance on an item while in use, or maintenance and related costs. For purposes of computing profit, proceeds and costs shall be valued in United States dollars at the time of receipt or payment, at a rate of exchange as determined by regulation or policy issued pursuant to section 303.

22 USC 4342.

"SEC. 302. LIMITATIONS ON DISPOSITION OF PERSONAL PROPERTY.

"(a) General Rule.—Except as authorized under subsection (b), employees or members of their family shall not sell, assign, or otherwise dispose of personal property within a foreign country which was imported into or purchased within that foreign country and which, by virtue of the official status of the employee, was exempt from import limitation, customs duties, or taxes which would otherwise apply.

"(b) Approval by Chief of Mission.—The chief of mission to a foreign country, or a designee of such chief of mission, is authorized to approve within that foreign country sales, assignment, or other dispositions of property by employees under the chief of mission's jurisdiction (as described in section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)) to the extent that such sale, assignment, or other disposition is in accordance with regulations and policies, rules, and procedures issued pursuant to section 303.

"(c) Violation.—Violation of this section, or other importation, sale, or other disposition of personal property within a foreign country which violates its laws or regulations or governing international law and is prohibited by regulations and policies, rules, and procedures issued pursuant to section 303, shall be grounds for disciplinary action against an employee.

22 USC 4343.

"SEC. 303. REGULATIONS.

"(a) Issuance; Purpose.—The Secretary of State may issue regulations to carry out the purposes of this title. The primary purpose of such regulations and related policies, rules, and procedures shall be to assure that employees and members of their families do not profit personally from sales or other transactions with persons who are not themselves entitled to exemption from import restrictions, duties, or taxes.

"(b) Contractors.—Such regulations shall require that, to the extent contractors enjoy importation or tax privileges in a foreign country because of their contractual relationship to the United States Government, after the effective date of this title contracting agencies shall include provisions in their contracts to carry out the purpose of this title.

"(c) Chief of Mission.—In order to ensure that due account is taken of local conditions, including applicable laws, markets, exchange rate factors, and accommodation exchange facilities, such regulations may authorize the chief of mission to each foreign country to establish more detailed policies, rules, or procedures for the application of this title within that country to employees under the chief of mission's jurisdiction.".

22 USC 4341 note.

(b) Effective Date.—This section shall take effect 180 days after the date of enactment of this Act.

SEC. 187. AUTHORITIES FOR SERVICE OF FASCELL FELLOWS.

Section 1005(b) of the Fascell Fellowship Act (22 U.S.C. 4904(b)) is amended to read as follows:

"(b) Authorities.—Fellows may be employed—

"(1) under a temporary appointment in the civil service;

"(2) under a limited appointment in the Foreign Service; or

"(3) by contract under the provisions of section 2(c) of the State Department Basic Authorities Act of 1956.".

SEC. 188. BENEFITS FOR CERTAIN FORMER SPOUSES OF MEMBERS OF THE FOREIGN SERVICE.

(a) In General.—Subchapter I of Chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) is amended by inserting after section 829 (22 U.S.C. 4069) the following:

"SEC. 830. RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES.

22 USC 4069a.

"(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

"(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

"(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

"(b) A former spouse shall not be entitled to benefits under this section if—

"(1) the former spouse remarries before age 55; or

"(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

"(c)(1) The entitlement of a former spouse to benefits under this section—

"(A) shall commence on the later of—

"(i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this chapter; or

"(ii) the first day of the month in which the divorce or annulment involved becomes final; and

"(B) shall terminate on the earlier of—

"(i) the last day of the month before the former spouse dies or remarries before 55 years of age; or

"(ii) the date the benefits of the participant terminates.

"(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

"(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

"(B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

"(3) Benefits under this section shall be treated the same as an annuity under section 814(a)(7) for purposes of section 806(h) or any comparable provision of law.

Regulations.

"(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

"(B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.

"(d) For the purposes of this section, the term 'benefits' means—

"(1) with respect to a participant or former participant subject to this subchapter, the annuity of the participant or former participant; and

"(2) with respect to a participant or former participant subject to subchapter II, the benefits of the participant or former participant under that subchapter.

"(e) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

22 USC 4069b.

"SEC. 831. SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.

"(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

"(1) the full amount of the participant's or former participant's annuity, as computed under this chapter; or

"(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

"(b) If an election has been made with respect to such former spouse under section 2109 or 806(f), then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

"(c) A former spouse shall not be entitled to a survivor annuity under this section if—

"(1) the former spouse remarries before age 55; or

"(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

"(d)(1) The entitlement of a former spouse to a survivor annuity under this section—

"(A) shall commence—

"(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on such date; and

"(ii) in the case of any other former spouse, beginning on the later of—

"(I) the date that the participant or former participant to whom the former spouse was married dies; or

"(II) the effective date of this section; and

"(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

"(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

"(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

"(e) The Secretary shall—

"(1) as soon as possible, but not later than 60 days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and Regulations.

"(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

"(f) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

"SEC. 832. HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES.

22 USC 4069c.

"(a) Except as provided in subsection (c)(1), any individual—

"(1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;

"(2) who, at any time during the 18-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

"(3) who was married to such employee for not less than 10 years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

"(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the 6-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual— Regulations.

"(A) files an election for such enrollment; and

"(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

"(2) The Secretary shall, as soon as possible, take all steps practicable—

"(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

"(B) to notify each such former spouse of that individual's rights under this section.

"(3) The Secretary shall waive the 6-month limitation set forth in paragraph (1) in any case in which the Secretary determines that the circumstances so warrant.

"(c)(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

Regulations.

"(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

"(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

"(e) For purposes of this section the term 'health benefits plan' means an approved health benefits plan under chapter 89 of title 5, United States Code.".

(b) CONFORMING AMENDMENT.—The table of contents in section 2 of the Foreign Service Act of 1980 is amended by inserting after the item relating to section 829 the following:

"Sec. 830. Retirement benefits for certain former spouses.
"Sec. 831. Survivor benefits for certain former spouses.
"Sec. 832. Health benefits for certain former spouses.".

TITLE II—THE UNITED STATES INFORMATION AGENCY

SEC. 201. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS.

There are authorized to be appropriated to the United States Information Agency the following amounts to carry out international information activities under the United States Information and Educational Exchange Act of 1948, Reorganization Plan Number 2 of 1977, and other purposes authorized by law:

(1) For "Salaries and Expenses", $369,455,000 for the fiscal year 1988 and $376,845,000 for the fiscal year 1989;

(2) For "Television and Film Service", $30,391,000 for the fiscal year 1988 and $30,999,000 for the fiscal year 1989; and

(3) For "East-West Center", $20,000,000 for the fiscal year 1988 and $20,400,000 for the fiscal year 1989.

SEC. 202. FUNDS APPROPRIATED FOR THE UNITED STATES INFORMATION AGENCY.

(a) NOTIFICATION REQUIREMENT BEFORE AWARDING PROGRAM GRANTS.—Section 705(b) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1477c) is amended by striking out "for the fiscal years 1986 and 1987".

(b) PROHIBITION ON CERTAIN REPROGRAMMING.—Section 705 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1477c) is amended by adding at the end the following:

"(c) Funds appropriated for the United States Information Agency may not be available for obligation or expenditure through any reprogramming described in subsection (a) during the period which is the last 15 days in which such funds are available unless notice of such reprogramming is made before such period.".

SEC. 203. RECEIPTS FROM ENGLISH-TEACHING AND LIBRARY PROGRAMS.

Section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) is amended to read as follows:

"Sec. 810. Notwithstanding the provisions of section 3302(b) of title 31, United States Code, or any other law or limitation of authority, all payments received by or for the use of the United States Information Agency from or in connection with English-teaching and library services conducted by or on behalf of the Agency under the authority of this Act or the Mutual Educational and Cultural Exchange Act of 1961 may be credited to the Agency's applicable appropriation to such extent as may be provided in advance in an appropriation Act.".

SEC. 204. USIA POSTS AND PERSONNEL OVERSEAS.

22 USC 1461 note.

(a) Prohibition.—No funds authorized to be appropriated by this Act or any other Act may be used to pay any expense associated with the closing of any United States Information Agency post abroad. No funds authorized to be appropriated by this Act shall be used to pay for any expense associated with the Bureau of Management or with the television and film service of the United States Information Agency if a United States Information Agency post abroad is closed after April 1, 1987, and not reopened within 180 days of the date of enactment of this Act.

(b) Limitation on Reduction of Positions.—Reductions shall not be made in the number of positions filled by American employees of the United States Information Agency stationed abroad until the number of such employees is the same percentage of the total number of American employees of the Agency as the number of American employees of the Agency stationed abroad in 1981 was to the total number of American employees of the Agency at the same time in 1981.

(c) Waiver.—Subsections (a) and (b) shall not apply to any United States Information Agency post closed—

(1) after January 1, 1987, and before the date of enactment of this Act if the host government will not allow that post to be reopened;

(2) because of a break or downgrading of diplomatic relations between the United States and the country in which the post is located;

(3) where there is a real and present threat to American diplomats in the city where the post is located and where a travel advisory warning against American travel to the city has been issued by the Department of State; or

(4) when the post is closed so as to provide funds to open a new post, staffed by at least one full-time foreign service officer, and where the Director of the United States Information Agency reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that—

(A) the new post is a higher priority than the post proposed to be closed; and

(B) the total number of United States Information Agency posts abroad staffed by full-time Foreign Service employees of the Agency is not less than the number of such posts in existence on April 1, 1987.

Reports.

(d) SEQUESTRATION.—In the case that a sequestration order is issued pursuant to Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.; Public Law 99-177), the Director of the United States Information Agency may, as part of an agency wide austerity proposal, submit a report proposing a list of United States Information Agency posts to be downgraded or closed in order to comply with the sequestration order, together with a justification for the inclusion of each post on such list. Such report shall be submitted to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

SEC. 205. FORTY-YEAR LEASING AUTHORITY.

Section 801(3) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471(3)) is amended by striking out "twenty-five" and inserting in lieu thereof "forty".

SEC. 206. UNITED STATES INFORMATION AGENCY PROGRAMMING ON AFGHANISTAN.

(a) THE AFGHANISTAN COUNTRY PLAN.—The Director of the United States Information Agency shall implement a formal, comprehensive country plan on Afghanistan based on the guidelines set forth in the United States Information Agency country plan instructions for fiscal year 1988.

(b) REPORT TO CONGRESS.—Not later than 60 days after the date of the enactment of this Act, the Director of the United States Information Agency shall provide Congress in writing with the proposed comprehensive Afghanistan country plan.

Communications and telecommunications.
22 USC 1463 note.

SEC. 207. TELEVISION SERVICE OF THE UNITED STATES INFORMATION AGENCY.

The television and film service of the United States Information Agency, including Worldnet broadcasts, shall operate under the same criteria and conditions as are specified for the Voice of America by section 503 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1463).

SEC. 208. LIMITATION ON WORLDNET FUNDING.

Funds may not be reprogrammed in fiscal years 1988 and 1989 from any program, project, or activity for Worldnet. Funds may not be transferred in fiscal years 1988 and 1989 from any other account for Worldnet.

SEC. 209. AUDIENCE SURVEY OF WORLDNET PROGRAM.

(a) EARMARK.—Of the funds authorized to be appropriated for USIA's Worldnet Program by section 201(2), not less than $500,000 for the fiscal year 1988 shall be available only for the purpose of conducting a market survey in Europe of USIA's Worldnet programming.

(b) QUALIFICATIONS OF SURVEYOR.—Such survey shall be conducted by a television market survey company which has a long established reputation for objective estimates of television audience size and which has not less than 15 years of substantial experience in estimating audience size.

(c) Report.—Not later than 9 months after the date of enactment of this Act, the Director of the United States Information Agency shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the House Committee on Foreign Affairs containing—

(1) the best estimate by the company performing the audience survey of the number of persons in Europe who watch, on a daily basis, the passive (noninteractive) shows of USIA's Worldnet Program. Such estimate shall include the number of persons who watch a part of the daily passive (noninteractive) shows of USIA's Worldnet Program and the number of persons who watch such programs in their entirety;

(2) a description of the demographic composition and nationality of the persons watching such programs; and

(3) the entire report prepared by the company conducting the survey.

Contracts.

(d) Notification of Selected Surveyor.—At least 30 days prior to the approval by the Director of the United States Information Agency of a contract with a company conducting the survey required by this section, the Director shall provide the Chairman of the Senate Committee on Foreign Relations and the Chairman of the House Foreign Affairs Committee of the name of the company selected to conduct the survey together with a copy of the proposed contract.

(e) Limitation.—No funds authorized to be appropriated to the United States Information Agency shall be expended after October 1, 1988, on the production or acquisition of passive (noninteractive) programs for USIA's Worldnet television service unless—

(1) the survey required by this section has been completed in the manner described by this section;

(2) the report required by this section, along with a copy of the survey results, has been submitted to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives; and

(3) the survey shows with a high degree of reliability that the average daily European audience for the passive (noninteractive) programs of USIA's Worldnet television service is not less than 2,000,000 viewers.

Nicaragua.

SEC. 210. NATIONAL ENDOWMENT FOR DEMOCRACY.

In addition to amounts authorized to be appropriated by section 201, there are authorized to be appropriated to the United States Information Agency $17,500,000 for the fiscal year 1988 and $18,100,000 for the fiscal year 1989 to be available only for a grant to the National Endowment for Democracy for carrying out its purposes, of which not less than $250,000 for the fiscal year 1988 shall be used to support elements of the free press, including free radio, and the democratic civic opposition inside Nicaragua which espouse democratic principles and objectives. As is the case with all programs of the National Endowment for Democracy, no employee of any department, agency, or other component of the United States Government may participate, directly or indirectly, in controlling and directing the use of these funds to the free press and democratic civic opposition inside Nicaragua.

SEC. 211. SEPARATE ACCOUNTS FOR NED GRANTEES.

Section 504(h) of the National Endowment for Democracy Act (22 U.S.C. 4413(h)) is amended by inserting "separate accounts with respect to such assistance and" after "keeps".

SEC. 212. NED TREATMENT OF INDEPENDENT LABOR UNIONS.

Section 503 of the National Endowment for Democracy Act (22 U.S.C. 4412) is amended by adding at the end thereof the following new subsection:

"(f) Nothing in this title shall preclude the Endowment from making grants to independent labor unions."

SEC. 213. UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

Section 604 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1469) is amended to read as follows:

"UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

"SEC. 604. (a) The United States Advisory Commission on International Communication, Cultural and Educational Affairs, established by section 8 of Reorganization Plan Numbered 2 of 1977, is hereby redesignated as the United States Advisory Commission on Public Diplomacy (hereafter in this section referred to as the "Commission").

"(b) The Commission shall be composed of seven members who shall be appointed by and serve at the pleasure of the President. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor and business, and professional backgrounds. The President shall designate a member to chair the Commission.

President of U.S.

"(c) The Commission shall have a staff director who shall be appointed by the Chairman of the Commission. Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission may—

"(1) appoint such additional personnel for the staff of the Commission as the Chairman deems necessary; and

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

Effective date.

"(d) This section shall enter into force on January 20, 1989. Any provisions of section 8 of Reorganization Plan Numbered 2 of 1977 inconsistent with this section shall no longer have legal effect on that date. The prohibition limiting membership of individuals from the same political party is repealed.".

SEC. 214. DISTRIBUTION WITHIN THE UNITED STATES OF USIA FILM ENTITLED "AMERICA THE WAY I SEE IT".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "America The Way I See It"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States.

Public information.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

Public information.

SEC. 215. AVAILABILITY OF CERTAIN USIA PHOTOGRAPHS FOR DISTRIBUTION WITHIN THE UNITED STATES BY THE DEPARTMENT OF DEFENSE.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency shall make available, upon request, to the Secretary of Defense and the Secretaries of the military departments concerned photographs of military operations and military related activities that occurred in the Republic of Vietnam for the purpose of developing and publishing military histories by those departments. The Secretary of Defense, or the Secretary of the military department concerned, as appropriate, shall reimburse the Director for any expenses involved in making such photographs available. Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

SEC. 216. USIA UNDERGRADUATE SCHOLARSHIP PROGRAM.

(a) Increased Funding for Caribbean Region.—It is the sense of the House of Representatives that the United States Information Agency should provide increased funding for students in the Caribbean region under the scholarship program for developing countries established by title VI of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

(b) Definition.—

(1) As used in this section, the term "Caribbean region" means—

(A) Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Cuba, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Christopher and Nevis, St. Vincent and the Grenadines, St. Lucia, Trinidad and Tobago;

(B) Anguilla, British Virgin Islands, Cayman Islands, Montserrat, Netherlands Antilles, Turks and Caicos Islands; and

(C) French Guiana, Guadeloupe, and Martinique.

(2) Nothing in this subsection may be construed to encourage or authorize scholarships for students from any country which is a Communist country.

TITLE III—EDUCATIONAL AND CULTURAL AFFAIRS

SEC. 301. AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 201, there are authorized to be appropriated to the United States Information Agency for the Bureau of Educational and Cultural Affairs $188,625,000 for the fiscal year 1988 and $192,438,000 for the fiscal year 1989 to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961. Of the funds authorized to be appropriated by this section, not less than—

(1) $93,000,000 for the fiscal year 1988 and $93,000,000 for the fiscal year 1989 shall be available only for grants for the Fulbright Academic Exchange Programs;

(2) $39,000,000 for the fiscal year 1988 and $39,000,000 for the fiscal year 1989 shall be available only for grants for the International Visitors Program;

(3) $5,250,000 for the fiscal year 1988 and $5,250,000 for the fiscal year 1989 shall be available only for grants for the Hubert H. Humphrey Fellowship Program;

(4) $2,500,000 for the fiscal year 1988 and $2,500,000 for the fiscal year 1989 shall be available only for the Congress-Bundestag Exchange;

(5) $500,000 for the fiscal year 1988 and $500,000 for the fiscal year 1989 shall be available only to the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington;

(6) $5,000,000 for the fiscal year 1988 and $5,000,000 for the fiscal year 1989 shall be available only for the Arts America Program; and

(7) $300,000 for the fiscal year 1988 shall be available only for books and materials to complete the collections at the Edward Zorinsky Memorial Library in Jakarta, Indonesia.

(b) ALLOCATION OF FUNDS FOR EXCHANGES BETWEEN THE UNITED STATES AND THE SOVIET UNION.—(1) Of the funds authorized to be appropriated by subsection (a), not less than $2,000,000 shall be available only for grants for exchange of persons programs between the United States and the Soviet Union.

(2) Funds allocated by paragraph (1) or (2) of subsection (a) may be counted toward the allocation required by this subsection to the extent that such funds are used, in accordance with their respective programs, for grants for exchange of persons programs between the United States and the Soviet Union.

SEC. 302. SAMANTHA SMITH MEMORIAL EXCHANGE PROGRAM.

(a) ESTABLISHMENT.—Section 112(a) of the Mutual Educational Exchange Act of 1961 (22 U.S.C. 2460(a)) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

Union of Soviet Socialist Republics.
Eastern Europe.
Schools and colleges.

"(8) the Samantha Smith Memorial Exchange Program which advances understanding between the United States and the

Soviet Union and between the United States and Eastern European countries through the exchange of persons under the age of 21 years and of students at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) who have not received their initial baccalaureate degree.".

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 301, there is authorized to be appropriated $2,000,000 for fiscal year 1988 and $2,000,000 for fiscal year 1989 to carry out the program established by the amendment made by subsection (a).

SEC. 303. THE ARTS AMERICA PROGRAM.

Section 112(a) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(a)), as amended by section 302, is further amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) the Arts America program which promotes a greater appreciation and understanding of American art abroad by supporting exhibitions and tours by American artists in other countries.".

SEC. 304. PROFESSORSHIP ON CONSTITUTIONAL DEMOCRACY.

President of U.S.
Philippines.
Schools and colleges.

(a) FEDERAL SUPPORT FOR PROFESSORSHIP.—The President, in support of the statutory program of American studies abroad, is directed to foster studies in constitutional democracy at the Santo Tomas University in the Republic of the Philippines by supporting at such university under section 102(b)(4) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)(4)) a professorship on the subject of constitutional democracy, if such professorship is established by such university.

(b) FINANCIAL SUPPORT FOR THE PROFESSORSHIP.—If the professorship referred to in subsection (a) is established by the Santo Tomas University in the Republic of the Philippines, veterans of the Pacific theater in World War II and veterans of the Korean conflict and Vietnam era are encouraged to contribute funds under section 105(f) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f)) to support such professorship.

SEC. 305. UNITED STATES-INDIA FUND.

Section 903(b) of the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (22 U.S.C. 290j-1) is amended to read as follows:

"(b) In accordance with the agreement negotiated pursuant to section 902(a), sums made available for investment for the United States-India Fund for Cultural, Educational, and Scientific Cooperation under the Departments of Commerce, Justice, and State, and the Judiciary and Related Agencies Appropriation Act, 1985, and any earnings on such sums shall be available for the purposes of section 902(a).".

SEC. 306. THE EDWARD ZORINSKY MEMORIAL LIBRARY.

Indonesia.

(a) MEMORIAL FOR EDWARD ZORINSKY.—The United States Information Service library in Jakarta, Indonesia is named "The Edward Zorinsky Memorial Library".

(b) MEMORIAL PLAQUE.—The Director of the United States Information Agency shall cause a plaque to be made and prominently displayed at the library described in subsection (a). The plaque shall bear the following inscription:

> "THE EDWARD ZORINSKY MEMORIAL LIBRARY
>
> "This library is dedicated to the memory of Edward Zorinsky, United States Senator from Nebraska. As a Senator, Edward Zorinsky worked tirelessly to promote the free exchange of ideas and people between the United States and other countries. This library, which is a forum for the exchange of ideas and knowledge between the people of the United States and the people of Indonesia, was reopened after a hiatus of more than twenty years as a result of legislation authored by Senator Zorinsky.".

SEC. 307. CULTURAL PROPERTY ADVISORY COMMITTEE.

19 USC 2605.

(a) TERMS OF SERVICE.—Section 306(b)(3)(A) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 note) is amended to read as follows:

President of U.S.

"(3)(A) Members of the Committee shall be appointed for terms of three years and may be reappointed for one or more terms. With respect to the initial appointments, the President shall select, on a representative basis to the maximum extent practicable, four members to serve three-year terms, four members to serve two-year terms, and the remaining members to serve a one-year term. Thereafter each appointment shall be for a three-year term.".

(b) VACANCIES; CHAIRMANSHIP.—Section 306(b)(3)(B) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 note) is amended to read as follows:

"(B)(i) A vacancy in the Committee shall be filled in the same manner as the original appointment was made and for the unexpired portion of the term, if the vacancy occurred during a term of office. Any member of the Committee may continue to serve as a member of the Committee after the expiration of his term of office until reappointed or until his successor has been appointed.

"(ii) The President shall designate a Chairman of the Committee from the members of the Committee.".

19 USC 2605 note.

(c) APPLICATION.—The amendment made by subsection (a) shall apply to members of the Cultural Property Advisory Committee first appointed after the date of enactment of this Act.

TITLE IV—VOICE OF AMERICA

SEC. 401. AUTHORIZATIONS OF APPROPRIATIONS.

In addition to the amounts authorized to be appropriated under title II, there are authorized to be appropriated the following amounts to the United States Information Agency for the Voice of America for the purpose of carrying out title V of the United States Information and Educational Exchange Act of 1948 and the Radio Broadcasting to Cuba Act:

(1) for "Salaries and Expenses", $177,200,000 for the fiscal year 1988 and $180,744,000 for the fiscal year 1989;

(2) for "Voice of America/Europe", $3,000,000 for the fiscal year 1988 and $3,060,000 for the fiscal year 1989; and

(3) for "Radio Broadcasting to Cuba", $12,652,000 for the fiscal year 1988 and $12,905,000 for the fiscal year 1989.

SEC. 402. VOICE OF AMERICA/EUROPE.

Title V of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461 et seq.) is amended by adding after section 503 the following new section:

"SEC. 504. VOICE OF AMERICA/EUROPE.

22 USC 1464.

"As part of its duties and programs under title V of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461 et seq.), Voice of America/Europe shall—

"(1) target news and features in accordance with the findings and recommendations of the Young European Survey;

"(2) conduct periodic audience evaluations and measurements; and

"(3) promote and advertise Voice of America/Europe.".

SEC. 403. CONTRACTOR REQUIREMENTS.

22 USC 1471 note.

(a) FINDINGS.—The Congress finds that the overriding national security aspects of the $1,300,000,000 facilities modernization program of the Voice of America require the assurance of uninterrupted logistic support under all circumstances for the program. Therefore, it is in the best interests of the United States to provide a preference for United States contractors bidding on the projects of this program.

(b) RESPONSIVE BID.—A bid shall not be treated as a responsive bid for purposes of the facilities modernization program of the Voice of America unless the bidder can establish that the United States goods and services content, excluding consulting and management fees, of his proposal and the resulting contract will not be less than 55 percent of the value of his proposal and the resulting total contract.

(c) PREFERENCE FOR UNITED STATES CONTRACTORS.—Notwithstanding any other provision of law, in any case where there are two or more qualified bidders on projects of the facilities modernization program of the Voice of America, including design and construction projects and projects with respect to transmitters, antennas, spare parts, and other technical equipment, all the responsive bids of United States persons and qualified United States joint venture persons shall be considered to be reduced by 10 percent.

(d) EXCEPTION.—

(1) Subsection (c) shall not apply with respect to any project of the facilities modernization program of the Voice of America when—

International agreements.

(A) precluded by the terms of an international agreement with the host foreign country;

(B) a foreign bidder can establish that he is a national of a country whose government permits United States contractors and suppliers the opportunity to bid on a competitive and nondiscriminatory basis with its national contractors and suppliers, on procurement and projects related to the construction, modernization, upgrading, or expansion of—

(i) its national public radio and television sector, or

(ii) its private radio and television sector, to the extent that such procurement or project is, in whole or in part, funded or otherwise under the control of a government agency or authority; or

(C) the Secretary of Commerce certifies (in advance of the award of the contract for that project) to the Director of the United States Information Agency that the foreign bidder is not receiving any direct subsidy from any government, the effect of which would be to disadvantage the competitive position of United States persons who also bid on the project; or

(D) the statutes of a host foreign country prohibit the use of United States contractors on such projects within that country.

(2) An exception under paragraph (1)(D) shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions the Secretary has taken to urge the foreign country to permit the use of United States contractors on such projects.

(d) Definitions.—For purposes of this section—

(1) the term "United States person" means a person that—

(A) is incorporated or otherwise legally organized under the laws of the United States, including any State (and any political subdivision thereof) and the District of Columbia;

(B) has its principal place of business in the United States;

(C) has been incorporated or otherwise legally organized in the United States for more than 5 years before the issuance date of the Invitation For Bids or the Request For Proposals with respect to a modernization project under subsection (b);

(D) has proven, as indicated by prior contracting experience, to possess the technical, managerial, and financial capability to successfully complete a project similar in nature and technical complexity to that being contracted for;

(E)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States;

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States; and

(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the modernization project site; and

(F) has the existing technical and financial resources in the United States to perform the contract; and

(2) the term "qualified United States joint venture person" means a joint venture in which a United States person or persons own at least 51 percent of the assets of the joint venture.

(e) Effective Date.—The provisions of this section shall apply to any project with respect to which the Request For Proposals (commonly referred to as "RFP") or the Invitation For Bids (commonly referred to as "IFB") was issued after December 28, 1986.

TITLE V—THE BOARD FOR INTERNATIONAL BROADCASTING

SEC. 501. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 8(a)(1)(A) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877) is amended to read as follows:

"(A) $186,000,000 for fiscal year 1988 and $207,424,000 for fiscal year 1989; and".

(b) ALLOCATION OF FUNDS.—Of the funds authorized to be appropriated by section 8(a)(1)(A) of the Board for International Broadcasting Act of 1973, $12,000,000 for the fiscal year 1988 and $12,000,000 for the fiscal year 1989 shall be available only for radio transmitter construction and modernization.

SEC. 502. RESERVE FOR OFFSETTING DOWNWARD FLUCTUATIONS IN OVERSEAS RATES.

Section 8(b) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(b)) is amended by inserting after "RFE/RL, Incorporated," the following: "shall be certified to the Congress by the Director of the Office of Management and Budget and placed in reserve in a separate account in the Treasury only for the purpose of offsetting future downward fluctuations in foreign currency exchange rates in order to maintain the level of operations authorized for each fiscal year. Any such amount".

SEC. 503. CERTIFICATION OF CERTAIN CREDITABLE SERVICE.

The third to last sentence of section 8332(b) of title 5, United States Code, is amended by inserting ", and the Secretary of State with respect to the Asia Foundation and the Secretary of Defense with respect to the Armed Forces Network, Europe (AFN-E)," after "Board for International Broadcasting".

TITLE VI—ASIA FOUNDATION

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

Section 404 of the Asia Foundation Act (22 U.S.C. 4401 et seq.) is amended to read as follows:

"SEC. 404. FUNDING.

22 USC 4403.

"There is authorized to be appropriated to the Secretary of State $13,700,000 for the fiscal year 1988 and $15,000,000 for the fiscal year 1989 for grants to the Asia Foundation pursuant to this title.".

TITLE VII—INTERNATIONAL ORGANIZATIONS

PART A—UNITED NATIONS

SEC. 701. PROBABLE EXEMPTIONS TO THE UNITED NATIONS EMPLOYEE HIRING FREEZE.

Union of Soviet Socialist Republics.
22 USC 287e note.

(a) FINDINGS.—The Congress makes the following findings:

(1) In April 1986, the Secretary-General of the United Nations adopted a freeze on the hiring of personnel within the United Nations Secretariat.

(2) The conditions of the freeze were such that, as the terms of office for the personnel expired, replacements would not be recruited or hired to fill the vacant positions, with minor exceptions.

(3) The freeze was designed to reduce United Nations personnel by 15 percent over three years, as recommended by the Group of High-Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (commonly referred to as the "Group of 18 Experts").

Reports.

(4) On May 5, 1987, the Secretary-General reported to the Department of State that he was considering granting 156 exceptions to the hiring freeze.

(5) Of these 156 probable exceptions, 104 would be Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—of 298 Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—who would be replaced over the next 18 months.

Reports. Classified information.

(6) According to a report from the Select Committee on Intelligence of the Senate on "Soviet Presence in the United Nations Secretariat" (Senate Print 99-52, May 1985), approximately one-fourth of the Soviets in the United Nations Secretariat are intelligence officers, many more are co-opted by the Soviet intelligence agencies, and all Soviets in the United Nations Secretariat must respond to KGB requests for assistance.

(7) Other United States intelligence authorities estimate that as many as one-half of the Soviet and Soviet-bloc nationals in the United Nations Secretariat are officers of the KGB or the GRU.

(8) If the Secretary-General's probable exemptions are adopted, the Soviet Union will be allowed to replace retiring Soviet and Soviet-bloc personnel with new, highly skilled and well-trained intelligence officers of the KGB or the GRU.

District of Columbia. California.

(9) The Secretary-General's proposed exceptions would thus provide the Soviet Union with the capability to rebuild its intelligence apparatus within the United States, which was devastated in recent years when the United States ordered severe reductions in the size of the Soviet mission to the United Nations, the Soviet Embassy in Washington, District of Columbia, and the Soviet Consulate in San Francisco, California.

(10) Article 100 of the United Nations Charter calls for the establishment of an international civil service whose members are neutral and loyal only to the United Nations.

(11) Section 3 of Article 101 of the United Nations Charter calls for the appointment of individuals who are professionally qualified for the positions they are to fill and maintains that due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

Contracts.

(12) As of September 1985, 442 of 446 Soviet nationals employed throughout the United Nations system are "seconded", that is, serve on short, fixed-term contracts.

Contracts.

(13) Through the abuse of short, fixed-term contracts, the Soviet Union has maintained undue influence and control over major offices of the United Nations Secretariat, thereby effec-

tively using the United Nations Secretariat in the conduct of its foreign relations, in clear violation of Articles 100 and 101 of the United Nations Charter.

(14) The Secretary-General's proposed exceptions to the hiring freeze (as described in paragraphs (1) through (5)) would continue the gross violations of Articles 100 and 101 of the United Nations Charter described in paragraph (13).

(15) The Secretary-General's proposed exceptions to such hiring freeze would be clearly inconsistent with the terms of the United Nation's self-imposed reform program.

(16) The United Nations has not yet achieved its reform goals and there is no indication that the United Nations can afford to make such large exceptions to such hiring freeze.

(b) REPORT TO CONGRESS.—(1) The Secretary of State shall report to the Congress not later than 90 days after the date of enactment of this Act and annually thereafter as to the status of secondment within the United Nations by the Soviet Union and Soviet-bloc member-nations.

(2) Such report shall contain as a minimum, a thorough analysis of the following issues:

Contracts.
New York.
Switzerland.
Austria.
Kenya.
Contracts.

(A) The number of Soviet and Soviet-bloc nationals who are currently seconded to the United Nations system on short, fixed-term contracts in New York, Geneva, Vienna, and Nairobi, and the percentage such number is to the total number of Soviet and Soviet-bloc nationals so seconded.

(B) The number of Soviet and Soviet-bloc nationals who are currently employed in the United States system on long-term contracts.

(C) The measures undertaken by the United States to persuade the United Nations Secretariat to enforce the provisions of the United Nations Charter which specifically govern the behavior and activities of United Nations employees, especially Articles 100 and 101.

(D) The measures undertaken by the United States either through bilateral or multilateral channels with the Soviet Union and other members of the Soviet-bloc to end their abuse of secondment.

Classified information.

(E) The measures undertaken by the United States to challenge Soviet and Soviet-bloc nationals' credentials and to deny them entry visas, in order to keep Soviet and Soviet-bloc intelligence operatives out of the United States and United Nations.

Classified information.

(F) The counterintelligence efforts undertaken by the United States to protect United States national security from hostile intelligence activities directed against the United States by Soviet and Soviet-bloc intelligence operatives employed by the United Nations.

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

President of U.S.

(1) the President should take all such actions necessary to ensure compliance with the hiring freeze rule, including withholding all assessed United States contributions to the United Nations, and denying United States entry visas to Soviet and Soviet-bloc applicants coming to the United States to replace Soviet and Soviet-bloc nationals currently serving in the United Nations Secretariat;

President of U.S.

(2) the President, through the Department of State and the United States mission to the United Nations, should express to the Secretary-General of the United Nations the insistence of

the American people that the hiring freeze continue indefinitely, or until the United Nations has complied with the Group of 18 recommendations and can thus afford to make exceptions to the freeze;

(3) the Secretary-General should revoke all exceptions to the hiring freeze rule, excepting those member-nations which have 15 or fewer nationals serving in the United Nations Secretariat, or those positions not subject to geographical representation, such as those of the general service category;

(4) the long-term, flagrant violations of Articles 100 and 101 of the United Nations Charter and the abuse of secondment by the Soviet Union and Soviet-bloc member-nations are reprehensible;

Contracts.

(5) the United Nations should adopt the recommendations of the Group of 18 (as referred to in subsection (a)(3)) that no member-nation be allowed to have more than 50 percent of its nationals employed under fixed-term contracts;

(6) the Soviet Union is hereby condemned for—

(A) its refusal to adhere to the principles of the United Nations Charter calling for an international civil service,

(B) its abuse of secondment, and

(C) its absolute disregard of the solemn purpose of the United Nations to be an international civil service; and

(7) if the Soviet Union and the Soviet-bloc intend to remain member-nations of the United Nations, they should adhere to Articles 100, 101, and all other principles of the United Nations Charter to which every other member-nation must adhere.

(d) DEFINITION.—For the purposes of this section, the term "Soviet-bloc" means the countries of Bulgaria, Cuba, Czechoslovakia, East Germany, Hungary, Nicaragua, North Korea, Poland, and Romania.

SEC. 702. REFORM IN THE BUDGET DECISION-MAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

(a) FINDINGS.—The Congress finds that the consensus based decision-making procedure established by General Assembly Resolution 41/213 is a significant step toward complying with the intent of section 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note; 99 Stat. 405), as in effect before the date of enactment of this Act.

(b) REFORM.—Section 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note; 99 Stat. 405), is amended to read as follows:

"SEC. 143. REFORM IN BUDGET DECISION-MAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

President of U.S.

"(a) FINANCIAL RESPONSIBILITY IN BUDGET PROCEDURES.—To achieve greater financial responsibility in preparation of the assessed budgets of the United Nations and its specialized agencies, the President should continue vigorous efforts to secure implementation by the United Nations, and adoption and implementation by its specialized agencies, of decision-making procedures on budgetary matters which assures that sufficient attention is paid to the views of the United States and other member states who are major financial contributors to such assessed budgets.

"(b) LIMITATION ON ASSESSED CONTRIBUTIONS.—

"(1) With respect to United States assessed contributions to the United Nations for each calendar year beginning with calendar year 1987—

"(A) 40 percent of the United States assessed contributions may be paid beginning on October 1 of such calendar year;

President of U.S. Reports.

"(B) 40 percent of the United States assessed contributions may be paid when the President has determined and so reported to the Congress that—

"(i) the consensus based decision-making procedure established by General Assembly Resolution 41/213 is being implemented and its results respected by the General Assembly;

"(ii) progress is being made toward the 50 percent limitation on seconded employees of the Secretariat as called for by the Group of High Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (Group of 18); and

"(iii) the 15 percent reduction in the staff of the Secretariat (recommendations 55 and 57 of the Group of 18) is being implemented and that such reduction is being equitably applied among the nationals on such staff; and

"(C) 20 percent of the United States assessed contributions may be paid beginning on a date which is 30 days after receipt by the Congress of the report described in subparagraph (B) unless the Congress within such 30-day period enacts, in accordance with subsection (c), a joint resolution prohibiting the payment of the remaining 20 percent of such funds.

"(2) In the case that the amount appropriated for United States assessed contributions to the United Nations for a calendar year is less than the full amount of such United States assessed contributions for that year, the final one-fifth of the amount appropriated may only be paid—

"(A) after the President has made the determinations and report specified in paragraph (1)(B); and

"(B) beginning on a date which is 30 days after receipt by the Congress of the report referred to in subparagraph (A) unless the Congress within such 30-day period enacts, in accordance with subsection (c), a joint resolution prohibiting the payment of the remaining one-fifth of such funds.

President of U.S. Reports.

"(3) For each calendar year beginning with calendar year 1987, no payment may be made of an assessed contribution by the United States to any of the specialized agencies of the United Nations if such payment would cause the United States share of the total assessed budget for such agency to exceed 20 percent in any calendar year unless the President determines and so reports to the Congress that such agency has made substantial progress toward the adoption and implementation of decision-making procedures on budgetary matters in a manner that substantially achieves the greater financial responsibility referred to in subsection (a).

"(4) Subject to the availability of appropriations, when the presidential determinations referred to in paragraphs (1)(B), (2), and (3) have been made, payment of assessed contributions for prior years may be made to the United Nations or its specialized agencies (as the case may be) without regard to the contribution limitation contained in this section prior to its being amended by the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.

"(c) DEFINITION AND PROCEDURES.—

"(1)(A) The provisions of this subsection shall apply to the introduction and consideration in the Senate of a joint resolution described in subsections (b)(1)(C) and (b)(2).

"(B) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced within 3 days after the date on which the report of the President described in subsection (b)(1)(B) is received by Congress, the matter after the resolving clause of which is as follows: 'That the payment to the United Nations of those contributions described in section 143(b)(1)(C) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, is prohibited'.

"(2) A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th day after its introduction.

"(3) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the Senate.

"(4)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(B) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

"(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the

Senate, the vote on final passage of the joint resolution shall occur.

"(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate to the procedure relating to a joint resolution shall be decided without debate.

"(5) If, before the passage by the Senate of a joint resolution of the Senate, the Senate receives from the House of Representatives a joint resolution, then the following procedures shall apply:

"(A) The joint resolution of the House of Representatives shall not be referred to a committee.

"(B) With respect to a joint resolution of the Senate—

"(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House of Representatives; but

"(ii) the vote on final passage shall be on the joint resolution of the House of Representatives.

"(6) This subsection is enacted by the Congress—

"(A) as an exercise of rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.".

(c) CONFORMING AMENDMENT.—The table of contents in section 1 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note; 99 Stat. 405) is amended by striking out the item relating to section 143 and inserting in lieu thereof the following:

"Sec. 143. Reform in the budget decision-making procedures of the United Nations and its specialized agencies.".

(d) TERMINATION DATE.—This section shall terminate on September 30, 1989. 22 USC 287e note.

SEC. 703. HOUSING ALLOWANCES OF INTERNATIONAL CIVIL SERVANTS.

(a) UNITED STATES POLICY.—It is the policy of the United States to seek the implementation by the United Nations of the recommendation by the International Civil Service Commission to deduct from the pay (commonly referred to as a "rental deduction") of an international civil servant the amount of any housing allowance or payment which is provided by any member state to that international civil servant, in accordance with Article 100 of the Charter of the United Nations and regulations thereunder.

(b) UNITED STATES AMBASSADOR TO THE UNITED NATIONS.—The United States Ambassador to the United Nations shall seek to promote the adoption of the recommendation described in subsection (a).

SEC. 704. UNITED STATES PARTICIPATION IN THE UNITED NATIONS IF ISRAEL IS ILLEGALLY EXPELLED.

(a) GENERAL RULE.—The first sentence of section 115(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 22 USC 287 note.

22 USC 287 note.

is amended to read as follows: "If Israel is illegally expelled, suspended, denied its credentials, or in any other manner denied its right to participate in any principal or subsidiary organ or in any specialized, technical, or other agency of the United Nations, the United States shall suspend its participation in any such organ or agency until the illegal action is reversed.".

(b) Rule of Construction.—Such section is further amended by adding at the end thereof the following: "Nothing in this section may be construed to diminish or to affect United States participation in the United Nations Security Council or the Safeguards Program of the International Atomic Energy Agency.".

SEC. 705. UNITED NATIONS PROJECTS WHOSE PRIMARY PURPOSE IS TO BENEFIT THE PALESTINE LIBERATION ORGANIZATION.

Section 114(a) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287e note) is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(2) by inserting the following new paragraph (3) after paragraph (2):

"(3) 25 percent of the amount budgeted for that year for the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (or any similar successor entity);".

SEC. 706. PUBLIC ACCESS TO UNITED NATIONS WAR CRIMES COMMISSION FILES.

(a) Findings.—The Congress finds that—

(1) with the passing of time, it is important to document fully Nazi war crimes and crimes against humanity, lest the enormity of those crimes be forgotten; and

(2) the files of the United Nations War Crimes Commission deposited in the archives of the United Nations contain information valuable to our knowledge of the genocidal actions of the Nazis.

(b) Policy.—It is the sense of the Congress that United States policy should be to support access by interested individuals and organizations to the files of the United Nations War Crimes Commission deposited in the archives of the United Nations.

SEC. 707. REPORT ON POLICIES PURSUED BY OTHER COUNTRIES IN INTERNATIONAL ORGANIZATIONS.

22 USC 287b note.

The last sentence of section 117 of the Department of State Authorization Act, Fiscal Years 1984 and 1985, is amended by inserting before the period the following: ", together with the amount and type of foreign assistance (if any) made available by the United States for the preceding fiscal year to each such country under the Foreign Assistance Act of 1961, the Arms Export Control Act, the Export-Import Bank Act of 1945, and the Peace Corps Act".

SEC. 708. PROTECTION OF TYRE BY THE UNITED NATIONS INTERIM FORCE IN LEBANON.

(a) Findings.—The Congress finds that—

(1) the archaeological site of the ancient city of Tyre is an important part of the heritage of the people of Lebanon and of people everywhere;

(2) war and civil strife threaten the survival of the archaeological site at Tyre;

(3) the purchase of artifacts from Tyre, including purchases allegedly made by troops of the United Nations Interim Force in Lebanon (UNIFIL), is encouraging illegal excavation and looting of the Tyre site; and

(4) the United Nations Interim Force in Lebanon (UNIFIL) could best protect the archaeological site of Tyre so as to preserve this treasure for future generations.

(b) EXTENSION OF MANDATE OF UNIFIL.—The Secretary of State should request the Secretary General of the United Nations and the Security Council to extend the mandate of the United Nations Interim Force in Lebanon (UNIFIL) to include protection of the archaeological site of the ancient city of Tyre. The Secretary of State is directed to seek an order prohibiting the purchase of any artifact from Tyre by any person associated with the United Nations.

(c) REPORTING REQUIREMENT.—Not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, for as long as the United Nations Interim Force in Lebanon remains in Lebanon, the Secretary of State shall report in writing to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives on the progress made in implementing this section.

PART B—UNITED STATES COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

SEC. 721. ESTABLISHMENT OF COMMISSION.

22 USC 287 note.

The United States Commission on Improving the Effectiveness of the United Nations (hereafter in this part referred to as the "Commission") is hereby established.

SEC. 722. PURPOSES OF THE COMMISSION.

22 USC 287 note.

(a) PURPOSES.—The purposes of the Commission shall be to—

(1) examine the United Nations system as a whole and identify and evaluate its strengths and weaknesses; and

(2) prepare and submit to the President and to the Congress recommendations on ways to improve the effectiveness of the United Nations system and the role of the United States in the United Nations system, including the feasibility of and means for implementing such recommendations.

(b) CONSULTATION REGARDING OTHER UNITED NATIONS REFORM EFFORTS.—In carrying out this section, the Commission shall make every effort to consult, where appropriate, with other public and private institutions and organizations engaged in efforts to reform the United Nations system, including efforts being made directly under the auspices of the United Nations.

SEC. 723. MEMBERSHIP OF THE COMMISSION.

22 USC 287 note.

(a) MEMBERS.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 16 members, appointed as follows:

(A) Two Members of the Senate, one appointed by the President pro tempore of the Senate and one appointed by the Minority Leader of the Senate.

(B) Two Members of the House of Representatives, one appointed by the Speaker of the House and one appointed by the Minority Leader of the House.

(C) Eight individuals from the private sector, two appointed by the President pro tempore of the Senate, two appointed by the Minority Leader of the Senate, two appointed by the Speaker of the House, and two appointed by the Minority Leader of the House.

President of U.S.

(D) Four individuals appointed by the President, not more than two of whom may be from the same political party.

(2) CRITERION FOR APPOINTMENTS.—Individuals appointed pursuant to subparagraphs (C) and (D) of paragraph (1) shall be representative, to the maximum extent possible, of the full range of American society.

(3) APPOINTMENTS TO BE MADE PROMPTLY.—All appointments pursuant to paragraph (1) shall be made not later than 60 days after the effective date of this part.

(4) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment was made.

(b) ADVISORS.—Former United States Permanent Representatives to the United Nations who are not appointed to the Commission shall be invited by the Commission to serve as advisors to the Commission.

(c) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION IN GENERAL.—Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) GOVERNMENT PERSONNEL.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(3) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission, and Advisors serving pursuant to subsection (b), shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Chairman and Vice Chairman shall be elected by the Commission from among members of the Commission.

(e) QUORUM.—Nine members of the Commission shall constitute a quorum for purposes of transacting business, except that four members shall constitute a quorum for holding public hearings.

22 USC 287 note.

SEC. 724. POWERS OF THE COMMISSION.

(a) IN GENERAL.—For the purpose of carrying out this part, the Commission may hold such hearings (subject to the requirements of subsection (b)) and sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to fulfill the purposes specified in section 722.

(b) MEETINGS.—

(1) MINIMUM NUMBER OF PUBLIC HEARINGS.—The Commission shall hold a minimum of five public hearings.

(2) OPEN MEETINGS.—Section 552b of title 5 of the United States Code shall apply with respect to the Commission.

(3) CALLING MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(c) DELEGATION OF AUTHORITY.—When so authorized by the majority of the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

Classified information.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this part. Upon request of the Chairman of the Commission, the head of any such Federal agency shall furnish such information to the Commission, to the extent authorized by law; except that the head of any Federal agency to which a request for information is provided pursuant to this subsection may deny access to such information, or make access subject to such terms and conditions as the head of that agency may prescribe, on the basis that the information in question is classified and the Commission does not have adequate procedures to safeguard the information in question, or that the Commission does not have a need to know the classified information. In addition, a Federal agency may not provide the Commission with information that could disclose intelligence sources or methods without first securing the approval of the Director of Central Intelligence. The head of any such Federal agency may provide information on a reimbursable basis.

22 USC 287 note.

SEC. 725. STAFF.

(a) STAFF MEMBERS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Chairman of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, may—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for Level V of the Executive Schedule under section 5316 of title 5, United States Code;

(2) appoint and fix the compensation of such other staff personnel as the Chairman considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) DETAILING OF GOVERNMENT PERSONNEL.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist it in carrying out this part.

22 USC 287 note.

SEC. 726. REPORT.

The Commission shall transmit to the President and to the Congress a report containing a detailed statement of the findings, conclusions, and recommendations of the Commission, including minority views. This report shall be transmitted not later than 18 months after the date on which all members of the Commission have been appointed.

22 USC 287 note. **SEC. 727. FUNDING FOR THE COMMISSION.**

(a) Commission To Be Privately Funded.—The Commission may accept and use contributions from private United States sources to carry out this part. No Federal funds may be made available to the Commission for use in carrying out this part.

(b) Limitation on Size of Contributions.—The Commission may not accept contributions from any single source which have a value of more than—

(1) $100,000, or

(2) 20 percent of the total of all contributions accepted by the Commission.

(c) Commission Approval of Certain Contributions.—The Commission may accept contributions having a value of $1,000 or more from a single source only if more than two-thirds of the members of the Commission have approved the acceptance of those contributions.

(d) Disclosure of Contributions.—

(1) Periodic reports to congress.—Every 30 days, the Commission shall submit to the chairman of the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a list of the source and amount of each contribution accepted by the Commission during the preceding 30 days.

(2) Final report.—The source and amount of each contribution accepted by the Commission shall be listed in the report submitted pursuant to section 726.

(e) Limitation on Obligations and Expenditures.—Notwithstanding subsection (a), the limitations on expenditures and obligations in section 1341 of title 31, United States Code, shall apply to the Commission.

22 USC 287 note. **SEC. 728. GENERAL ACCOUNTING OFFICE AUDITS OF THE COMMISSION.**

The provisions of subchapter II of chapter 7 of title 31 of the United States Code (relating to the general duties and powers of the General Accounting Office) shall apply with respect to the programs and activities of the Commission, including the receipt, disbursement, and use of funds contributed to the Commission, to the same extent as those provisions apply with respect to other agencies of the United States Government.

22 USC 287 note. **SEC. 729. TERMINATION OF THE COMMISSION.**

The Commission shall cease to exist 60 days after submitting its report pursuant to section 726.

22 USC 287 note. **SEC. 730. EFFECTIVE DATE.**

This part shall take effect on March 1, 1989.

PART C—OTHER INTERNATIONAL ORGANIZATIONS

22 USC 288h. **SEC. 741. PRIVILEGES AND IMMUNITIES TO OFFICES OF MISSION TO THE UNITED STATES OF THE COMMISSION OF THE EUROPEAN COMMUNITIES.**

The Act entitled "An Act to extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and the members thereof", approved October 18, 1972 (86 Stat. 815), is amended by adding at the end the following: "Under such terms and conditions as the President may determine, the President is authorized to extend to other offices of the Commission of the European Communities which are established in the United States, and to members thereof—

22 USC 288h. President of U.S.

"(1) the privileges and immunities described in the preceding sentence; or

"(2) as appropriate for the functioning of a particular office, privileges and immunities, equivalent to those accorded consular premises, consular officers, and consular employees, pursuant to the Vienna Convention on Consular Relations.".

SEC. 742. CONTRIBUTION TO THE REGULAR BUDGET OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS AND SENSE OF CONGRESS CONCERNING RECOGNITION OF RED SHIELD OF DAVID.

Israel.

(a) UNITED STATES CONTRIBUTION.—Pursuant to the provisions of section 109 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, the Secretary of State shall make an annual contribution to the regular budget of the International Committee of the Red Cross of an amount which is not less than 10 percent of its regular budget. Such contribution may be made from the funds authorized to be appropriated by section 104 for "Migration and Refugee Assistance".

(b) LIMITATION ON CONTRIBUTIONS.—Notwithstanding subsection (a), for fiscal year 1988, the United States contribution to the regular budget of the International Committee of the Red Cross shall not exceed nor be less than the amount contributed by the United States to the regular budget of the International Committee of the Red Cross in fiscal year 1987.

(c) RECOGNITION OF THE RED SHIELD OF DAVID.—It is the sense of the Congress that a diplomatic conference of governments should grant identical status of recognition to the Red Shield of David (Magen David Adom) as that granted to the Red Cross and the Red Crescent and that the Red Shield of David Society of Israel should be accepted as a full member of the League of Red Cross Societies and the quadrennial International Conferences of the Red Cross.

SEC. 743. IMMUNITIES FOR THE INTERNATIONAL COMMITTEE OF THE RED CROSS.

The International Organizations Immunities Act is amended by inserting after section 12 (22 U.S.C. 288f-2) the following new section:

"SEC. 13. The International Committee of the Red Cross, in view of its unique status as an impartial humanitarian body named in the Geneva Conventions of 1949 and assisting in their implementation, shall be considered to be an international organization for the purposes of this title and may be extended the provisions of this title in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.".

22 USC 288f-3.

SEC. 744. NORTH ATLANTIC ASSEMBLY.

(a) APPOINTMENT OF SECRETARIES TO THE NORTH ATLANTIC ASSEMBLY DELEGATIONS.—Section 1 of the joint resolution entitled "Joint resolution to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization", approved July 11, 1956 (22 U.S.C. 1928b; Public Law 84-689), is amended by adding at the end thereof the following new sentences: "Each delegation shall have a secretary. The secretaries of the Senate and House delegations shall be appointed, respectively, by the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives.". 22 USC 1928a.

22 USC 1928b. (b) AUTHORIZATION OF APPROPRIATIONS.—Section 2 of such joint resolution is amended—

(1) by striking out "$50,000" and inserting in lieu thereof "$75,000"; and

(2) by striking out "$25,000" the first place it appears and inserting in lieu thereof "$50,000".

Refugees.
22 USC 2601 note.
President of U.S.

SEC. 745. UNITED STATES MEMBERSHIP IN INTERGOVERNMENTAL COMMITTEE FOR EUROPEAN MIGRATION.

The President is hereby authorized to continue membership for the United States in the Intergovernmental Committee for European Migration in accordance with its constitution approved in Venice, Italy, on October 19, 1953, and, upon entry into force of the amendments to such constitution approved in Geneva, Switzerland, on May 20, 1987, to continue membership in the organization under the name International Organization for Migration in accordance with such constitution and amendments. For the purpose of assisting in the movement of refugees and migrants and to enhance the economic progress of the developing countries by providing for a coordinated supply of selected manpower, there are hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its contributions to the Committee and all necessary salaries and expenses incidental to United States participation in the Committee.

Caribbean.

SEC. 746. RECOGNITION OF CARICOM.

It is the sense of the Congress that the Secretary of State should consider recognizing the Caribbean Community and Common Market (CARICOM) as a regional planning organization in the Caribbean.

Reports.

SEC. 747. ASIAN-PACIFIC REGIONAL HUMAN RIGHTS CONVENTION.

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress which—

(1) examines the nature and extent of human rights problems in the Asian-Pacific region; and

(2) assesses the willingness of the countries in the region to negotiate a regional human rights convention similar to the American Convention on Human Rights, the Conference on Security and Cooperation in Europe, and the African Charter on Peoples' and Human Rights.

TITLE VIII—INTERNATIONAL NARCOTICS CONTROL

22 USC 2656 note.

SEC. 801. ASSIGNMENT OF DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.

If the Secretary of State, in exercising his authority to establish overseas staffing levels for Federal agencies with activities abroad, authorizes the assignment of any Drug Enforcement Administration agent to a particular United States mission abroad, the Secretary shall authorize the assignment of at least two such agents to that mission.

SEC. 802. QUARTERLY REPORTS ON PROSECUTION OF THOSE RESPONSIBLE FOR THE TORTURE AND MURDER OF DRUG ENFORCEMENT ADMINISTRATION AGENTS IN MEXICO.

Enrique Camarena Salazar.
Alfredo Zavala Avelar.
Victor Cortez, Jr.
99 Stat. 421.
18 USC 3181 note.

Section 134(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, is amended by striking out "progress made in the Camarena case," and inserting in lieu thereof "progress made in investigating, and prosecuting those responsible for, the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar and the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior,".

SEC. 803. REQUIREMENT THAT EXTRADITION OF DRUG TRAFFICKERS BE A PRIORITY ISSUE OF UNITED STATES MISSIONS IN MAJOR ILLICIT DRUG PRODUCING OR TRANSIT COUNTRIES.

The Secretary of State shall ensure that the Country Plan for the United States diplomatic mission in each major illicit drug producing country and in each major drug-transit country (as those terms are defined in section 481(i) of the Foreign Assistance Act of 1961) includes, as an objective to be pursued by the mission—

(1) negotiating an updated extradition treaty which ensures that drug traffickers can be extradited to the United States, or

(2) if an existing treaty provides for such extradition, taking such steps as may be necessary to ensure that the treaty is effectively implemented.

SEC. 804. INFORMATION-SHARING SYSTEM SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.

Reports.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report on the status of the comprehensive information system on drug arrests of foreign nationals which was required to be established by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

SEC. 805. CERTIFICATION PROCEDURES FOR DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES AND INCLUSION OF SPECIFIC AGENCY COMMENTS.

22 USC 2291.
Reports.

(a) Report.—Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new paragraph:

"(7) Each report pursuant to this subsection shall include specific comments and recommendations by appropriate Federal agencies involved in drug enforcement, including the United States Customs Service and the Drug Enforcement Administration, with respect to the degree to which countries listed in the report have cooperated fully with such agencies during the preceding year as described in subsection (h).".

22 USC 2291.

(b) RESOLUTION OF DISAPPROVAL.—Section 481(h) of the Foreign Assistance Act of 1961 is amended in subparagraph (A), by striking out "30" and inserting in lieu thereof "45".

SEC. 806. SANCTIONS ON DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES.

19 USC 2492.

(a) SANCTIONS.—Section 802 of the Trade Act of 1974 is amended—

(1) in subsection (a)—

(A) by striking out "or" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (6);

(C) by amending paragraph (6), as so redesignated, to read as follows:

"(6) take any combination of the actions described in paragraphs (1) through (5)."; and

(D) by inserting after paragraph (3) the following new paragraphs:

"(4) take the steps described in subsection (d)(1) or (d)(2), or both, to curtail air transportation between the United States and that country;

"(5) withdraw the personnel and resources of the United States from participation in any arrangement with that country for the pre-clearance of customs by visitors between the United States and that country; or";

(2) in subsection (b)—

(A) in paragraph (1), by inserting "corruption by government officials and" after "preventing and punishing";

(B) in paragraph (2)(A), by striking out "and" at the end thereof;

(C) in paragraph (2)(B), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(D) by adding at the end thereof the following new clause:

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, corruption by government officials, with particular emphasis on the elimination of bribery."; and

(3) in subsection (c), by inserting "paragraph (1), (2), or (3) of" after "under"; and

(4) by adding at the end thereof the following new subsection:

Transportation.

"(d) PRESIDENTIAL ACTION REGARDING AVIATION.—

"(1)(A) The President is authorized to notify the government of a country against which is imposed the sanction described in subsection (a)(4) of his intention to suspend the authority of foreign air carriers owned or controlled by the government or nationals of that country to engage in foreign air transportation to or from the United States.

"(B) Within 10 days after the date of notification of a government under subparagraph (A), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by the government or nationals of that country to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

"(C) The President may also direct the Secretary of Transportation to take such steps as may be necessary to suspend the authority of any air carrier to engage in foreign air transportation between the United States and that country.

"(2)(A) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country against which the sanction described in subsection (a)(4) is imposed in accordance with the provisions of that agreement.

"(B) Upon termination of an agreement under this paragraph, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government or nationals of that country to engage in foreign air transportation to or from the United States.

"(C) Upon termination of an agreement under this paragraph, the Secretary of Transportation may also revoke the authority of any air carrier to engage in foreign air transportation between the United States and that country.

"(3) The Secretary of Transportation may provide for such exceptions from paragraphs (1) and (2) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

"(4) For purposes of this subsection, the terms 'air transportation', 'air carrier', 'foreign air carrier' and 'foreign air transportation' have the meanings such terms have under section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).".

(b) CONFORMING AMENDMENT.—The title heading of title VIII of the Trade Act of 1974 is amended to read as follows: "TITLE VIII—TARIFF TREATMENT OF PRODUCTS OF, AND OTHER SANCTIONS AGAINST, UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES".

(c) ALIENS EXCLUDABLE FROM ADMISSION TO THE UNITED STATES.—Section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) is amended to read as follows:

"(23) Any alien who—

"(A) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(B) the consular officers or immigration officers know or have reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance;".

TITLE IX—IMMIGRATION AND REFUGEE PROVISIONS

SEC. 901. PROHIBITION ON EXCLUSION OR DEPORTATION OF ALIENS ON CERTAIN GROUNDS.

8 USC 1182 note.

(a) IN GENERAL.—Notwithstanding any other provision of law, no alien may be denied a visa or excluded from admission into the

United States, subject to restrictions or conditions on entry into the United States, or subject to deportation because of any past, current, or expected beliefs, statements, or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.

(b) Construction Regarding Excludable Aliens.—Nothing in this section shall be construed as affecting the existing authority of the executive branch to deport, to deny issuance of a visa to, or to deny admission to the United States of, any alien—

Defense and national security.

(1) for reasons of foreign policy or national security, except that such deportation or denial may not be based on past, current, or expected beliefs, statements, or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States;

Terrorism.

(2) who a consular official or the Attorney General knows or has reasonable ground to believe has engaged, in an individual capacity or as a member of an organization, in a terrorist activity or is likely to engage after entry in a terrorist activity; or

(3) who seeks to enter in an official capacity as a representative of a purported labor organization in a country where such organizations are in fact instruments of a totalitarian state.

In addition, nothing in subsection (a) shall be construed as applying to an alien who is described in section 212(a)(33) of the Immigration and Nationality Act (relating to those who assisted in the Nazi persecutions), to an alien described in the last sentence of section 101(a)(42) of such Act (relating to those assisting in other persecutions) who is seeking the benefits of section 207, 208, 243(h)(1), or 245A of such Act (relating to admission as a refugee, asylum, withholding of deportation, and legalization), or to an alien who is described in section 21(c) of the State Department Basic Authorities Act of 1956. In paragraph (2), the term "terrorist activity" means the organizing, abetting, or participating in a wanton or indiscriminate act of violence with extreme indifference to the risk of causing death or serious bodily harm to individuals not taking part in armed hostilities.

(c) Construction Regarding Standing to Sue.—Nothing in this section shall be construed as affecting standing in any Federal court or in any administrative proceeding.

(d) Effective Period.—Subsection (a) shall only apply to—

(1) applications for visas submitted during 1988;

(2) admissions sought after December 31, 1987, and before March 1, 1989; and

(3) deportations based on activities occurring during 1988 or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time during 1988.

8 USC 1255a note.

SEC. 902. ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE.

(a) Adjustment of Status.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) "extended voluntary departure" by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

(1) applies for such adjustment within two years after the date of the enactment of this Act;

(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;

(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;

(4) in the case of an alien who entered the United States as a nonimmigrant before July 21, 1984, establishes that (A) the alien's period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage of time or (B) the alien applied for asylum before July 21, 1984; and

(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)).

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

(b) Status and Adjustment of Status.—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.

SEC. 903. PROCESSING OF CUBAN NATIONALS FOR ADMISSION TO THE UNITED STATES.

8 USC 1201 note.

(a) Processing of Certain Cuban Political Prisoners as Refugees.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of the enactment of this Act, consular officers of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) Processing of Immigrant Visa Applications of Cuban Nationals in Third Countries.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) Definitions.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

Cambodia.
Vietnam.
Laos.
Hong Kong.
Indonesia.
Singapore.
Philippines.
Thailand.

SEC. 904. INDOCHINESE REFUGEE RESETTLEMENT.

(a) FINDINGS.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting approximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complemented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify

its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border. The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

International organizations.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

International organizations.

(c) Allocations of Refugee Admissions.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Congress that—

President of U.S.

(1) within the worldwide refugee admissions ceiling determined by the President, the President should continue to recommend generous numbers of admissions from East Asia first asylum camps and from the Orderly Departure Program sufficient to sustain preservation of first asylum and security for Indochinese in Southeast Asia, consistent with worldwide refugee admissions requirements and the consultative processes of the Refugee Act of 1980;

President of U.S.

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam, the number of admissions allocated for Amerasians and their immediate family members should also be generous;

(3) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

International organizations.

(4) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

President of U.S.

(d) Reporting.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee program with recommendations for improving the effectiveness and efficiency of the program.

SEC. 905. AMERASIAN CHILDREN IN VIETNAM.

(a) FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(1) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(2) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(3) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(4) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(5) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

(6) In September 1984, the United States informed the Socialist Republic of Vietnam that all Amerasian children in Vietnam, their mothers, and qualifying family members would be admitted as refugees to the United States during a three-year period.

(7) Amerasian emigration from Vietnam increased significantly in fiscal year 1985 under the Orderly Departure Program of the United Nations High Commissioner on Refugees.

(8) On January 1, 1986, the Socialist Republic of Vietnam unilaterally suspended interviews of all individuals seeking to leave Vietnam legally under the auspices of the Orderly Departure Program for resettlement in the United States.

(9) On the 19th and 20th of October 1987, the Socialist Republic of Vietnam permitted the United States to resume interviewing Amerasians and their families.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the United States should maintain its strong commitment to receive the Amerasian children in the Socialist Republic of Vietnam and their families;

(2) the Socialist Republic of Vietnam should cooperate fully in facilitating the processing of all Amerasians who desire to be resettled in the United States; and

(3) the Socialist Republic of Vietnam should cooperate fully in the processing of Amerasians for emigration.

Thailand.
Cambodia.
Vietnam.
Laos.

SEC. 906. REFUGEES FROM SOUTHEAST ASIA.

(a) FINDINGS.—The Congress finds that—

(1) the United States remains firmly committed to the security of Thailand and to improving relations between our two nations;

(2) the United States refugee resettlement and humanitarian assistance programs constitute an important factor in bilateral relations between the United States and Thailand;

(3) the preservation of first asylum for those fleeing persecution is one of the primary objectives of the United States refugee program;

(4) the actions of another government in labeling refugee populations as "displaced persons" or closing its borders to new arrivals shall not constitute a barrier to the United States considering those individuals or groups to be refugees;

(5) it is in the national interest to facilitate the reunification of separated families of United States citizens and permanent residents, and the Congress will look with disfavor on any nation which seriously hinders emigration for such reunifications;

(6) the persecution of the Cambodian people under the Khmer Rouge rule from 1975–1979, which caused the deaths of up to two million people and in which the bulk of the Khmer people were subjected to life in an Asian Auschwitz, constituted one of the clearest examples of genocide in recent history; and

Heng Samrin.

(7) the invasion of Cambodia by Vietnam and the subsequent occupation of that country by 140,000 Vietnamese troops backing up the Heng Samrin regime, which itself continues to seriously violate the human rights of Cambodians, and the presence of 40,000 heavily armed troops under the control of the same Khmer Rouge leaders, overwhelmingly demonstrate that the life or freedom of any Cambodian not allied with the Khmer Rouge or supporting Heng Samrin would be seriously endangered if such individual were forced by a country of first asylum to return to his or her homeland.

(b) Statement of Policy.—It is the sense of the Congress that—

(1) any Cambodians who are, or had been, at Khao I Dang camp should be considered and interviewed for eligibility for the United States refugee program, irrespective of the date they entered Thailand or that refugee camp;

(2) any Cambodian rejected for admission to the United States who can demonstrate new or additional evidence relating to his claim should have his or her case reviewed;

International organizations.

(3) the United States should work with the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and the Government of Thailand to improve the security of all refugee facilities in Thailand and to prevent the forced repatriation of Cambodian refugees;

(4) the United States should treat with utmost seriousness the continued reports of forced repatriations to Laos of would-be asylum seekers, and should lodge strong and continuous protests with the Thai Government to bring about an end to these repatriations, which endanger the life and safety of those involuntarily returned to Laos; and

Children and youth.

(5) within the Orderly Departure Program the United States will give high priority consideration to determining the eligibility of serious health cases and cases involving children separated from both parents.

China.
Education.

SEC. 907. RELEASE OF YANG WEI.

(a) Findings.—The Congress makes the following findings:

(1) Yang Wei, a Chinese national, studied at the University of Arizona from 1983 until he received his masters of science degree in microbiology in 1986.

Che Shaoli.

(2) In May 1986 Yang Wei returned to China to marry Dr. Che Shaoli and arrange for funding for his continued studies under a PhD program at the University of Arizona.

(3) On January 11, 1987, while still an official student at the University of Arizona, Yang Wei was arrested by the Shanghai Public Security Bureau.

(4) Yang Wei has been held without charge or trial since January 11, 1987.

(5) Mr. Yang's wife, a student at Baylor Medical College in Houston, Texas, has been refused any information about her husband's whereabouts or condition by Chinese authorities.

Yang Jue.
Bi Shuyun.

(6) Mr. Yang's father, Yang Jue, and his mother Bi Shuyun, have been denied all contact with their son.

(7) The Chinese Criminal Procedure law of 1979, sections 92, 97, 125, and 142 provides for a maximum of four and a half months of detention without charge or trial and Yang Wei has now been held over six months, contrary to Chinese law.

(8) Yang Wei has not committed any crime under United States or Chinese law.

(9) Yang Wei and his wife only aspire to freedom and democracy.

(10) The treatment of Mr. Yang and his family is frightening to all Chinese students now studying in the West and meant to be so by Chinese authorities.

(11) Recently more than two thousand Chinese students signed an open letter to express their concern about recent political developments in their country.

(b) Policy.—It is the sense of Congress that—

(1) the People's Republic of China should immediately release Yang Wei; and

(2) the United States should consider sympathetically applications for asylum from Chinese students studying in the United States who can, on a case-by-case basis, demonstrate a well-founded fear of persecution.

Anti-Terrorism Act of 1987.
Palestine Liberation Organization.
22 USC 5201 note.

TITLE X—ANTI-TERRORISM ACT OF 1987

SEC. 1001. SHORT TITLE.

This title may be cited as the "Anti-Terrorism Act of 1987".

22 USC 5201.

SEC. 1002. FINDINGS; DETERMINATIONS.

(a) Findings.—The Congress finds that—

(1) Middle East terrorism accounted for 60 percent of total international terrorism in 1985;

(2) the Palestine Liberation Organization (hereafter in this title referred to as the "PLO") was directly responsible for the murder of an American citizen on the Achille Lauro cruise liner in 1985, and a member of the PLO's Executive Committee is under indictment in the United States for the murder of that American citizen;

(3) the head of the PLO has been implicated in the murder of a United States Ambassador overseas;

(4) the PLO and its constituent groups have taken credit for, and been implicated in, the murders of dozens of American citizens abroad;

(5) the PLO covenant specifically states that "armed struggle is the only way to liberate Palestine, thus it is an overall strategy, not merely a tactical phase";

(6) the PLO rededicated itself to the "continuing struggle in all its armed forms" at the Palestine National Council meeting in April 1987; and

(7) the Attorney General has stated that "various elements of the Palestine Liberation Organization and its allies and affiliates are in the thick of international terror".

(b) DETERMINATIONS.—Therefore, the Congress determines that the PLO and its affiliates are a terrorist organization and a threat to the interests of the United States, its allies, and to international law and should not benefit from operating in the United States.

SEC. 1003. PROHIBITIONS REGARDING THE PLO.

22 USC 5202.

It shall be unlawful, if the purpose be to further the interests of the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof, on or after the effective date of this title—

(1) to receive anything of value except informational material from the PLO or any of its constituent groups, any successor thereto, or any agents thereof;

(2) to expend funds from the PLO or any of its constituent groups, any successor thereto, or any agents thereof; or

(3) notwithstanding any provision of law to the contrary, to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof.

SEC. 1004. ENFORCEMENT.

22 USC 5203.

(a) ATTORNEY GENERAL.—The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of this title.

Courts, U.S.

(b) RELIEF.—Any district court of the United States for a district in which a violation of this title occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of this title.

SEC. 1005. EFFECTIVE DATE.

22 USC 5201 note.

(a) EFFECTIVE DATE.—Provisions of this title shall take effect 90 days after the date of enactment of this Act.

(b) TERMINATION.—The provisions of this title shall cease to have effect if the President certifies in writing to the President pro tempore of the Senate and the Speaker of the House that the Palestine Liberation Organization, its agents, or constituent groups thereof no longer practice or support terrorist actions anywhere in the world.

TITLE XI—GLOBAL CLIMATE PROTECTION

Global Climate Protection Act of 1987.
Environmental protection.
Pollution.
15 USC 2901 note.

SEC. 1101. SHORT TITLE.

This title may be cited as the "Global Climate Protection Act of 1987".

15 USC 2901 note.

SEC. 1102. FINDINGS.

The Congress finds as follows:

(1) There exists evidence that manmade pollution—the release of carbon dioxide, chlorofluorocarbons, methane, and other trace gases into the atmosphere—may be producing a long-term and substantial increase in the average temperature on Earth, a phenomenon known as global warming through the greenhouse effect.

(2) By early in the next century, an increase in Earth temperature could—

(A) so alter global weather patterns as to have an effect on existing agricultural production and on the habitability of large portions of the Earth; and

(B) cause thermal expansion of the oceans and partial melting of the polar ice caps and glaciers, resulting in rising sea levels.

(3) Important research into the problem of climate change is now being conducted by various United States Government and international agencies, and the continuation and intensification of those efforts will be crucial to the development of an effective United States response.

(4) While the consequences of the greenhouse effect may not be fully manifest until the next century, ongoing pollution and deforestation may be contributing now to an irreversible process. Necessary actions must be identified and implemented in time to protect the climate.

International organizations.

(5) The global nature of this problem will require vigorous efforts to achieve international cooperation aimed at minimizing and responding to adverse climate change, such international cooperation will be greatly enhanced by United States leadership. A key step in international cooperation will be the meeting of the Governing Council of the United Nations Environment Program, scheduled for June 1989, which will seek to determine a direction for worldwide efforts to control global climate change.

(6) Effective United States leadership in the international arena will depend upon a coordinated national policy.

15 USC 2901 note. International agreements. Research and development. Science and technology.

SEC. 1103. MANDATE FOR ACTION ON THE GLOBAL CLIMATE.

(a) GOALS OF UNITED STATES POLICY.—United States policy should seek to—

(1) increase worldwide understanding of the greenhouse effect and its environmental and health consequences;

(2) foster cooperation among nations to develop more extensive and coordinated scientific research efforts with respect to the greenhouse effect;

(3) identify technologies and activities to limit mankind's adverse effect on the global climate by—

(A) slowing the rate of increase of concentrations of greenhouse gases in the atmosphere in the near term; and

(B) stabilizing or reducing atmospheric concentrations of greenhouse gases over the long term; and

(4) work toward multilateral agreements.

President of U.S.

(b) FORMULATION OF UNITED STATES POLICY.—The President, through the Environmental Protection Agency, shall be responsible for developing and proposing to Congress a coordinated national policy on global climate change. Such policy formulation shall consider research findings of the Committee on Earth Sciences of the Federal Coordinating Council on Science and Engineering Technology, the National Academy of Sciences, the National Oceanic and Atmospheric Administration, the National Science Foundation, the National Aeronautic and Space Administration, the Department of Energy, the Environmental Protection Agency, and other organizations engaged in the conduct of scientific research.

(c) COORDINATION OF UNITED STATES POLICY IN THE INTERNATIONAL ARENA.—The Secretary of State shall be responsible to coordinate those aspects of United States policy requiring action through the channels of multilateral diplomacy, including the United Nations Environment Program and other international organizations. In the formulation of these elements of United States policy, the Secretary of State shall, under the direction of the President, work jointly with the Administrator of the Environmental Protection Agency and other United States agencies concerned with environmental protection, consistent with applicable Federal law.

President of U.S.

15 USC 2901 note.

SEC. 1104. REPORT TO CONGRESS.

Not later than 24 months after the date of enactment of this Act, the Secretary of State and the Administrator of the Environmental Protection Agency shall jointly submit to all committees of jurisdiction in the Congress a report which shall include—

(1) a summary analysis of current international scientific understanding of the greenhouse effect, including its environmental and health consequences;

(2) an assessment of United States efforts to gain international cooperation in limiting global climate change; and

(3) a description of the strategy by which the United States intends to seek further international cooperation to limit global climate change.

15 USC 2901 note.

SEC. 1105. INTERNATIONAL YEAR OF GLOBAL CLIMATE PROTECTION.

In order to focus international attention and concern on the problem of global warming, and to foster further work on multilateral treaties aimed at protecting the global climate, the Secretary of State shall undertake all necessary steps to promote, within the United Nations system, the early designation of an International Year of Global Climate Protection.

Union of Soviet Socialist Republics.
15 USC 2901 note.

SEC. 1106. CLIMATE PROTECTION AND UNITED STATES-SOVIET RELATIONS.

In recognition of the respective leadership roles of the United States and the Soviet Union in the international arena, and of their joint role as the world's two major producers of atmospheric pollutants, the Congress urges that the President accord the problem of climate protection a high priority on the agenda of United States-Soviet relations.

TITLE XII—REGIONAL FOREIGN RELATIONS MATTERS

PART A—SOVIET UNION AND EASTERN EUROPE

SEC. 1201. SOVIET BALLISTIC MISSILE TESTS NEAR HAWAII.

(a) FINDINGS.—The Congress finds that—

(1) the Union of Soviet Socialist Republics and the United States are presently negotiating a reduction of nuclear weapons and have recently concluded an agreement with respect to reducing the risks of accidental nuclear war;

(2) the Soviet Union has recently conducted two tests of its heavy intercontinental ballistic missiles over trajectories similar to those which could be used in actual attacks on the Hawaiian Islands;

(3) the announced impact points for reentry vehicles from these tests could have resulted in the overflight of sovereign United States territory, namely the Hawaiian Islands;

(4) the Soviet Union reportedly encrypted telemetry from the flight tests in potential violation of the provisions of bilateral arms control agreements;

(5) the Soviet Union used a directed energy device, believed to be a laser, to irradiate a United States military aircraft in international airspace that was monitoring the tests, having the potential effect of interfering with our national technical means of verification;

(6) had this test misfired, Soviet ballistic missile test reentry vehicles could have landed among the Hawaiian Islands; and

(7) the United States does not test strategic missiles in the direction of or in close proximity to sovereign Soviet territory.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the actions of the Soviet Union in testing intercontinental ballistic missiles in the Hawaiian region and irradiating United States monitoring aircraft are provocative, unnecessary, and inconsistent with behavior designed to reduce the risk of nuclear war;

(2) the United States Government—

(A) should officially and at the highest levels protest these actions by the Soviet Union and should inform the Soviet Union that it cannot tolerate flight tests in close proximity to sovereign United States territory or interference with United States monitoring aircraft; and

(B) should seek Soviet assurances that such missile testing near United States territory and irradiation of United States territory and irradiation of United States aircraft will not occur in the future; and

President of U.S.
Reports.
Classified information.

(3) the President should, within 10 days of the date of enactment of this Act, report to the Congress in both classified and unclassified form, on—

(A) the details of these Soviet missile tests, including the irradiation of the United States monitoring aircraft;

(B) Soviet explanations offered in response to United States protests; and

(C) what steps will be taken to ensure that such activities will not happen in the future.

Human rights.

SEC. 1202. EMIGRATION OF JEWS AND OTHERS WHO WISH TO EMIGRATE FROM THE SOVIET UNION.

It is the sense of the Congress that the Government of the Soviet Union should—

(1) permit the emigration of Jews and others who wish to emigrate from the Soviet Union;

(2) remove restrictions on the practice of religion and the exercise of cultural rights; and

(3) cease the official harassment of individuals who wish to emigrate, practice their religion, exercise their cultural rights, or engage in free intellectual pursuits.

SEC. 1203. SYSTEMATIC NONDELIVERY OF INTERNATIONAL MAIL ADDRESSED TO CERTAIN PERSONS RESIDING WITHIN THE SOVIET UNION.

It is the sense of the Congress that—

(1) the President should express to the Government of the Soviet Union the disapproval of the United States regarding the systematic nondelivery of international mail; and

International organizations.

(2) at the Congress of the Universal Postal Union in Washington, District of Columbia, in 1989, the Department of State should bring to the attention of other member countries of the Universal Postal Union patterns of nondelivery of international mail by the Soviet Union contrary to the Acts of the Universal Postal Union and the delegation of the United States should ask other member countries to support the adoption of amendments to the Universal Postal Convention and other measures to encourage improved postal performance by the Soviet Union.

Human rights.

SEC. 1204. UNITED STATES POLICY AGAINST PERSECUTION OF CHRISTIANS IN EASTERN EUROPE AND THE SOVIET UNION.

It is the sense of the Congress that—

(1) the President should continue to express to the governments of the Union of Soviet Socialist Republics and Eastern European countries the deep concern and opposition of the United States with respect to the harassment of Christians and other religious believers;

International organizations.

(2) the governments of the Union of Soviet Socialist Republics and Eastern European countries should comply with their commitments under the United Nations Universal Declaration of Human Rights, the International Covenants on Human Rights, the Final Act of the Conference on Security and Cooperation in Europe, and the Madrid Concluding Document; and

(3) the governments of the Union of Soviet Socialist Republics and Eastern European countries should immediately cease persecuting individuals on the basis of their faith and should afford Christians and other believers their internationally recognized right to freedom of religion.

SEC. 1205. OBSERVANCE BY THE GOVERNMENT OF ROMANIA OF THE HUMAN RIGHTS OF HUNGARIANS IN TRANSYLVANIA.

The Congress deplores activities of the Government of the Socialist Republic of Romania restricting the internationally recognized human rights of Hungarians and other nationalities in Transylvania and elsewhere in Romania.

Human rights.

SEC. 1206. SELF-DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES OF ESTONIA, LATVIA, AND LITHUANIA.

It is the sense of the Congress that—

(1) the continuing desire and right of the people of the Baltic States of Estonia, Latvia, and Lithuania for freedom and independence from the Soviet Union should be recognized; and

(2) the President should—

(A) direct world attention to the right of self-determination of the people of the Baltic States by issuing on July 26, 1988, a statement that officially informs all member nations of the United Nations of the support of the United States for self-determination of all peoples and nonrecognition of the forced incorporation of the Baltic States into the Soviet Union;

(B) call attention to violations of internationally recognized human rights in the Baltic States; and

(C) promote compliance with the human rights and humanitarian provisions of the Helsinki Final Act of the Conference on Security and Cooperation in Europe in the Baltic States.

SEC. 1207. ASSISTANCE IN SUPPORT OF DEMOCRACY IN POLAND.

(a) SUPPORT FOR SOLIDARITY.—It is the sense of the Congress that—

(1) Solidarity deserves special praise and recognition as the only free and independent trade union in Poland;

(2) Solidarity reflects the Polish people's desire for free and democratic institutions and activities; and

(3) Solidarity is one of the leading democratic representatives of the Polish working people.

(b) ASSISTANCE IN SUPPORT OF DEMOCRACY IN POLAND.—Notwithstanding any other provision of law, of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal year 1988, not less than $1,000,000 shall be available only for the unconditional support of democratic institutions and activities in Poland.

PART B—LATIN AMERICA AND CUBA

International organizations.

SEC. 1211. CUBAN HUMAN RIGHTS VIOLATIONS AND THE FAILURE OF THE UNITED NATIONS TO PLACE CUBA ON ITS HUMAN RIGHTS AGENDA.

(a) FINDINGS.—The Congress finds that—

(1) the Universal Declaration of Human Rights, which was adopted and proclaimed by the General Assembly of the United Nations, states in paragraph 2 of Article 13 that "Everyone has the right to leave any country, including his own, and to return to his country";

(2) the Universal Declaration of Human Rights states in Article 19 that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media regardless of frontiers";

(3) the Government of Cuba has violated the Cuban people's internationally recognized human rights, including freedom of movement, emigration, opinion, and expression;

(4) Cuban human rights violations are a major obstacle to improved United States-Cuban relations; and

(5) the United Nations Human Rights Commission has acted selectively in addressing human rights violations in various countries and has failed to place Cuba on its agenda despite overwhelming evidence of the continuing disregard and systematic abuse of internationally recognized human rights by the Government of Cuba.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Government of Cuba should respect internationally recognized human rights, including freedom of movement, emigration, opinion, and expression; and

(2) the United States delegation to the United Nations should continue its commendable efforts to bring this issue before the attention of the United Nations and to place Cuban human rights abuses on the agenda of the United Nations Human Rights Commission.

(c) DISTRIBUTION OF TEXT TO U.N. MEMBERS.—The Secretary of State shall cause the text of this section to be circulated by the United States among the members of the United Nations in order to highlight Cuba's behavior in violation of the Universal Declaration of Human Rights.

SEC. 1212. PARTIAL LIFTING OF THE TRADE EMBARGO AGAINST NICARAGUA.

It is the sense of Congress that the President should exempt from the trade embargo against Nicaragua those items which would benefit Nicaragua's independent print and broadcast media, private sector and trade union groups, nongovernmental service organizations, and the democratic civic opposition.

SEC. 1213. TERRORIST BOMBING IN HONDURAS.

Alfonso Guerrero Ulloa.
Mexico.

(a) FINDINGS.—The Congress finds that—

(1) a terrorist bomb exploded on August 8, 1987, in the China Palace restaurant in Comayagua, Honduras;

(2) the bomb was directed at American soldiers and did in fact wound American soldiers and an American contractor;

(3) the United States military personnel were in Honduras assigned to Joint Task Force Bravo;

(4) Honduran authorities have named Alfonso Guerrero Ulloa as a suspect in this act of terrorism and have a warrant for his arrest;

(5) the Government of Mexico, contrary to accepted norms of international law on harboring terrorists, has granted asylum to Mr. Guerrero; and

(6) the United States Government has protested to the Government of Mexico.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the United States Congress deplores the harboring of international terrorists, and

(2) the United States Government should call upon the Government of Mexico to turn Mr. Guerrero over to the Government of Honduras.

SEC. 1214. HUMAN RIGHTS IN PARAGUAY.

(a) FINDINGS.—The Congress finds that—

(1) the Government of Paraguay systematically has violated the internationally recognized human rights of its citizens;

(2) various provisions of Paraguayan law provide for the detention of individuals without trial for an indefinite period of time;

(3) the police authorities in Paraguay arbitrarily arrest and detain individuals; and

(4) the police authorities have tortured and abused prisoners, resulting in the death of a number of detainees.

(b) Sense of Congress.—The Congress expresses its outrage at the human rights abuses specified in subsection (a), pledges to continually speak out against all governments which commit such abuses, and urges the Government of Paraguay to respect the internationally recognized human rights of its citizens.

PART C—AFRICA

SEC. 1221. HUMAN RIGHTS IN ETHIOPIA.

(a) Findings.—The Congress finds that—

(1) the Government of Ethiopia has systematically violated the internationally recognized human rights of its citizens;

(2) the Government of Ethiopia holds large numbers of political prisoners and regularly detains without trial many other political opponents of the government;

(3) the Government of Ethiopia engages in torture and ill-treatment of political prisoners;

(4) reliable reports indicate that many political opponents of the Government of Ethiopia "disappear" and that approximately sixty political prisoners were executed in October 1985 without benefit of trial; and

(5) over one million Ethiopians have fled the country.

(b) Sense of Congress.—The Congress expresses its outrage at the human rights abuses specified in subsection (a), pledges to continually speak out against all governments which commit such abuses, and urges the Government of Ethiopia to respect the internationally recognized human rights of its citizens.

Union of Soviet Socialist Republics.
Cuba.
President of U.S.

SEC. 1222. UNITED STATES POLICY ON ANGOLA.

(a) Findings.—The Congress finds that—

(1) it is in the interest of peace and economic development in southern Africa for the President and the Secretary of State to discuss the conflict in Angola with Soviet leaders;

(2) the President has stated that the resolution of regional conflicts such as Angola, Afghanistan, and Nicaragua is critical to improvements in Soviet-American relations;

President of U.S.
Mikhail Gorbachev.

(3) the proposed summit between President Reagan and Secretary General Gorbachev provides the United States with an opportunity to encourage complete Soviet-Cuban withdrawal from Angola, the possible provision of humanitarian assistance, and the holding of free and fair elections;

(4) the Marxist regime in Angola known as the Popular Movement for Liberation of Angola (hereafter in this section referred to as the "MPLA") is currently launching a major dry-season offensive against the opposition involving thousands of Cuban troops and billions of dollars in sophisticated Soviet weaponry;

(5) the people of Angola are starving because of the hardships resulting from 12 years of civil war and inefficient Marxist economic policies;

(6) the MPLA regime has turned to the international community for substantial food aid while continuing to spend most of Angola's national budget on sustaining the war effort, including payments for Cuban troops and Soviet arms; and

South Africa.

(7) the growing intensity of the war, the starvation and mounting suffering of the Angolan people, the continued presence in Angola of 37,000 Cuban combat troops and South Afri-

can forces, the continued presence and active involvement of 2,500 Soviet military advisers, and the refusal of the MPLA to negotiate with the opposition, increase the urgency of reaching a peaceful solution.

(b) POLICY.—It is the sense of the Congress that—

(1) the United States should continue to work toward a peaceful resolution to the Angolan conflict that includes—

(A) the complete withdrawal of all foreign forces and Soviet military advisers;

(B) a negotiated settlement to the 12-year conflict leading to the formation of a government of national unity and the holding of free and fair elections; and

President of U.S.

(C) efforts by the President and the Secretary of State to convey to Soviet leaders at the proposed summit and in other meetings that the aggressive military build-up in Angola undermines positive bilateral relations and that the United States is committed to supporting democratic forces in Angola until democracy is achieved;

Human rights.

(2) the people of Angola should not be left to starve because of the MPLA regime;

Human rights.

(3) the United States should consider responding to the humanitarian needs of the Angolan people, and if humanitarian assistance is provided, such assistance should be distributed in an evenhanded manner, so that Angolans throughout the entire war-torn country are provided with food and basic medical care;

(4) any humanitarian assistance should be distributed through private and voluntary organizations or nongovernmental organizations; and

Reports.

(5) within 180 days after the date of the enactment of this Act, the Secretary of State should prepare and transmit to the Congress a report detailing the progress of discussions between the Soviet Union and the United States on the conflict in Angola.

Human rights.
Reports.

SEC. 1223. FORCED DETENTION BY THE AFRICAN NATIONAL CONGRESS AND THE SOUTH AFRICAN GOVERNMENT.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress on any detention camps maintained by the African National Congress and on detention in South Africa since the South African Government enacted a State of Emergency in June 1986.

Human rights.

SEC. 1224. DETENTION OF CHILDREN IN SOUTH AFRICA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Republic of South Africa under its system of apartheid repeatedly has detained black children without charge or trial, and has denied parental access to these children for extended periods of time;

(2) the Detainees' Parents' Support Committee of South Africa has compiled information estimating that more than 25,000 people were detained since June 12, 1986, under state of emergency regulations, and approximately 10,000 of these were children, including some as young as age 10;

(3) the Government of the Republic of South Africa has stated on numerous occasions that it has detained children without charge, and that on a certain day in December 1986, 256 children under the age of 16 were in detention; that on a certain

day in February 1987, 281 children under the age of 15 were in detention; that on a certain day in April 1987, 1,424 children under the age of 18 were in detention; and that on a certain day in May 1987, 280 children under the age of 16 were in detention; and that as of June 2, stated that eleven children under the age of 16 were in detention; and as of October, 69 children under the age of 18 are still in detention; and

(4) human rights groups in South Africa estimate that many more children have been detained under state of emergency regulations than the Government of the Republic of South Africa admits;

(5) the state of emergency regulations allow for the detention of individuals without charge for an indefinite period of time; and

Edward J. Perkins.

(6) the United States Ambassador to South Africa Edward J. Perkins has stated that such detentions are "a most serious abuse of human rights, particularly so where detainees are children as young as 11".

(b) POLICY.—The Congress hereby—

(1) calls for the cessation of the practice of detaining children under 18 years of age without charge or trial in South Africa;

(2) calls for the South African Government either to release all children in South Africa held under state of emergency regulations and other laws which authorize detention without charge or, in those cases where an internationally recognized criminal act has allegedly been committed, charge them and allow them their rights of a fair and public trial;

(3) pending the release of the children, calls on the Government of the Republic of South Africa to—

(A) permit the detained children immediate and frequent access to parents and legal counsel;

(B) make public the names and locations of all the detained children;

(C) provide the detained children with adequate food, clothing, and protection; and

(D) permit a recognized, independent, and impartial international humanitarian organization to verify that the provisions of this section are being carried out and that the detained children are not being abused, tortured, or held in solitary confinement, and are not being held in detention in the company of adults; and

(4) calls for the apprehension and trial of all those individuals who execute children by violent activities, including necklacing, and the cessation of these activities.

PART D—MIDDLE EAST

International organizations.
Israel.
Union of Soviet Socialist Republics.

SEC. 1231. MIDDLE EAST PEACE CONFERENCE.

(a) FINDINGS.—The Congress finds that—

(1) the General Assembly of the United Nations recognized the sovereignty of the State of Israel through Resolution 181 of 1947 and the right of all Israeli citizens to live within secure and recognized boundaries through Resolutions 242 and 338 of 1973;

(2) the Government of the Soviet Union severed diplomatic relations with the State of Israel in 1967 and has opposed every recent United States initiative for direct, bilateral negotiations

among the warring parties of the Middle East including the Camp David accords of 1979 and the Reagan plan of 1982;

(3) the Government of the Soviet Union has further demonstrated its lack of respect for the integrity of the Israeli state by systematically denying exit visas to Soviet Jews who wish to live and work in the State of Israel; and

Human rights.

(4) a permanent and equitable settlement of the Middle Eastern conflict can result only from agreements between the Arab States and Israel.

(b) Policy.—It is the sense of the Congress that the United States should not actively encourage the participation of the Soviet Union in any conference, meeting, or summit on the Arab-Israeli conflict which includes nations other than those in the Middle East unless the Government of the Soviet Union has either—

(1)(A) reestablished diplomatic relations with the State of Israel at the ambassadorial level;

(B) publicly reaffirmed its acceptance of United Nations Resolutions 242 and 338; and

(C) substantially increased and maintained the number of exit visas granted to Jewish individuals and families within the Soviet Union who have applied for emigration to the State of Israel; or

Human rights.

(2) been jointly invited by the governments of the states in the region involved in the talks.

SEC. 1232. UNITED STATES POLICY TOWARD LEBANON.

Agriculture and agricultural commodities.
Hunger.

(a) Findings.—The Congress makes the following findings:

(1) After nearly 13 years of civil conflict and foreign intervention, the situation in Lebanon appears no closer to resolution.

(2) Through most of the last dozen years, the Lebanese have managed to continue economic activity sufficient to stave off economic collapse and provide its citizens with basic necessities.

(3) During the past year, however, the collapse in the value of the Lebanese pound from less than 40 to the dollar to nearly 300 has made the importation of wheat, rice, and other basic commodities prohibitively expensive.

(4) As a result, for the first time, the Lebanese are faced with the prospect of starvation.

(5) Hizballah and other radical elements are taking advantage of the current economic crisis by providing foreign supplied food. In so doing, they are winning converts to their cause and radicalizing the youth.

(6) It is in the interest of the United States to support the traditional Lebanese free enterprise system of distribution of food which until now has been able to compete successfully with these radical movements.

(b) Sense of Congress.—It is the sense of the Congress that the United States should base its policy toward Lebanon on the following principles:

(1) Preservation of the unity of Lebanon.

(2) Withdrawal of all foreign forces from Lebanon.

(3) Recognition of and respect for the territorial integrity of Lebanon.

(4) Reassertion of Lebanese sovereignty throughout the nation and recognition that it is the responsibility of the Government of Lebanon for its safekeeping.

Terrorism.

(5) Reestablishment of the authority of the Government of Lebanon throughout the nation is a prerequisite for a lasting solution to the problem of international terrorism emanating from Lebanon.

(c) FURTHER SENSE OF CONGRESS.—It is the further sense of Congress that the provision of at least 200,000 tons of wheat and 30,000 tons of rice through Public Law 480, title I and section 416 of the Agriculture Act of 1949 to the Government of Lebanon is in the interest of the United States. Provision of this assistance will meet the United States policy objective of strengthening the Central Government as well as helping alleviate a serious hunger problem.

Maritime affairs.

SEC. 1233. ACTING IN ACCORDANCE WITH INTERNATIONAL LAW IN THE PERSIAN GULF.

(a) FINDINGS.—The Congress makes the following findings:

(1) According to Article 2 of the 1958 Geneva Convention on the High Seas, every state is entitled to exercise free and open use of the high seas for the navigation of its vessels.

Armed Forces.
Iran.

(2) On September 22, 1987, United States Navy forces discovered the Iranian ship Iran Ajr laying mines in international waters of the Persian Gulf, and fired upon that ship to help terminate the mining.

President of U.S.

(3) On September 23, 1987, President Reagan declared that this United States action was "authorized by law", and a statement was issued by the State Department that the United States had the right under international law to use "reasonable and proportionate force" to terminate the mining.

(b) POLICY.—It is the sense of the Congress that—

Iran.

(1) by mining the high seas of the Persian Gulf without notifying nonbelligerent nations engaged in maritime commerce, the Government of Iran violated international law;

Armed Forces.

(2) the use of force by the United States Navy to terminate that Iranian mining was justified under international law; and

(3) fostering broader adherence to international law promotes the security interests of the United States.

SEC. 1234. UNITED STATES POLICY TOWARD THE IRAN-IRAQ WAR.

(a) FINDINGS.—The Congress finds that—

(1) the continuation of the Iran-Iraq war threatens the security and stability of all states in the Persian Gulf;

Petroleum and petroleum products.

(2) stability in the Persian Gulf and the flow of oil is critical to world trade and the economic health of the West;

(3) the conflict between Iran and Iraq threatens United States strategic and political interests in the region;

(4) the conflict threatens international commercial shipping interests and activities; and

(5) the Iran-Iraq war has continued seven years with more than 1,500,000 casualties.

International organizations.

(b) POLICY.—The Congress declares it to be the policy of the United States consistent with United Nations Security Council Resolution 598—

(1) to support the withdrawal of both Iran and Iraq to internationally recognized boundaries;

(2) to support an immediate cease-fire;

(3) to endorse the peaceful resolution of this conflict under the auspices of the United Nations;

(4) to encourage all governments to refrain from providing military supplies to any party which refuses to abide by United Nations Security Council Resolution 598;

Terrorism.

(5) to recognize that stability and security in the Persian Gulf will only be achieved if Iran and Iraq are at peace and agree not to interfere in the affairs of other nations through military action or the support of terrorism; and

(6) to urge strict observance of international humanitarian law by both sides and to support financially the International Committee of the Red Cross' special appeal for prisoners of war.

SEC. 1235. IRAN HUMAN RIGHTS VIOLATIONS.

International organizations.

(a) FINDINGS.—The Congress finds that—

(1) the United Nations has passed nine resolutions condemning the violation of human rights in Iran;

(2) the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities stressed in Resolution 1987-12 that to date, more than two-hundred thousand Iranians have been imprisoned, tortured or executed because of their beliefs;

(3) the United Nations Commission on Human Rights confirms seven thousand executions in Iran between 1978 and 1985, and attests that the actual number is probably much higher;

(4) despite the persistent requests over the past six years by the United Nations and by many human rights organizations that the Iranian Government allow a special representative of the United Nations Security Council to inspect Iranian prisons and to determine the true extent of torture in Iran, such requests have been ignored by the Iranian Government;

(5) executions, including executions of children and members of religious minorities, still take place in Iran;

(6) the Khomeini government has brought the domestic economy of Iran to the brink of ruin by pouring the resources of the country into war making;

(7) Iran has rejected all proposals to end the seven year Iran-Iraq war;

(8) Iran has not responded positively to United Nations Security Council Resolution 598 which calls for an end to the Iran-Iraq war;

(9) the Khomeini government continues to attack and intimidate the other countries of the Persian Gulf region; and

Terrorism.

(10) it is known that the Khomeini government supports terrorism and has used hostage taking as an instrument of foreign policy.

(b) POLICY.—Now, therefore, the Congress—

(1) expresses concern for those citizens who must endure war and unprecedented repression;

(2) supports an official United States policy of completely halting the shipment of any kind of armament to the Government of Iran; and

President of U.S.

(3) urges that the President continue to make every effort to cooperate with the other nations of the United Nations to bring about an end to government sponsored torture in Iranian prisons, to pressure Iran to permit inspection of Iranian prisons by an international delegation, and to respect internationally recognized human rights.

Human rights.

SEC. 1236. IRANIAN PERSECUTION OF THE BAHA'IS.

(a) POLICY.—It is the sense of the Congress that—

(1) the Government of Iran has systematically discriminated against the Baha'i community, including the arbitrary detention, torture, and killing of Baha'is, the seizure of Baha'i property, and the outlawing of the Baha'i faith; and

(2) Iran's gross violations of the human rights of the Baha'i community are in direct contravention of the Charter of the United Nations and the United Nations Declaration of Human Rights.

(b) IMPLEMENTATION OF POLICY.—It is the sense of Congress that the President shall take all necessary steps to focus international attention on the plight of the Baha'i community and to bring pressure to bear on the Government of Iran to cease its insidious policy of persecution.

PART E—ASIA

Human rights.

SEC. 1241. SOVIET OCCUPATION OF AFGHANISTAN.

(a) FINDINGS ON SOVIET ACTIONS IN AFGHANISTAN.—The Congress finds that—

(1) the Soviet Union has been waging war against the people of Afghanistan since the invasion of December 25, 1979;

(2) the victims of the Soviet invasion and occupation include more than 1,000,000 dead and more than 3,000,000 Afghans forced to find refuge in neighboring countries;

(3) Soviet military tactics have included the bombing and napalming of villages without regard to the human toll, the destruction of crops, agricultural land, and orchards so as to create famine conditions, and the massacre of hostages and other innocent civilians;

Children and youth.

(4) children have been particular victims of Soviet aggression, with some being targeted for death by the dropping of booby-trapped toys while other children have been transported to the Soviet Union for indoctrination;

(5) the Soviet-installed puppet regime has engaged in a consistent pattern of gross violations of the human rights of its own citizens, including torture and summary execution, for which its Soviet sponsors must also be held accountable; and

(6) Soviet actions in Afghanistan constitute a violation of international law and of accepted norms of human decency and, therefore, must be condemned by civilized people everywhere.

(b) FINDINGS ON THE AFGHAN RESISTANCE.—The Congress further finds that—

(1) the Afghan people have heroically resisted the Soviet invaders in spite of the tremendous cost of so doing and now control most of their homeland;

(2) the provision of effective assistance to the Afghan people is an obligation of those who cherish freedom;

(3) a total and prompt withdrawal of all Soviet forces from Afghanistan is essential in order for the Afghan people to exercise their inalienable human right to self-determination; and

(4) a negotiated settlement providing for the total and prompt withdrawal of Soviet forces offers the best prospect for an early end to the suffering of the Afghan people.

(c) Declaration of Policy.—The Congress, therefore, declares it to be the policy of the United States—

(1) to provide such assistance to the Afghan people as will most effectively help them resist the Soviet invaders;

(2) to support a negotiated settlement to the Afghanistan war providing for the prompt withdrawal of all Soviet forces from Afghanistan within a time frame based solely on logistical criteria; and

(3) to communicate clearly to the Government and people of the Soviet Union the necessity of a Soviet withdrawal from Afghanistan as a condition for better relations between the United States and the Soviet Union.

President of U.S.

(d) Provision of Assistance.—The President and Secretary of State are directed to adopt policies and programs to ensure that all assistance intended for the Afghan people reaches its intended recipients and that theft or diversion of such assistance not be tolerated.

SEC. 1242. REPORT ON ADMINISTRATION POLICY ON AFGHANISTAN.

(a) Findings.—The Congress finds that—

Union of Soviet Socialist Republics.

(1) each of the substantive sanctions imposed on the Soviet Union by the United States to protest the Soviet invasion of Afghanistan have been lifted;

(2) although the administration's policy on Afghanistan states that only "steadily increasing pressure on all fronts—military, political, diplomatic—will induce the Soviets to make the political decision to negotiate the withdrawal of their forces", political and diplomatic pressures on the Soviet Union have decreased rather than increased;

(3) in the absence of a coordinated and aggressive policy by the administration regarding the war in Afghanistan, the Congress has been forced to unilaterally implement numerous programs to bring "steadily increasing pressure" to bear on the Soviet Union; and

Human rights.

(4) despite the failure of Soviet troops to withdraw from Afghanistan, and the serious deterioration with regard to the situation of human rights in Afghanistan, the administration is planning to lift further sanctions and initiate increasing areas of cooperation with the Soviet Union.

(b) Report to Congress.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the chairman of the Senate Foreign Relations Committee and the chairman of the House Foreign Affairs Committee with a report listing each sanction imposed against the Soviet Union by the United States since the first anniversary of the Soviet invasion of Afghanistan, a detailed explanation for the lifting of each sanction, and a detailed analysis of the benefit to the Soviet Union incurred by the lifting of each sanction.

(2) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the chairman of the Senate Foreign Relations Committee and the chairman of the House Foreign Affairs Committee a comprehensive list of all areas of ongoing cooperation that could be withheld from the Soviet Union.

Classified information.

(3) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the chairman of the Senate Foreign Relations Committee and the chairman of the House Foreign Affairs Committee with a detailed and comprehensive report in

a suitably classified form, and in an unclassified form, containing the disposition of Soviet military forces in the Afghanistan region and an account of any troop withdrawals and any new troop deployments.

Dalai Lama.

SEC. 1243. HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) on October 1, 1987, Chinese police in Lhasa fired upon several thousand unarmed Tibetan demonstrators, which included hundreds of women, children, and Tibetan Buddhist monks, killing at least six and wounding many others;

(2) on September 27, 1987, a peaceful demonstration in Lhasa calling for Tibetan independence and the restoration of human rights in Tibet, which was led by hundreds of Tibetan monks, was violently broken up by Chinese authorities and 27 Tibetan Buddhist monks were arrested;

(3) in the wake of His Holiness the Dalai Lama's five point peace plan, which was presented to Members of the United States Congress during his visit to Washington in September 1987, Chinese authorities in Tibet staged, on September 24, 1987, a mass political rally at which three Tibetans were given death sentences, two of whom were executed immediately;

(4) beginning October 7, 1950, the Chinese Communist army invaded and occupied Tibet;

(5) since that time, the Chinese Government has exercised dominion over the Tibetan people, who had always considered themselves as independent, through the presence of a large occupation force;

(6) over 1,000,000 Tibetans perished from 1959 to 1979 as a direct result of the political instability, executions, imprisonment, and widescale famine engendered by the policies of the People's Republic of China in Tibet;

(7) after 1950, particularly during the ravages of China's Cultural Revolution, over 6,000 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, were destroyed and their irreplaceable national legacy of art and literature either destroyed, stolen, or removed from Tibet;

(8) the exploitation of Tibet's vast mineral, forest, and animal reserves has occurred with limited benefit to the Tibetan people;

(9) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(10) the People's Republic of China has encouraged a large influx of Han-Chinese into Tibet, thereby undermining the political and cultural traditions of the Tibetan people;

(11) there are credible reports of many Tibetans being incarcerated in labor camps and prisons and killed for the nonviolent expression of their religious and political beliefs;

(12) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the 100,000 refugees forced into exile with him, has worked tirelessly for almost 30 years to secure peace and religious freedom in Tibet, as well as the preservation of the Tibetan culture;

(13) in 1959, 1961, and 1965, the United Nations General Assembly called upon the People's Republic of China to end the violations of Tibetans' human rights;

International organizations.

(14) on July 24, 1985, 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetans in exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified aspirations of His Holiness the Dalai Lama and his people every consideration";

Li Xiannian.

(15) on September 27, 1987, the chairman and ranking minority member of the Senate Foreign Relations Committee, the chairman and ranking minority member of the House Foreign Affairs Committee, and the Co-Chairman of the Congressional Human Rights Caucus signed a letter to his Excellency Zhao Ziyang, the Prime Minister of the People's Republic of China, expressing their "grave concern with the present situation in Tibet and welcome(d) His Holiness the Dalai Lama's (five point) proposal as an historic step toward resolving the important question of Tibet and alleviating the suffering of the Tibetan people . . . (and) express(ing) their full support for his proposal."; and

Zhao Ziyang.

(16) there has been no positive response by the Government of the People's Republic of China to either of these communications.

(b) STATEMENT OF POLICIES.—It is the sense of the Congress that—

(1) the United States should express sympathy for those Tibetans who have suffered and died as a result of fighting, persecution, or famine over the past four decades;

(2) the United States should make the treatment of the Tibetan people an important factor in its conduct of relations with the People's Republic of China;

(3) the Government of the People's Republic of China should respect internationally recognized human rights and end human rights violations against Tibetans;

(4) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialogue on the future of Tibet;

(5) Tibetan culture and religion should be preserved and the Dalai Lama should be commended for his efforts in this regard;

(6) the United States, through the Secretary of State, should address and call attention to the rights of the Tibetan people, as well as other non-Han-Chinese within the People's Republic of China such as the Uighurs of Eastern Turkestan (Xinjiang), and the Mongolians of Inner Mongolia;

Mongolia.

(7) the President should instruct United States officials, including the United States Ambassadors to the People's Republic of China and India, to pay greater attention to the concerns of the Tibetan people and to work closely with all concerned about human rights violations in Tibet in order to find areas in which the United States Government and people can be helpful; and

President of U.S.

(8) the United States should urge the People's Republic of China to release all political prisoners in Tibet.

(c) TRANSFER OF DEFENSE ARTICLES.—With respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China, the United States Government shall, consistent with United States law, take into account the extent to which the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

Reports.

(d) MIGRATION AND REFUGEE ASSISTANCE.—Within 60 days after the date of the enactment of this Act, the Secretary of State shall determine whether the needs of displaced Tibetans are similar to those of displaced persons and refugees in other parts of the world and shall report that determination to the Congress. If the Secretary makes a positive determination, of the amounts authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, such sums as are necessary shall be made available for assistance for displaced Tibetans. The Secretary of State shall determine the best means for providing such assistance.

Appropriation authorization.

(e) SCHOLARSHIPS.—For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than 15 scholarships for study at institutions of higher education in the United States.

Vietnam.

SEC. 1244. SUPPORT FOR THE RIGHT OF SELF-DETERMINATION FOR THE CAMBODIAN PEOPLE.

(a) FINDINGS.—The Congress finds that—

(1) the Socialist Republic of Vietnam, in violation of its obligations under international law including the United Nations Charter, invaded Cambodia in December 1978;

Heng Samrin.

(2) in January 1979, Vietnam installed a puppet government in Phnom Penh, Cambodia, headed by Heng Samrin;

Union of Soviet Socialist Republics.

(3) eight years later Vietnam continues, with Soviet backing, to occupy Cambodia with some 140,000 troops;

(4) by invading and occupying Cambodia, the Government of the Socialist Republic of Vietnam violated its obligation, undertaken upon becoming a member of the United Nations in 1977, not to use force against the territorial integrity or political independence of any state;

(5) Vietnam has attempted to submerge Cambodian culture and heritage through the settlement of large numbers of Vietnamese in Cambodia;

Human rights.

(6) human rights observers have noted a pattern of torture, political detention, inhumane treatment, and other abuses of human rights by officials of the Vietnamese-backed puppet Cambodian regime;

Pol Pot.

(7) the Vietnamese occupation of Cambodia has compounded the hardship and suffering of a people which had previously suffered barbaric crimes of genocide under Pol Pot's Khmer Rouge and has caused hundreds of thousands of Cambodians to flee their own country;

Heng Samrin.
Norodom Sihanouk.

(8) in recognition of the illegal occupation of Cambodia by the Vietnamese, the United Nations has refused to recognize the credentials of the Heng Samrin regime and has instead continued to recognize the credentials of the Government in Exile led by Prince Norodom Sihanouk;

(9) the member states of the United Nations for the eighth time, and by a record vote, approved a resolution at the forty-second session of the General Assembly calling for the withdrawal of foreign troops from Cambodia;

(10) the 1981 United Nations-sponsored International Conference on Kampuchea called for the early withdrawal of foreign troops and the holding of free elections under United Nations supervision;

(11) the Government of the Socialist Republic of Vietnam has thus far rejected the efforts of the Association of Southeast Asian Nations and supported by the United States to resolve the situation in Cambodia; and

(12) in the absence of a settlement, the non-Communist Cambodian forces continue to wage a war of resistance against Vietnamese occupation forces.

(b) STATEMENT OF POLICY.—The Congress— Pol Pot.

(1) deplores the continued violation of the sovereignty and territorial independence of Cambodia by the Socialist Republic of Vietnam;

(2) calls upon the Government of the Socialist Republic of Vietnam to immediately withdraw all of its occupation forces from Cambodia and to negotiate a settlement which restores self-determination to the Cambodian people;

(3) believes that such negotiations and withdrawal by Vietnam, together with a satisfactory accounting of Americans still missing in action, would constitute positive steps that would help facilitate the prospect of an end to Vietnam's isolation in the world community and an improvement of its relations with the United States;

(4) supports the efforts of the member nations of the Association of Southeast Asian Nations (ASEAN), the United Nations Secretary General, and the non-Communist Cambodian people to achieve a political settlement which would include such elements as internationally supervised free and fair elections, as well as assurances that there will be no return to the genocidal policies of the Pol Pot regime;

(5) supports efforts to establish an international tribunal to bring to justice those Khmer Rouge leaders during the reign of Pol Pot, and any others, responsible for crimes of genocide against the Cambodian people; and

(6) calls upon the international community to observe a special day of remembrance—

(A) in recognition of the suffering of the Cambodian people under Pol Pot,

(B) in protest of the efforts of Vietnam to suppress the basic human rights, culture, and way of life of the Cambodian people, and

(C) in protest of the illegal occupation of Cambodia by Vietnamese troops.

SEC. 1245. HUMAN RIGHTS IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) the advancement of human rights is a stated objective of the foreign policy of the United States;

(2) the constitutional guarantees of freedom of speech, press, and peaceful assembly have not been adequately respected in the People's Republic of China;

Religion.

(3) the exercise of religious activities has a detrimental effect on a participant's civil, social, and economic status within the People's Republic of China;

(4) the freedom of movement and the freedom to form independent trade unions and other voluntary associations are severely curtailed;

(5) there have been some encouraging developments including an effort by the current leadership of the People's Republic of China to develop economic policies without regard to a rigid application of Maoist ideology; and

(6) the American people desire to extend their moral support to the struggle for freedom and justice within the People's Republic of China.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the leadership of the People's Republic of China should take necessary steps toward establishing a more democratic society, with a free and open political system that will protect the essential human rights of all people living within that country.

SEC. 1246. DEMOCRACY IN TAIWAN.

(a) FINDINGS.—The Congress finds that—

(1) stability and peace prevail on the island of Taiwan and in the Western Pacific region;

(2) economic vitality, educational advancement, and social progress have created conditions favoring the furtherance of democracy in Taiwan;

(3) the people of Taiwan, in both national and local elections, have shown themselves fully capable of participating in a democratic political process;

(4) the authorities on Taiwan are nurturing a transition toward more truly democratic and representative political institutions, although a minority of the seats in the central legislature and central electoral college are filled through periodic elections, with the majority of seats still being held by individuals who took office in the late 1940s;

(5) on September 28, 1986, Taiwan's democratic opposition announced the formation of the Democratic Progressive Party;

Chiang Ching-kuo.

(6) on October 7, 1986, President Chiang Ching-kuo, announced that the Kuomintang intended to end the state of martial law and to lift the ban on the creation of new political parties;

Human rights.

(7) the lifting of martial law in July and the release of detainees symbolize the growing respect for human rights and freedom of expression on Taiwan;

(8) the Kuomintang has indicated a desire over the next few years to make more representative Taiwan's central representative bodies, to broaden decisionmaking within the Nationalist Party, to enhance the rule of law, and to increase the powers of local-level government; and

Human rights.

(9) our common commitment to democratic institutions and values is an increasingly strong bond between the people of the United States and the people of Taiwan and an acceleration of progress toward a full democracy on Taiwan, including full respect for human rights, will strengthen United States ties with the people on Taiwan.

(b) SENSE OF CONGRESS.—The Congress—

(1) welcomes the democratic trends emerging in Taiwan and commends the progress that has been made recently in advancing democratic institutions and values;

(2) welcomes the lifting of martial law and looks forward to the lifting of the ban on new political parties;

(3) encourages the leaders and peoples of Taiwan to continue this process with the aim of consolidating fully democratic institutions, in particular by—

(A) guaranteeing freedom of speech, expression, and assembly; and

(B) gradually moving toward a fully representative government, including the free and fair election of all members of all central representative bodies; and

(4) requests the American Institute in Taiwan to convey this Nation's continuing support for a democratic and prosperous Taiwan, as stated in the Taiwan Relations Act, and our encouragement for democracy to the leaders and the people of Taiwan.

PART F—MISCELLANEOUS

SEC. 1251. REPORTS ON ILLEGAL TECHNOLOGY TRANSFERS.

Japan.
Union of Soviet Socialist Republics.
Norway.
Espionage.
Defense and national security.

(a) Report.—Not later than 30 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate committees of the Congress a report concerning:

(1) The status of the Japanese Government investigation of the transfer of milling machines to the Soviet Union by Toshiba Machine Company, including any prosecution, fine, or other government action.

(2) The status of the Norwegian Government investigation of the transfer of numerical controllers by Kongsberg Vappenfabrik (KV) to the Soviet Union, including any prosecution, fine, or other government action.

(3) Actions undertaken by the Japanese and Norwegian Governments to ensure that such transfers or other breaches of security related to international espionage do not recur.

(4) Actions and plans of the United States Government to respond to such cases of international espionage.

(b) Discussions.—The Secretary of State shall enter into discussions with Japan and Norway regarding compensation for damage to United States national security resulting from such cases of international espionage. The Secretary shall submit a preliminary report to the appropriate committees of the Congress concerning the status of such discussions 180 days after the date of enactment of this Act and shall submit a final report 360 days after the date of enactment of this Act. The Secretary may submit such other subsequent reports as may be appropriate.

SEC. 1252. REPORT ON PROGRESS TOWARD A WORLD SUMMIT ON TERRORISM.

President of U.S.

It is the sense of the Congress that the President should convene a summit meeting of Western world leaders to adopt a unified effective program against international terrorism.

SEC. 1253. PROTECTION OF AMERICANS ENDANGERED BY THE APPEARANCE OF THEIR PLACE OF BIRTH ON THEIR PASSPORTS.

Terrorism.

(a) FINDINGS.—The Congress finds that some citizens of the United States may be specially endangered during a hijacking or other terrorist incident by the fact that their place of birth appears on their United States passports.

(b) DISCUSSIONS.—The Congress urges the President to enter into discussions with other countries regarding the feasibility of a general agreement permitting the deletion of the place of birth as a required item of information on passports.

International organizations.
Japan.
Federal Republic of Germany.

SEC. 1254. SUPPORT OF MUTUAL DEFENSE ALLIANCES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Japan, the member nations of the North Atlantic Treaty Organization (NATO), and other countries rely heavily on the United States to protect their national security under mutual defense alliances.

(2) The United States spends tens of billions of dollars annually to assist in the defense of allies of the United States.

(3) The financial burden of mutual defense assumed by many NATO allies and particularly Japan is not commensurate with their economic resources, and, as a result, the United States bears a disproportionately large share of the financial burden of supporting such mutual defense.

(4) While the United States is currently spending 6.5 percent of its gross national product on defense, our NATO allies spend an average of 3.5 percent of their gross national products on defense and Japan spends only 1.0 percent of its gross national product on defense.

(5) United States allies, particularly West Germany and Japan, have derived tremendous economic benefit from the free trade system among the Western countries, accumulating in certain cases large payments surpluses, while protected through military alliances to which the United States has made an overwhelming commitment of resources.

(6) The greatest weakness in the ability of the United States to sustain the mutual defense of the United States and its allies is not the military capability of the United States, but rather the economic vulnerability of the United States.

(7) The Federal budget deficit must be reduced in order to revitalize the economy.

(8) The continued unwillingness of the allies of the United States to increase their contributions to the common defense to more appropriate levels could weaken the long-term vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) POLICY.—It is the sense of the Congress that—

(1) the President should enter into discussions with countries which participate in mutual defense alliances with the United States, especially the member nations of NATO and Japan, for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliances;

(2) the objective of such discussions with the member nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for

defense spending between those allies and the United States that is commensurate with their resources;

President of U.S. Reports.

(3) the President should report to the Congress, within one year after the date of the enactment of this Act, on the progress of such discussions; and

President of U.S. Reports.

(4) if, in the judgment of the Congress, the President's report does not reflect substantial progress toward a more equitable distribution of defense expenses among the members of a mutual defense alliance, the Congress should review the extent of the distribution of the mutual defense burden among our allies and consider whether additional legislation is appropriate.

SEC. 1255. ARMS EXPORT CONTROL ENFORCEMENT AND COORDINATION.

(a) EXPORT LICENSES.—Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended by adding at the end the following new subsection:

President of U.S.

"(g)(1) The President shall develop appropriate mechanisms to identify, in connection with the export licensing process under this section—

"(A) persons who are the subject of an indictment for, or have been convicted of, a violation under—

"(i) this section,

"(ii) section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410),

Espionage. Defense and national security. Classified information.

"(iii) section 793, 794, or 798 of title 18, United States Code (relating to espionage involving defense or classified information),

"(iv) section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16),

"(v) section 206 of the International Emergency Economic Powers Act (relating to foreign assets controls; 50 U.S.C. App. 1705),

"(vi) section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) or section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd-2),

Sabotage.

"(vii) chapter 105 of title 18, United States Code (relating to sabotage),

Classified information.

"(viii) section 4(b) of the Internal Security Act of 1950 (relating to communication of classified information; 50 U.S.C. 783(b)),

"(ix) section 57, 92, 101, 104, 222, 224, 225, or 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2077, 2122, 2131, 2134, 2272, 2274, 2275, and 2276),

Classified information.

"(x) section 601 of the National Security Act of 1947 (relating to intelligence identities protection; 50 U.S.C. 421), or

"(xi) section 603 (b) or (c) of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5113 (b) and (c));

"(B) persons who are the subject of an indictment or have been convicted under section 371 of title 18, United States Code, for conspiracy to violate any of the statutes cited in subparagraph (A); and

"(C) persons who are ineligible—

"(i) to contract with,

"(ii) to receive a license or other form of authorization to export from, or

Imports.

"(iii) to receive a license or other form of authorization to import defense articles or defense services from,

any agency of the United States Government.

President of U.S.

"(2) The President shall require that each applicant for a license to export an item on the United States Munitions List identify in the application all consignees and freight forwarders involved in the proposed export.

"(3) If the President determines—

"(A) that an applicant for a license to export under this section is the subject of an indictment for a violation of any of the statutes cited in paragraph (1),

"(B) that there is reasonable cause to believe that an applicant for a license to export under this section has violated any of the statutes cited in paragraph (1), or

"(C) that an applicant for a license to export under this section is ineligible to contract with, or to receive a license or other form of authorization to import defense articles or defense services from, any agency of the United States Government,

President of U.S.

the President may disapprove the application. The President shall consider requests by the Secretary of the Treasury to disapprove any export license application based on these criteria.

"(4) A license to export an item on the United States Munitions List may not be issued to a person—

"(A) if that person, or any party to the export, has been convicted of violating a statute cited in paragraph (1), or

President of U.S.

"(B) if that person, or any party to the export, is at the time of the license review ineligible to receive export licenses (or other forms of authorization to export) from any agency of the United States Government,

except as may be determined on a case-by-case basis by the President, after consultation with the Secretary of the Treasury, after a thorough review of the circumstances surrounding the conviction or ineligibility to export and a finding by the President that appropriate steps have been taken to mitigate any law enforcement concerns.

"(5) A license to export an item on the United States Munitions List may not be issued to a foreign person (other than a foreign government).

"(6) The President may require a license (or other form of authorization) before any item on the United States Munitions List is sold or otherwise transferred to the control or possession of a foreign person or a person acting on behalf of a foreign person.

President of U.S.

Federal Register, publication.

"(7) The President shall, in coordination with law enforcement and national security agencies, develop standards for identifying high-risk exports for regular end-use verification. These standards shall be published in the Federal Register and the initial standards shall be published not later than October 1, 1988.

Defense and national security.
Law enforcement and crime.

"(8) Upon request of the Secretary of State, the Secretary of Defense and the Secretary of the Treasury shall detail to the office primarily responsible for export licensing functions under this section, on a nonreimbursable basis, personnel with appropriate expertise to assist in the initial screening of applications for export licenses under this section in order to determine the need for further review of those applications for foreign policy, national security, and law enforcement concerns.

"(9) For purposes of this subsection—

"(A) the term 'foreign corporation' means a corporation that is not incorporated in the United States;

"(B) the term 'foreign government' includes any agency or subdivision of a foreign government, including an official mission of a foreign government;

"(C) the term 'foreign person' means any person who is not a citizen or national of the United States or lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act, and includes foreign corporations, international organizations, and foreign governments;

"(D) the term 'party to the export' means—

"(i) the president, the chief executive officer, and other senior officers of the license applicant;

"(ii) the freight forwarders or designated exporting agent of the license application; and

"(iii) any consignee or end user of any item to be exported; and

"(E) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities.".

(b) REVIEW OF MUNITIONS CONTROL REGISTRATIONS.—Section 38(b)(1) of that Act is amended— 22 USC 2778.

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new paragraph:

"(B) A copy of each registration made under this paragraph shall be transmitted to the Secretary of the Treasury for review regarding law enforcement concerns. The Secretary shall report to the President regarding such concerns as necessary.". Reports.

(c) MUNITIONS CONTROL REGISTRATION FEES.—Section 38(b) of that Act is amended by inserting at the end the following:

"(3)(A) For each of the fiscal years 1988 and 1989, $250,000 of registration fees collected pursuant to paragraph (1) shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for the payment of expenses incurred for—

"(i) contract personnel to assist in the evaluation of munitions control license applications, reduce processing time for license applications, and improve monitoring of compliance with the terms of licenses; and

"(ii) the automation of munitions control functions and the processing of munitions control license applications, including the development, procurement, and utilization of computer equipment and related software.

"(B) The authority of this paragraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.".

TITLE XIII—EFFECTIVE DATE

22 USC 2651 note.

SEC. 1301. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect on the date of its enactment.

Approved December 22, 1987.

LEGISLATIVE HISTORY—H.R. 1777 (S. 1394):

HOUSE REPORTS: No. 100-34 (Comm. on Foreign Affairs) and 100-475 (Comm. of Conference).
SENATE REPORTS: No. 100-75 accompanying S. 1394 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  June 11, 16, 18, 23, considered and passed House.
  Oct. 2, 6-8, S. 1394 considered in Senate.
  Oct. 8, H.R. 1777 considered and passed Senate, amended, in lieu of S. 1394.
  Dec. 15, House agreed to conference report.
  Dec. 16, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
  Dec. 22, Presidential statement.

O

Public Law 100-205
100th Congress

An Act

To amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes.

Dec. 23, 1987
[H.R. 1994]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STONES RIVER NATIONAL BATTLEFIELD.

16 USC 426n.

(a) EXPANSION OF STONES RIVER NATIONAL BATTLEFIELD.—In furtherance of the Act of March 3, 1927 (44 Stat. 1399), as amended, the boundary of Stones River National Battlefield (hereinafter referred to as "battlefield") is hereby revised to include the lands generally depicted on the map entitled "Boundary Map, Stones River National Battlefield" numbered 327/80,001, and dated March 1987. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior and in the office of the Superintendent of the Stones River National Battlefield.

16 USC 426.

Public information.

(b) ACQUISITION OF LANDS.—The Secretary of the Interior (hereinafter referred to as "Secretary") is hereby authorized to acquire lands or interests therein within the boundary of the battlefield by donation, purchase with donated or appropriated funds, or exchange. Any lands or interests in lands owned by the State of Tennessee or any political subdivision thereof may be acquired only by donation. Lands and interests therein acquired pursuant to this Act shall become part of the battlefield, subject to all the laws and regulations applicable thereto.

SEC. 2. AGREEMENT.

16 USC 426*o*.

The Secretary is authorized to enter into an agreement with the city of Murfreesboro, Tennessee, under which (1) the Secretary shall acquire sufficient interest in land and shall construct thereon a trail linking the battlefield with Fortress Rosecrans, (2) the city shall operate and maintain the trail in accordance with standards approved by the Secretary, and (3) the Secretary shall preserve the existing remnants of Fortress Rosecrans and the city shall operate and maintain the fortress.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

16 USC 426p.

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Approved December 23, 1987.

LEGISLATIVE HISTORY—H.R. 1994 (S. 963):

HOUSE REPORTS: No. 100-187 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-243 accompanying S. 963 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 29, considered and passed House.
Dec. 11, considered and passed Senate.

○

PUBLIC LAW 100-206—DEC. 23, 1987

JIMMY CARTER NATIONAL HISTORIC SITE

19-139 O - 88 (206)

Public Law 100-206
100th Congress

An Act

Dec. 23, 1987
[H.R. 2416]

To establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 161 note.

SECTION 1. ESTABLISHMENT OF JIMMY CARTER NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—In order to provide for the benefit, inspiration, and education of the American people, there is hereby established the Jimmy Carter National Historic Site in the State of Georgia. In administering the historic site, the Secretary shall—

(1) preserve the key sites and structures located within the historic site associated with Jimmy Carter during his lifespan;

(2) provide for the interpretation of the life and Presidency of Jimmy Carter; and

(3) present the history of a small rural southern town.

(b) DESCRIPTION OF JIMMY CARTER NATIONAL HISTORIC SITE.—(1) The historic site shall consist of the lands and interests in lands (including the real property described in paragraph (2)) as generally depicted on the map entitled "Jimmy Carter National Historic Site and Preservation District Boundary Map", numbered NHS-JC-80000, and dated April 1987. The map shall be on file and available for public inspection at appropriate offices of the National Park Service.

Public information.

(2) The real property referred to in paragraph (1) is that real property which has significant historical association with the life of James Earl Carter, Jr., 39th President of the United States, located in the town of Plains and the County of Sumter, Georgia, and described more particularly as follows—

(A) the home of former President Carter on Woodland Drive in Plains, Georgia, including the residence and approximately 2.9 acres across Woodland Drive;

(B) the Plains Railroad Depot, adjacent to the Seaboard Coast Line Railroad, which served as the campaign headquarters of former President Carter;

(C) the boyhood home of former President Carter, consisting of the residence, together with not more than 15 acres, located west of Plains near the community of Archery, Georgia;

(D) the 100-foot wide scenic easements on either side of Old Plains Highway from the intersection of U.S. Highway 280 to the boyhood home referred to in subparagraph (C);

(E) the Plains High School and grounds of approximately 12 acres; and

(F) the Gnann House at 1 Woodland Drive, which is adjacent to the residence referred to in subparagraph (A) of former President Carter.

(c) ACQUISITION OF REAL AND PERSONAL PROPERTY.—(1) Except as otherwise provided in this subsection and subject to such terms, reservations, and conditions as the Secretary determines reasonable or necessary, the Secretary may acquire by donation, purchase with donated or appropriated funds, exchange, or otherwise—

(A) lands and interests in lands within the boundaries of the historic site; and

(B) personal property and artifacts for purposes of the historic site.

(2) The Carter home (described in subsection (b)(2)(A)), the Plains Railroad Depot (described in subsection (b)(2)(B)), and the Plains High School (referred to in subsection (b)(2)(E)) may only be acquired by donation.

(3) Former President and Mrs. Carter may, as a condition of the acquisition of the Carter home (described in subsection (b)(2)(A)), reserve for themselves a right of use and occupancy of the home for a term of years or for a term ending at the deaths of President and Mrs. Carter.

(4) The Administrator of the General Services Administration shall acquire by purchase the Gnann House (described in subsection (b)(2)(F)) to be used for security purposes during the lives of former President and Mrs. Carter, or for such period as they may be entitled to security pursuant to Federal law, after which time the Gnann House shall be transferred to the Secretary of the Interior for administrative purposes by the National Park Service.

SEC. 2. JIMMY CARTER NATIONAL PRESERVATION DISTRICT.

16 USC 461 note.

(a) JIMMY CARTER NATIONAL PRESERVATION DISTRICT.—In order to preserve and interpret the life of James Earl Carter, Jr. and the rural southern town of Plains, Georgia, including the 20th century south and the roles of agriculture and the agricultural economy there is hereby established the Jimmy Carter National Preservation District, which shall consist of the area identified on the map referred to in section 1(b)(1) as "Preservation District". The preservation district shall include the Plains Historic District as listed in the National Register of Historic Places on June 28, 1984, and those agricultural lands not to exceed 650 acres and that portion of Bond Street as depicted on such map.

(b) PRESERVATION EASEMENTS.—(1) The Secretary may obtain by donation or purchase preservation easements on historically or culturally significant (as determined by the Secretary) buildings and open spaces located within the preservation district. Each preservation easement shall contain (but need not be limited to) provisions that the Secretary shall have the right of access at reasonable times to the portions of the property covered by that easement for interpretive or other purposes, and that no changes or alterations shall be made to such portions of the property except by mutual agreement.

(2) The Secretary may mark, interpret, and provide technical assistance to properties within the preservation district in accordance with the Secretary of the Interior's Standards for Historic Preservation Projects.

SEC. 3. ADMINISTRATION OF HISTORIC SITE AND PRESERVATION DISTRICT.

16 USC 461 note.

(a) IN GENERAL.—The Secretary shall administer the historic site and the preservation district in accordance with the provisions of this Act, and the provisions of law generally applicable to national historic sites, including the Act entitled "An Act to establish a

National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2-4), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

Contracts.

(b) COOPERATION WITH STATE OF GEORGIA.—The Secretary may enter into a cooperative agreement with the State of Georgia pursuant to which the Secretary may cooperate in the operation and use of the State of Georgia Visitor Center in Sumter County.

(c) HISTORY.—The Secretary shall gather oral history on the historic site, its occupants, and environs. The Secretary may also preserve personal property that has been acquired by the Secretary for purposes of the historic site.

(d) REPORT.—25 years after the date of enactment of this Act, the Secretary shall convene a distinguished group of nationally recognized historians, scholars, and other experts to examine the life of President Carter in greater historical perspective. The group shall examine the research then available on President Carter, his life and Presidency, and make recommendations on interpretation, preservation, and other issues (as appropriate) at the Jimmy Carter National Historic Site and the Jimmy Carter National Preservation District.

16 USC 461 note.

SEC. 4. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—The Secretary shall establish an advisory commission to provide advice on achieving balanced and accurate interpretation of the historic site.

(b) MEMBERSHIP.—(1) The commission shall consist of a group of five nationally recognized scholars with collective expertise on the life and Presidency of Jimmy Carter, the 20th century rural south, historic preservation, and the American Presidency.

(2) The commission members shall be appointed by the Secretary for staggered terms of 3 years each. Any vacancy on the commission shall be filled in the same manner in which the original appointment was made. Any member of the Commission appointed for a definite term may serve after the expiration of such term until a successor is appointed.

(3) Meetings of the Commission shall be called twice annually by the Secretary.

(c) EXPENSES.—The Secretary is authorized to pay, in accordance with section 5703 of title 5, United States Code, the expenses reasonably incurred by the members of the Commission in carrying out their responsibilities under this Act.

16 USC 461 note.

SEC. 5. MANAGEMENT PLAN.

Not later than 3 years after the date of enactment of this Act, the Secretary shall develop and submit to the Congress a general management plan for the use and development of the historic site and the preservation district. Such plan shall—

(1) be prepared in accordance with section 12(b) of the Act entitled "An Act to improve the administration of the national park system by the Secretary, and to clarify the authorities applicable to the system, and for other purposes", approved August 18, 1970 (16 U.S.C. 1a-1 et seq.), and shall be consistent with the purposes of this Act;

(2) include consideration of the economic feasibility and interpretive necessity of providing a transportation system for visitor use; and

(3) address the preservation and interpretation of Plains High School (referred to in section 1(b)(2)(E)) including appropriate use by the town of Plains.

Following a determination of the appropriate uses of the Plains High School for the town of Plains, the Secretary may enter into a cooperative agreement with the town concerning its use of the high school.

Contracts.

SEC. 6. DEFINITIONS.

16 USC 461 note.

For the purposes of this Act—

(1) the term "preservation district" means the Jimmy Carter National Preservation District established under section 2;

(2) the term "historic site" means the Jimmy Carter National Historic Site established under section 1; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

16 USC 461 note.

(a) In General.—There is authorized to be appropriated such sums as may be necessary to carry out this Act, except that not more than $3,500,000 is authorized to be appropriated for acquisition of real and personal property (including preservation easements) and development of the preservation district and the historic site.

(b) Cost Sharing.—Not more than 60 percent of the aggregate cost of restoring the Plains High School (referred to in section 1(b)(2)(E)) may be provided from appropriated Federal funds. The remaining 40 percent, non-Federal share of such cost may be in the form of cash, goods, or services, fairly valued.

Approved December 23, 1987.

LEGISLATIVE HISTORY—H.R. 2416:

HOUSE REPORTS: No. 100-342 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-250 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 5, considered and passed House.
Dec. 11, considered and passed Senate.

○

Public Law 100-207
100th Congress

An Act

Dec. 23, 1987
[H.R. 3700]

To designate the Federal building located at 600 West Madison, Chicago, Illinois, as the "Harold Washington Social Security Center".

Public buildings and grounds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building known as the "Great Lakes Program Service Center" and located at 600 West Madison, Chicago, Illinois, shall be known and designated as the "Harold Washington Social Security Center".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Harold Washington Social Security Center".

Approved December 23, 1987.

LEGISLATIVE HISTORY—H.R. 3700:

HOUSE REPORTS: No. 100-471 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 10, considered and passed House.
Dec. 11, considered and passed Senate.

○

Public Law 100-208
100th Congress

An Act

To designate the United States Livestock Insects Laboratory in Kerrville, Texas, as the "Knipling-Bushland Research Laboratory".

Dec. 23, 1987
[H.R. 3712]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Livestock Insects Laboratory of the United States Department of Agriculture's Agricultural Research Service, located in Kerrville, Texas, is hereby designated as the "Knipling-Bushland Research Laboratory". Any reference to the United States Livestock Insects Laboratory in a law, map, regulation, document, record, or other paper of the United States shall be considered to be a reference to the "Knipling-Bushland Research Laboratory".

Approved December 23, 1987.

LEGISLATIVE HISTORY—H.R. 3712:

HOUSE REPORTS: No. 100-477 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 14, considered and passed House.
Dec. 19, considered and passed Senate.

○

Public Law 100-209
100th Congress

Joint Resolution

Dec. 23, 1987
[H.J. Res. 376]

To designate the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River, Georgia and South Carolina, as the J. Strom Thurmond Dam, Reservoir, and Highway.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in honor of J. Strom Thurmond, and in recognition of his long and outstanding service as a United States Senator, Governor of South Carolina, and South Carolina State Senator, to promote flood control, soil conservation, and rural electrification, the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River, Georgia and South Carolina, shall hereafter be known and designated as the J. Strom Thurmond Dam, Reservoir, and Highway, and shall be dedicated as a monument to his distinguished public service. Any law, regulation, map, document, or record of the United States in which such project is referred to shall be held and considered to refer to such project by the name of the J. Strom Thurmond Dam, Reservoir, and Highway.

Approved December 23, 1987.

LEGISLATIVE HISTORY—H.J. Res. 376 (H.J. Res. 430):

CONGRESSIONAL RECORD, Vol. 133 (1987):
- Nov. 16, 17, considered and passed House.
- Dec. 4, considered and passed Senate, amended.
- Dec. 18, H.J. Res. 430 considered and passed House. House concurred in Senate amendment to H.J. Res. 376 with amendments.
- Dec. 19, H.J. Res. 430 considered and passed Senate. Senate concurred in House amendments to H.J. Res. 376.

○

Public Law 100-210
100th Congress

An Act

To provide that a special gold medal be presented to Mary Lasker for her humanitarian contributions in the areas of medical research and education, urban beautification and the fine arts, and for other purposes.

Dec. 24, 1987
[H.R. 390]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President is authorized to present, on behalf of the Congress, to Mary Lasker, a gold medal of appropriate design in recognition of her humanitarian contributions in the areas of medical research and education, urban beautification, and the fine arts. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There are authorized to be appropriated not to exceed $20,000 to carry out the provisions of this subsection.

31 USC 5111 note.

Appropriation authorizations.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal. The appropriation used to carry out the provisions of subsection (a) shall be reimbursed out of the proceeds of such sales.

SEC. 2. The medals provided for in this Act are national medals for purposes of chapter 51 of title 31, United States Code.

31 USC 5111 note.

SEC. 3. Section 2(b) of the Young Astronaut Program Medal Act, Public Law 99-295, is amended by striking out "December 31, 1987" and inserting in lieu thereof "December 31, 1988".

31 USC 5111 note.

Approved December 24, 1987.

LEGISLATIVE HISTORY—H.R. 390:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 29, considered and passed House.
Dec. 17, considered and passed Senate.

○

Public Law 100-211
100th Congress

An Act

Dec. 24, 1987
[H.R. 2121]

To authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ASSISTANCE FOR HIGHWAY RELOCATION.

Safety.
Grants.

(a) Assistance From Department of the Interior.—For purposes of reducing damage to natural and historic resources from highway traffic within the Chickamauga and Chattanooga National Military Park and for purposes of improving highway safety within the park, the Secretary of the Interior shall provide a grant to the State of Georgia to assist the State in relocating a 3.7 mile section of Highway 27 which passes through the park. The assistance shall be provided upon application of the State if the Secretary of the Interior, acting through the Director of the National Park Service, approves the design and siting of the highway at a location generally outside the western boundary of the park.

(b) Federal Share.—The assistance provided by the Secretary of the Interior under subsection (a) shall not exceed 75 percent of the total costs of relocating the 3.7 mile section of highway referred to in subsection (a).

(c) Authorization of Appropriations.—There is authorized to be appropriated not more than $30,000,000 for assistance under subsection (a). Such funds shall remain available until expended.

Approved December 24, 1987.

LEGISLATIVE HISTORY—H.R. 2121:

HOUSE REPORTS: No. 100-225 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-248 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 21, considered and passed House.
Dec. 11, considered and passed Senate.

○

19-139 O - 88 (211)

Public Law 100-212
100th Congress

An Act

To repeal the Brown-Stevens Act concerning certain Indian tribes in the State of Nebraska.

Dec. 24, 1987
[H.R. 2639]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of May 6, 1910 (36 Stat. 348) and the Act of December 30, 1916 (39 Stat. 865) are hereby repealed.

SEC. 2. Nothing in this Act shall affect any claim of an Indian tribe or individual arising out of the Acts repealed by the first section of this Act, including but not limited to those claims listed by the Secretary of the Interior pursuant to the Indian Claims Limitation Act of 1982 (Public Law 97-394; 28 U.S.C. 2415 note).

SEC. 3. For the purpose of any Federal payments made to the Macy, Walthill, and Winnebago school districts in Thurston County, Nebraska, because of the existence of nontaxable Indian lands located within such school districts, this Act shall be deemed to have been effective on January 1, 1951.

SEC. 4. Section 7(c) of the White Earth Reservation Land Settlement Act of 1985 (Public Law 99-264; 100 Stat. 61; 25 U.S.C. 331 note) is amended by (1) deleting "not later than five hundred and forty days of the date of publication of the Secretary's first list in the Federal Register" and inserting in lieu thereof "not later than March 12, 1989", and (2) deleting "should be added to" and inserting in lieu thereof "should be corrected or added to".

Approved December 24, 1987.

LEGISLATIVE HISTORY—H.R. 2639:

HOUSE REPORTS: No. 100-401 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Nov. 16, considered and passed House.
  Dec. 11, considered and passed Senate, amended.
  Dec. 18, House concurred in Senate amendment.

O

PUBLIC LAW 100-213—DEC. 24, 1987

ARMS CONTROL AND DISARMAMENT AMENDMENTS ACT OF 1987

19-139 0 - 88 (213)

Public Law 100-213
100th Congress

An Act

Dec. 24, 1987
[H.R. 2689]

To amend the Arms Control and Disarmament Act to authorize appropriations for the fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Arms Control and Disarmament Amendments Act of 1987.
22 USC 2551 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arms Control and Disarmament Amendments Act of 1987".

SEC. 2. AUTHORIZATIONS OF APPROPRIATIONS.

Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended to read as follows:

"(a)(1) To carry out the purposes of this Act, there are authorized to be appropriated—

"(A) $29,000,000 for the fiscal year 1988 and $29,800,000 for fiscal year 1989; and

"(B) such additional amounts as may be necessary for each such fiscal year for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates.

"(2) Of the amounts authorized to be appropriated by paragraph (1)(A) for each of the fiscal years 1988 and 1989—

"(A) $7,063,000 shall be available only to pay necessary expenses incurred in connection with arms control negotiations conducted with the Government of the Soviet Union on strategic arms reductions, intermediate-range nuclear forces, and space and defensive weapons;

"(B) not less than $310,000 shall be available only for the program for visiting scholars in the field of arms control and disarmament established under section 28 of this Act;

"(C) $780,000 shall be used for external research to assist the Bureau of Verification and Intelligence in making assessments of possible new systems, devices, and capabilities for verification of arms control;

"(D) not more than $1,560,000 may be used for any other external research program; and

"(E) a total of not more than $3,000,000 may be used for all external research.

"(3) Amounts appropriated under this subsection are authorized to remain available until expended.".

International organizations.
Union of Soviet Socialist Republics.
22 USC 2578 note.

SEC. 3. STANDING CONSULTATIVE COMMISSION.

(a) FINDINGS.—The Congress finds that—

(1) the Standing Consultative Commission was established by the United States and the Soviet Union under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems

as a framework for considering and resolving questions concerning compliance with arms control obligations; and

(2) the United States should raise and attempt to resolve issues relating to compliance by the United States and the Soviet Union with arms control agreements in the Standing Consultative Commission.

(b) ANNUAL REPORTS.—Title III of the Arms Control and Disarmament Act (22 U.S.C. 2571-2577) is amended by adding at the end the following:

22 USC 2578.

"SEC. 38. REPORTS ON STANDING CONSULTATIVE COMMISSION ACTIVITIES.

President of U.S. International agreements.

"The President shall submit, not later than January 31 of each year, to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report prepared by the United States Commissioner on the activities of the United States-Union of Soviet Socialist Republics Standing Consultative Commission established under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems. In preparing this report, the Commissioner should consult with former United States Commissioners and other experts. Such annual report shall include detailed information on all substantive issues raised by either party to the Treaty and the response of the other party with regard to such issues. Such annual report shall be transmitted under an injunction of secrecy, but shall be accompanied by an unclassified addendum containing such information with respect to the activities of the Commission as can be made public consistent with the need for confidentiality of Commission proceedings and the national security of the United States.".

Classified information. Public information.

(c) STUDY AND REPORT.—The Director of the United States Arms Control and Disarmament Agency shall conduct a study to determine how the Standing Consultative Commission could be used more effectively to resolve arms control compliance issues. The Director shall report the results of this study to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate within 6 months after the date of enactment of this Act.

Reports. 22 USC 2579.

SEC. 4. COMPREHENSIVE COMPILATION OF ARMS CONTROL AND DISARMAMENT STUDIES.

Title III of the Arms Control and Disarmament Act, as amended by section 3(b) of this Act, is further amended by adding at the end the following:

"SEC. 39. COMPREHENSIVE COMPILATION OF ARMS CONTROL AND DISARMAMENT STUDIES.

"Pursuant to his responsibilities under section 31 of this Act, and in order to enhance Congressional and public understanding of arms control and disarmament issues, the Director shall provide to the Congress not later than June 30 of each year a report setting forth—

"(1) a comprehensive list of studies relating to arms control and disarmament issues concluded during the previous calendar year by government agencies or for government agencies by private or public institutions or persons; and

"(2) a brief description of each such study.

This report shall be unclassified, with a classified addendum if necessary.".

SEC. 5. COMPLIANCE REPORTS.

22 USC 2592. Section 52 of the Arms Control and Disarmament Act (22 U.S.C. 2591) is amended—

(1) in paragraph (1)—

(A) by inserting ", the Soviet Union, and other nations" after "adherence of the United States"; and

(B) by inserting "the Soviet Union and" after "compliance by"; and

(2) by striking out "and" at the end of paragraph (2) and by redesignating paragraph (3) as paragraph (5);

(3) by inserting the following after paragraph (2):

"(3) the section of the report dealing with Soviet adherence shall include information on actions taken by the Soviet Union with regard to the size, structure, and disposition of its military forces in order to comply with arms control agreements;

"(4) the section of the report dealing with adherence by other nations shall include information on actions taken by each such nation with regard to the size, structure, and disposition of its military forces in order to comply with arms control agreements; and"; and

(4) in paragraph (5), as so redesignated by this section, by inserting "the Soviet Union and" after "problems of compliance by".

SEC. 6. ACDA INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Title IV of the Arms Control and Disarmament Act (22 U.S.C. 2581-2591) is amended by adding at the end the following:

22 USC 2593. "SEC. 53. ACDA INSPECTOR GENERAL.

"(a) ESTABLISHMENT AND DUTIES.—There shall be an Office of the Inspector General at the Agency headed by the Inspector General of the Agency who shall have the duties, responsibilities, and authorities specified in the Inspector General Act of 1978.

"(b) DUALITY OF APPOINTMENT.—An individual appointed to the position of Inspector General of the Department of State shall, by virtue of such appointment, also hold the position of Inspector General of the Agency.

"(c) UTILIZATION OF STAFF.—The Inspector General of the Agency shall utilize personnel of the Office of the Inspector General of the Department of State in performing the duties of the Inspector General of the Agency, and shall not appoint any individuals to positions within the Agency.

"(d) REFERENCES.—For purposes of this section, references in the Inspector General Act of 1978 to the establishment involved, to the head of the establishment, and to an Inspector General shall be deemed to be references to the Agency, the Director of the Agency, and Inspector General of the Agency, respectively, except to the extent inconsistent with this section.".

(b) SURVEY OF ACDA CLASSIFIED INFORMATION SECURITY.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the United States Arms Control and Disarmament Agency—

(1) shall conduct a survey of physical, personnel, document, and communications security programs, procedures, and practices at the Agency for the protection of classified information; and

(2) shall submit a report on the results of that survey, together with such recommendations for improvement of classified information security at the Agency as the Inspector General considers appropriate, to the Director of the Agency and to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

Reports.

Approved December 24, 1987.

LEGISLATIVE HISTORY—H.R. 2689 (S. 1498):

HOUSE REPORTS: No. 100-193 (Comm. on Foreign Affairs).
SENATE REPORTS: No. 100-112 accompanying S. 1498 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 29, considered and passed House.
July 22, considered and passed Senate, amended, in lieu of S. 1498.
Dec. 8, House concurred in Senate amendment with an amendment and disagreed with other amendment.
Dec. 11, Senate concurred in House amendment and receded from other amendment.

○

Public Law 100-214
100th Congress

Joint Resolution

Dec. 24, 1987
[H.J. Res. 255]

Designating the third week in May 1988 as "National Tourism Week".

Whereas tourism is vital to the United States, contributing to overall economic prosperity, employment, and the international balance of payments;

Whereas tourism creates employment opportunities which provide wages and salaries for individuals and tax revenues for Federal, State, and local governments;

Whereas the travel and tourism sector of the economy constitutes a large industry in the United States;

Whereas tourism promotes personal growth and education and the appreciation of intercultural differences among all people;

Whereas tourism enhances international understanding and goodwill; and

Whereas as people throughout the world become aware of the outstanding cultural and recreational resources available across the United States, travel and tourism will become an increasingly important aspect of the daily lives of the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on the third Sunday in May 1988 is designated as "National Tourism Week". The President is requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.

Approved December 24, 1987.

LEGISLATIVE HISTORY—H.J. Res. 255 (S.J. Res. 134):

CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 15, considered and passed House.
Oct. 30, S.J. Res. 134 considered and passed Senate.
Dec. 18, H.J. Res. 225 considered and passed Senate.

Public Law 100-215
100th Congress

An Act

To designate the United States Post Office at 600 Franklin Avenue in Garden City, New York, as the "John W. Wydler United States Post Office".

Dec. 24, 1987
[S. 1642]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The United States Post Office located at 600 Franklin Avenue in Garden City, New York, shall be known and designated as the "John W. Wydler United States Post Office".

SEC. 2. LEGAL REFERENCES.

Any reference to the building referred to in section 1 in any law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "John W. Wydler United States Post Office".

Approved December 24, 1987.

LEGISLATIVE HISTORY—S. 1642:

HOUSE REPORTS: No. 100-482 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Aug. 7, considered and passed Senate.
  Dec. 18, considered and passed House, amended.
  Dec. 19, Senate concurred in House amendments.

○

PUBLIC LAW 100-216—DEC. 29, 1987

FEDERAL ENERGY REGULATORY COMMISSION DOCKET ORDER

19-139 0 - 88 (216)

Public Law 100-216
100th Congress

An Act

Dec. 29, 1987
[H.R. 519]

To direct the Federal Energy Regulatory Commission to issue an order with respect to Docket No. EL-85-38-000.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FERC ORDER.

Idaho.
Contracts.

(a) ISSUANCE OF ORDER.—Notwithstanding the petition filed by the Idaho Power Company on November 26, 1984, with the Federal Energy Regulatory Commission for a declaratory order concerning an Agreement dated October 25, 1984 (Exhibit A, Petition of Idaho Power Company for Declaratory Order, FERC Docket No. EL-85-38-000), relative to the projects of such company specifically referenced in the petition, the Federal Energy Regulatory Commission is authorized and directed, in lieu of the petition request, to issue an order under the Federal Power Act providing that such Agreement shall not be considered by the Commission, in any subsequent proceeding before the Commission during the remaining term of the licenses applicable to such projects, to be either—

(1) inconsistent with the terms and conditions of such licenses concerning the retention of project property; or

(2) imprudent for purposes of section 205 of the Federal Power Act.

The order, subject to the requirements of section 3(a)(2), shall be issued within 90 calendar days after enactment of this Act and shall take effect on the date provided in section 3.

(b) CONSIDERATION OF OTHER MATTERS.—Notwithstanding the issuance of an order pursuant to this section, except for the specific terms and conditions referred to in subsection (a)(1) and the specific provisions of the Federal Power Act referred to in subsection (a)(2), the Commission may, at any time, consider, in accordance with existing and applicable law, whether the settlement agreement and the licensee are in full compliance with—

Fish and fishing.
Wildlife.

(1) any terms and conditions of the license (including those relating to the protection, mitigation, and enhancement of fish and wildlife), and

Environment.

(2) any other applicable provision of Federal environmental law (including section 10 of the Federal Power Act).

(c) OFFERS OF SETTLEMENT.—In issuing an order pursuant to this section, the Commission shall accept and adopt as part of the order the Offers of Settlement pending before the Commission on enactment of this Act between the licensee, the State of Idaho, the Secretary of the Interior, the National Marine Fisheries Service and others.

SEC. 2. SAVINGS PROVISION.

Idaho.

(a) FISH AND WILDLIFE AGREEMENTS AND STIPULATIONS.—Nothing in section 1 or in any order issued by the Commission pursuant to section 1 shall be construed as affecting any stipulation or other agreement entered into by the State of Idaho or the Idaho Power Company prior to the date of enactment of this Act relating to any fish and wildlife matters affected by any such project.

(b) FERC AUTHORITY.—Nothing in section 1 shall be construed to modify, change, expand, or limit the authority of the Federal Energy Regulatory Commission under the Federal Power Act or other applicable law relating to fish and wildlife.

State and local governments.
Indians.

(c) WATER.—Nothing in this Act shall be construed as (1) affecting the rights or jurisdiction of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any ground water resource; (2) altering or establishing the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right; or (3) altering, amending, repealing, interpreting, modifying, or be in conflict with, the Treaty rights or other rights of any Indian tribe.

SEC. 3. STUDY.

(a) JOINT AGREEMENT TO CONDUCT STUDY.—

Reports.
Fish and fishing.
Wildlife.

(1) The Federal and licensee parties to the Offers of Settlement and the settlement agreement referred to in section 1 shall immediately after enactment of this Act enter into good faith negotiations for a joint agreement to conduct and adequately finance detailed evaluations and studies (and issue a report thereon) concerning the timing, quantity and quality of instream flows and related matters to protect, enhance, and mitigate fish and wildlife resources, including anadromous fish and related habitat of the Snake River and the Deer Flat National Wildlife Refuge. Such agreement shall be filed with the Federal Energy Regulatory Commission and shall be considered thereafter as part of the order issued pursuant to section 1. Such negotiations shall be completed and a joint agreement entered into by all such parties and filed with the Commission not later than 60 calendar days after the order is issued under section 1.

(2) If a joint agreement is not entered and filed within the 60-day period referred to in paragraph (1), the Commission shall within 60 calendar days after the expiration of such period issue an order under this paragraph requiring that the evaluations and studies referred to in paragraph (1) be undertaken and the duties and responsibilities of such parties to conduct and finance them. The Commission may for good cause extend the time for issuance of the order under this paragraph an additional period of not more than 45 calendar days. The Commission in issuing an order under this subsection, may take into consideration such information as the parties may stipulate and file with the Commission resulting from such negotiations. The Commission is not required, notwithstanding any provision of law, to afford the parties any other opportunity to make oral or written presentations to the Commission regarding such order. In any judicial review of the order issued under section 1, the order (or the adequacy thereof) issued under this paragraph shall not be a basis for that review or for a stay of the effective date of the order issued under section 1.

(3) The order referred to in section 1 shall be effective and final when the joint agreement referred to in paragraph (1) is filed by all the parties with the Commission, or not later than 60 calendar days after such order is issued under section 1,

whichever comes first. The order referred to in paragraph (2) shall be effective and final when issued. When effective, each order issued and joint agreement adopted shall be enforced by the Commission under the Federal Power Act and the licensee shall pay its assigned share at the times and in the manner directed by the Commission.

Reports.
Public information.

(4) The evaluations and studies and the report thereof required by this subsection shall be made available by the Federal parties to the public and the Commission and shall be considered by the Commission in accordance with existing and applicable law. Nothing contained in this Act requires the Commission to take any action pursuant to such consideration, or authorizes or grants the Commission any authority to take any action, based upon the findings, recommendations, results, or conclusions of the study required by this section.

(5) Any final order issued pursuant to this Act shall be subject to judicial review in the same manner as final orders under the Federal Power Act are subject to judicial review under that Act.

State and local governments.
Idaho.

(b) PARTICIPATION BY GOVERNOR.—At any time prior to the effective date of the order issued under section 1(a) of this Act, the Governor of the State of Idaho shall have the option to participate in good faith in the negotiations required by section 3 of this Act. In exercising such option, the Governor shall agree to carry out the State's responsibilities under the agreement or any order issued by the Commission under subsection (a).

Appropriation authorization.

(c) FUNDING FOR FEDERAL SHARE OF STUDIES.—The Secretary of the Interior and the National Oceanic and Atmospheric Administration shall, subject to applicable appropriation Acts, utilize such funds as may be available for carrying out the evaluations and studies required by this Act to be conducted by the parties referred to in subsection (a) and such agencies are authorized and directed to seek further appropriations as may be necessary. All such funds shall be available until expended. The Federal share of the costs of carrying out the evaluations and studies shall be determined pursuant to the joint agreement under subsection (a) (or the Commission order under subsection (a)(2), if applicable). The Federal agencies shall provide for consultation with the affected Indian tribes and other interested public or private persons during the conduct of any study conducted pursuant to this Act.

Indians.

SEC. 4. PROVIDING INFORMATION TO CONGRESS.

The Federal Energy Regulatory Commission, the Secretary of the Interior, and the Administrator of the National Oceanic and Atmospheric Administration shall keep the Committee on Energy and

Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate fully and currently informed of the status of all actions taken or required by this Act and of any delays (and the reasons therefor) in implementing all such actions.

Approved December 29, 1987.

LEGISLATIVE HISTORY—H.R. 519 (S. 214):

HOUSE REPORTS: No. 100-418 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-8 accompanying S. 214 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Feb. 3, S. 214 considered and passed Senate.
  Nov. 9, H.R. 519 considered and passed House.
  Dec. 18, considered and passed Senate, amended. House concurred in Senate amendment.

○

Public Law 100-217
100th Congress

An Act

Dec. 29, 1987
[H.R. 3289]

To amend the Export-Import Bank Act of 1945.

12 USC 635i-3.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15(c)(2) of the Export-Import Bank Act of 1945 (22 U.S.C. 635i-3(c)(2)) is amended by striking out "during fiscal year 1986" and inserting in lieu thereof "during fiscal years 1986, 1987, and 1988".

Approved December 29, 1987.

LEGISLATIVE HISTORY—H.R. 3289:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Sept. 17, considered and passed House.
Dec. 18, considered and passed Senate.

○

Public Law 100-218
100th Congress

An Act

To allow the obsolete submarine United States ship Blenny to be transferred to the State of Maryland before the expiration of the otherwise applicable 60-day congressional review period.

Dec. 29, 1987
[H.R. 3427]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer, under section 7308(a) of such title, by the Secretary of the Navy of the obsolete submarine United States ship Blenny to the State of Maryland.

Approved December 29, 1987.

LEGISLATIVE HISTORY—H.R. 3427:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 16, considered and passed House.
Dec. 17, considered and passed Senate.

○

Public Law 100-219
100th Congress

An Act

Dec. 29, 1987
[H.R. 3492]

Entitled the "Rural Crisis Recovery Program Act of 1987".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rural Crisis Recovery Program Act of 1987.
7 USC 2661 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Crisis Recovery Program Act of 1987".

SEC. 2. COUNSELING AND OUTREACH PROGRAMS TO AID FARMERS AND RURAL FAMILIES.

Subsection (f) of section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662(f)) is amended to read as follows:

"(f) SPECIAL GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.—

"(1) GRANT PROGRAM.—

Education.

"(A) PROGRAM BENEFICIARIES.—The Secretary shall provide special grants for programs to develop educational, retraining, and counseling assistance for farmers, dislocated farmers, and rural families, who have been adversely affected by the current farm and rural economic crisis.

"(B) SERVICES TO BE PROVIDED.—Such programs shall provide the following services:

"(i) Clinical outreach counseling and crisis management assistance through appropriate State officials.

"(ii) Assistance in evaluating individual or family finances, preparing financial plans, and implementing financial plans and management strategies.

"(iii) Evaluation of vocational skills and counseling in enhancing such skills.

"(iv) Assistance in obtaining training in basic, remedial, and literacy skills.

"(v) Assistance in job search and training in job-seeking skills.

"(vi) Assistance in obtaining training for operating a business or enterprise.

"(vii) Formal on-the-job training to the extent practicable.

"(viii) Tuition assistance (including fees, books, and other educational expenses) to the extent practicable.

"(C) AUTHORITY OF GRANT RECIPIENTS TO CONTRACT FOR DELIVERY OF SERVICES.—The recipients of a grant under this subsection may contract for the delivery of such services with units of local government, State agencies, accredited educational institutions, and other appropriate public and private nonprofit agencies and organizations.

State and local governments.

"(D) DEVELOPMENT OF COMPREHENSIVE PLAN.—The Agricultural Extension Service of the Department of Agriculture is encouraged to work with State agencies, units of local government, and other public and private nonprofit agencies and organizations in developing a comprehensive plan for the use of the special grant funds and the delivery of services provided for in this subsection.

"(2) GRANT PERIOD.—Grants may be made under paragraph (1) during the period beginning on the date of the enactment of this Act and ending on December 23, 1990.".

Approved December 29, 1987.

LEGISLATIVE HISTORY—H.R. 3492:

HOUSE REPORTS: No. 100-379 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 19, considered and passed House.
Dec. 19, considered and passed Senate.

○

PUBLIC LAW 100-220—DEC. 29, 1987

UNITED STATES-JAPAN FISHERY AGREEMENT APPROVAL ACT OF 1987

19-139 0 - 88 - 1 (220)

Public Law 100-220
100th Congress

An Act

Dec. 29, 1987
[H.R. 3674]

To provide congressional approval of the Governing International Fishery Agreement between the United States and Japan; to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships, 1973; to reauthorize the National Sea Grant College Program Act; to improve efforts to monitor, assess, and reduce the adverse impacts of driftnets; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States-Japan Fishery Agreement Approval Act of 1987.
Environmental protection.
16 USC 1801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Japan Fishery Agreement Approval Act of 1987".

SEC. 2. TABLE OF CONTENTS.

The contents of this Act are as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH JAPAN

Sec. 1001. Approval of agreement.

TITLE II—PLASTIC POLLUTION RESEARCH AND CONTROL

Sec. 2001. Short title.
Sec. 2002. Effective date.
Sec. 2003. Preemption; additional State requirements.

Subtitle A—Amendments to Act to Prevent Pollution From Ships

Sec. 2101. Definitions.
Sec. 2102. Application of Act.
Sec. 2103. Pollution reception facilities.
Sec. 2104. Violations.
Sec. 2105. Civil penalties.
Sec. 2106. Proposed amendments to protocol.
Sec. 2107. Administration and enforcement; refuse record books; waste management plans; notification of crew and passengers.
Sec. 2108. Compliance with international law.

Subtitle B—Studies and Report

Sec. 2201. Compliance reports.
Sec. 2202. EPA study of methods to reduce plastic pollution.
Sec. 2203. Effects of plastic materials on the marine environment.
Sec. 2204. Plastic pollution public education program.

Subtitle C—New York Bight

Sec. 2301. New York Bight restoration plan.
Sec. 2302. New York Bight plastic study.
Sec. 2303. Reports.
Sec. 2304. Definitions.
Sec. 2305. Authorization of appropriations.

TITLE III—MARINE SCIENCE, TECHNOLOGY, AND POLICY DEVELOPMENT

Sec. 3001. Short title.

Subtitle A—National Sea Grant College Program Authorization

Sec. 3101. Short title.
Sec. 3102. Reference to the National Sea Grant College Program Act.
Sec. 3103. Declaration of policy.
Sec. 3104. Definitions.
Sec. 3105. Contracts and grants.
Sec. 3106. Sea grant strategic research program.
Sec. 3107. Fellowships.
Sec. 3108. Sea grant review panel.
Sec. 3109. Marine affairs and resource management improvement grants.
Sec. 3110. Authorization of appropriations.
Sec. 3111. Sea grant international program.

Subtitle B—Great Lakes Mapping

Sec. 3201. Short title.
Sec. 3202. Great Lakes shoreline mapping plan.
Sec. 3203. Preparation of Great Lakes shoreline maps.
Sec. 3204. Contract authority.
Sec. 3205. Definitions.
Sec. 3206. Authorization of appropriations.

TITLE IV—DRIFTNET IMPACT MONITORING, ASSESSMENT, AND CONTROL

Sec. 4001. Short title.
Sec. 4002. Findings.
Sec. 4003. Definitions.
Sec. 4004. Monitoring agreements.
Sec. 4005. Impact report.
Sec. 4006. Enforcement agreements.
Sec. 4007. Evaluations and recommendations.
Sec. 4008. Construction with other laws.
Sec. 4009. Authorization of appropriations.

TITLE V—RED TIDE CONTAMINATION

Sec. 5001. Declaration of disaster.
Sec. 5002. Provision of assistance.
Sec. 5003. Recent North Carolina Coast red tide contamination, defined.

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH JAPAN

SEC. 1001. APPROVAL OF AGREEMENT.

16 USC 1823 note.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States, dated November 17, 1987—

(1) is approved by Congress as a governing international fishery agreement for the purposes of such Act; and

(2) shall enter into force and effect with respect to the United States on the date of the enactment of this Act.

Marine Plastic Pollution Research and Control Act of 1987.
33 USC 1901 note.

TITLE II—PLASTIC POLLUTION RESEARCH AND CONTROL

SEC. 2001. SHORT TITLE.

This title may be cited as the "Marine Plastic Pollution Research and Control Act of 1987".

SEC. 2002. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title shall be effective on the date on which Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, enters into force for the United States.

(b) EXCEPTIONS.—Sections 2001, 2002, 2003, 2108, 2202, 2203, 2204, and subtitle C of this title shall be effective on the date of the enactment of this title.

(c) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—The authority to prescribe regulations pursuant to this title shall be effective on the date of enactment of this title.

(2) EFFECTIVE DATE OF REGULATIONS.—Any regulation prescribed pursuant to this title shall not be effective before the effective date of the provision of this title under which the regulation is prescribed.

SEC. 2003. PREEMPTION; ADDITIONAL STATE REQUIREMENTS.

(a) PREEMPTION.—Except as specifically provided in this title, nothing in this title shall be interpreted or construed to supersede or preempt any other provision of Federal or State law, either statutory or common.

(b) ADDITIONAL STATE REQUIREMENTS.—Nothing in this title shall be construed or interpreted as preempting any State from imposing any additional requirements.

Subtitle A—Amendments to Act to Prevent Pollution From Ships

SEC. 2101. DEFINITIONS.

33 USC 1901.

Section 2 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) is amended as follows:

(1) "(a)" is inserted after "SEC. 2.".

(2) Subsection (a)(1) (as redesignated) is amended to read as follows:

"(1) 'MARPOL Protocol' means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention;".

(3) Subsection (a)(2) (as redesignated) is amended by striking all after "and" the second time it appears and inserting in lieu thereof the following: "Annexes I, II, and V thereto, including any modification or amendments to the Convention, Protocols, or Annexes which have entered into force for the United States;".

(4) Subsection (a)(3) (as redesignated) is amended by inserting "and 'garbage' " after "discharge".

(5) The following is added at the end of section 2:

"(b) For purposes of this Act, the requirements of Annex V shall apply to the navigable waters of the United States, as well as to all other waters and vessels over which the United States has jurisdiction.".

SEC. 2102. APPLICATION OF ACT.

33 USC 1902.

(a) In General.—Section 3(a) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(a) This Act shall apply—

"(1) to a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

"(2) with respect to Annexes I and II to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters of the United States;

"(3) with respect to the requirements of Annex V to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters or the exclusive economic zone of the United States; and

"(4) with respect to regulations prescribed under section 6 of this Act, any port or terminal in the United States.".

(b) Exclusions.—Section 3(b) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), this Act shall not apply to—

"(A) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

"(B) any other ship specifically excluded by the MARPOL Protocol.

"(2)(A) Notwithstanding any provision of the MARPOL Protocol, and subject to subparagraph (B) of this paragraph, the requirements of Annex V to the Convention shall apply after 5 years after the effective date of this paragraph to a ship referred to in paragraph (1)(A).

"(B) This paragraph shall not apply during time of war or a declared national emergency.".

(c) Regulations.—Section 3(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c) The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol, including regulations conforming to and giving effect to the requirements of Annex V as they apply under subsection (a) of section 3, to ensure that their treatment is not more favorable than that accorded ships to parties to the MARPOL Protocol.".

SEC. 2103. POLLUTION RECEPTION FACILITIES.

33 USC 1905.

(a) Determination of Adequacy of Facilities.—Section 6(a) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) in subsection (a)(1), as so redesignated, by striking "reception facilities of a port or terminal" and inserting in lieu thereof the following: "a port's or terminal's reception facilities for mixtures containing oil or noxious liquid substances"; and

(3) by adding at the end the following:

Regulations.

"(2) The Secretary, after consulting with appropriate Federal agencies, shall establish regulations setting criteria for determining the adequacy of reception facilities for garbage at a port or terminal, and stating such additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that such facilities are available, for receiving garbage in accordance with those regulations.".

33 USC 1905. (b) CONSIDERATION OF NUMBER AND TYPES OF SHIPS.—Section 6(b) of the Act to Prevent Pollution from Ships is amended by striking "terminal," the first time it appears and inserting in lieu thereof the following: "terminal, and in establishing regulations under subsection (a) of this section," and by striking "seagoing ships" and inserting in lieu thereof the following: "ships or seagoing ships".

(c) CERTIFICATE ISSUANCE.—Section 6(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c)(1) If reception facilities of a port or terminal meet the requirements of Annex V to the Convention and the regulations prescribed under subsection (a)(1), the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.

"(2) If reception facilities of a port or terminal meet the requirements of Annex V to the Convention and the regulations prescribed under subsection (a)(2), the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect to the person in charge of the port or terminal.

"(3) A certificate issued under this subsection—

"(A) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

"(B) shall be available for inspection upon the request of the master, other person in charge, or agent of a ship using or intending to use the port or terminal.

"(4) The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by the Secretary in the manner prescribed by regulation.".

(d) ENTRY DENIAL.—Section 6(e) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(e)";

(2) by striking "(1)" and inserting in lieu thereof "(A)";

(3) by striking "(2)" and inserting in lieu thereof "(B)";

(4) in subparagraph (A), as so redesignated, by striking "the MARPOL Protocol" and inserting in lieu thereof the following: "Annexes I and II of the Convention"; and

(5) by adding at the end the following:

"(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide adequate reception facilities for garbage if the port or terminal is not in compliance with those regulations.".

33 USC 1907.

SEC. 2104. VIOLATIONS.

(a) SHIP INSPECTIONS.—Section 8(c) of the Act to Prevent Pollution from Ships is amended by—

(1) striking "(1)" and inserting "(A)";

(2) striking "(2)" and inserting "(B)";

(3) inserting "(2)" immediately after "(c)";

(4) in the last sentence of paragraph (2) (as redesignated), striking "If a report made under this subsection involves a ship, other than one of United States registry or nationality or one

operated under the authority of the United States, the" and inserting "The"; and

(5) inserting before paragraph (2) (as redesignated) the following: "(1) This subsection applies to inspections relating to possible violations of Annex I or Annex II to the Convention by any seagoing ship referred to in section 3(a)(2) of this Act.".

(b) SHIP INSPECTIONS OTHER THAN AT PORT OR TERMINAL.—Section 8 of the Act to Prevent Pollution from Ships is amended by redesignating subsection (d) as subsection (f) and inserting after subsection (c) the following: 33 USC 1907.

"(d)(1) The Secretary may inspect a ship referred to in section 3(a)(3) of this Act to verify whether the ship has disposed of garbage in violation of Annex V to the Convention or this Act.

"(2) If an inspection under this subsection indicates that a violation has occurred, the Secretary may undertake enforcement action under section 9 of this Act.

"(e)(1) The Secretary may inspect at any time a ship of United States registry or nationality or operating under the authority of the United States to which the MARPOL Protocol applies to verify whether the ship has discharged a harmful substance or disposed of garbage in violation of that Protocol or this Act.

"(2) If an inspection under this subsection indicates that a violation of the MARPOL Protocol has occurred the Secretary may undertake enforcement action under section 9 of this Act.".

SEC. 2105. CIVIL PENALTIES.

33 USC 1908.

(a) PAYMENT FOR INFORMATION.—

(1) INFORMATION LEADING TO CONVICTION.—Section 9(a) of the Act to Prevent Pollution From Ships is amended by inserting after the first sentence the following: "In the discretion of the Court, an amount equal to not more than ½ of such fine may be paid to the person giving information leading to conviction.".

(2) INFORMATION LEADING TO ASSESSMENT OF PENALTY.—Section 9(b) of the Act to Prevent Pollution From Ships is amended by adding at the end the following: "An amount equal to not more than ½ of such penalties may be paid by the Secretary to the person giving information leading to the assessment of such penalties.".

(b) REFERENCE OF VIOLATION TO COUNTRY OF REGISTRY OR NATIONALITY.—Section 9(f) of the Act to Prevent Pollution from Ships is amended by striking "to that country" and inserting "to the government of the country of the ship's registry or nationality, or under whose authority the ship is operating".

SEC. 2106. PROPOSED AMENDMENTS TO PROTOCOL.

International organizations.
33 USC 1909.

Section 10 of the Act to Prevent Pollution from Ships is amended—

(1) in subsection (a), by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization"; and

(2) in subsection (b), by striking "Annex I or II, appendices to the Annexes, or Protocol I of the MARPOL Protocol," and inserting "Annex I, II, or V to the Convention, appendices to those Annexes, or Protocol I of the Convention", and by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization".

33 USC 1903.

SEC. 2107. ADMINISTRATION AND ENFORCEMENT; REFUSE RECORD BOOKS; WASTE MANAGEMENT PLANS; NOTIFICATION OF CREW AND PASSENGERS.

(a) ADMINISTRATION AND ENFORCEMENT, GENERALLY.—Section 4(a) of the Act to prevent pollution from ships is amended to read as follows:

"(a) Unless otherwise specified in this Act, the Secretary shall administer and enforce the MARPOL Protocol and this Act. In the administration and enforcement of the MARPOL Protocol and this Act, Annexes I and II of the Convention apply only to seagoing ships.".

(b) REFUSE RECORD BOOKS; WASTE MANAGEMENT PLANS; NOTIFICATION OF CREW AND PASSENGERS.—Section 4(b) of the Act to Prevent Pollution from Ships is amended by—

(1) inserting "(1)" after "(b)"; and

(2) adding at the end the following:

"(2) The Secretary of the department in which the Coast Guard is operating shall—

Regulations.

"(A) within 1 year after the effective date of this paragraph, prescribe regulations which—

"(i) require certain ships described in section 3(a)(1) to maintain refuse record books and shipboard management plans, and to display placards which notify the crew and passengers of the requirements of Annex V to the Convention; and

"(ii) specify the ships described in section 3(a)(1) to which the regulations apply;

International agreements.

"(B) seek an international agreement or international agreements which apply requirements equivalent to those described in subparagraph (A)(i) to all vessels subject to Annex V to the Convention; and

Reports.

"(C) within 2 years after the effective date of this paragraph, report to the Congress—

"(i) regarding activities of the Secretary under subparagraph (B); and

"(ii) if the Secretary has not obtained agreements pursuant to subparagraph (B) regarding the desirability of applying the requirements described in subparagraph (A)(i) to all vessels described in section 3(a) which call at United States ports.".

SEC. 2108. COMPLIANCE WITH INTERNATIONAL LAW.

The Act to Prevent Pollution from Ships is amended by adding at the end the following:

33 USC 1912.

"SEC. 17. Any action taken under this Act shall be taken in accordance with international law.".

Subtitle B—Studies and Report

33 USC 1902 note.

SEC. 2201. COMPLIANCE REPORTS.

(a) IN GENERAL.—Within 1 year after the effective date of this section, and biennially thereafter for a period of 6 years, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Agriculture and the Secretary of Commerce, shall report to the Congress regarding compliance with

Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, in United States waters.

Contracts.

(b) Report on Inability to Comply.—Within 3 years after the effective date of this section, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships that may not be able to comply with the requirements of that section shall report to the Congress describing—

(1) the technical and operational impediments to achieving that compliance;

(2) an alternative schedule for achieving that compliance as rapidly as is technologically feasible;

(3) the ships operated or contracted for operation by the agency for which full compliance with section 3(b)(2)(A) is not technologically feasible; and

(4) any other information which the agency head considers relevant and appropriate.

(c) Congressional Action.—Upon receipt of the compliance report under subsection (b), the Congress shall modify the applicability of Annex V to ships referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships, as may be appropriate with respect to the requirements of Annex V to the Convention.

42 USC 6981 note.

SEC. 2202. EPA STUDY OF METHODS TO REDUCE PLASTIC POLLUTION.

(a) In General.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Commerce, shall commence a study of the adverse effects of the improper disposal of plastic articles on the environment and on waste disposal, and the various methods to reduce or eliminate such adverse effects.

Wildlife.
Safety.

(b) Scope of Study.—A study under this section shall include the following:

(1) A list of improper disposal practices and associated specific plastic articles that occur in the environment with sufficient frequency to cause death or injury to fish or wildlife, affect adversely the habitat of fish or wildlife, contribute significantly to aesthetic degradation or economic losses in coastal and waterfront areas, endanger human health or safety, or cause other significant adverse impacts.

(2) A description of specific statutory and regulatory authority available to the Administrator of the Environmental Protection Agency, and the steps being taken by the Administrator, to reduce the amount of plastic materials that enter the marine and aquatic environment.

(3) An evaluation of the feasibility and desirability of substitutes for those articles identified under paragraph (1), comparing the environmental and health risks, costs, disposability, durability, and availability of such substitutes.

(4) An evaluation of the impacts of plastics on the solid waste stream relative to other solid wastes, and methods to reduce those impacts, including recycling.

(5) An evaluation of the impact of plastics on the solid waste stream relative to other solid wastes, and methods to reduce those impacts, including—

(A) the status of a need for public and private research to develop and market recycled plastic articles;

(B) methods to facilitate the recycling of plastic materials by identifying types of plastic articles to aid in their sorting, and by standardizing types of plastic materials, taking into account trade secrets and protection of public health;

(C) incentives, including deposits on plastic containers, to increase the supply of plastic material for recycling and to decrease the amount of plastic debris, especially in the marine environment;

(D) the effect of existing tax laws on the manufacture and distribution of virgin plastic materials as compared with recycled plastic materials; and

(E) recommendations on incentives and other measures to promote new uses for recycled plastic articles and to encourage or require manufacturers of plastic articles to consider re-use and recycling in product design.

(6) An evaluation of the feasibility of making the articles identified under paragraph (1) from degradable plastics materials, taking into account—

(A) the risk to human health and the environment that may be presented by fragments of degradable plastic articles and the properties of the end-products of the degradation, including biotoxicity, bioaccumulation, persistence, and environmental fate;

(B) the efficiency and variability of degradation due to differing environmental and biological conditions; and

(C) the cost and benefits of using degradable articles, including the duration for which such articles were designed to remain intact.

(c) CONSULTATION.—In carrying out the study required by this section, the Administrator shall consult with the heads of other appropriate Federal agencies, representatives of affected industries, consumer and environment interest groups, and the public.

(d) REPORT.—Within 18 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall report to the Congress the results of the study required by this section, including recommendations in connection therewith.

SEC. 2203. EFFECTS OF PLASTIC MATERIALS ON THE MARINE ENVIRONMENT.

Reports.

Not later than September 30, 1988, the Secretary of Commerce shall submit to the Congress a report on the effects of plastic materials on the marine environment. The report shall—

(1) identify and quantify the harmful effects of plastic materials on the marine environment;

(2) assess the specific effects of plastic materials on living marine resources in the marine environment;

(3) identify the types and classes of plastic materials that pose the greatest potential hazard to living marine resources;

(4) analyze, in consultation with the Director of the National Bureau of Standards, plastic materials which are claimed to be capable of reduction to environmentally benign submits under the action of normal environmental forces (including biological decomposition, photodegradation, and hydrolysis); and

(5) recommend legislation which is necessary to prohibit, tax, or regulate sources of plastic materials that enter the marine environment.

42 USC 6981 note.

SEC. 2204. PLASTIC POLLUTION PUBLIC EDUCATION PROGRAM.

(a) OUTREACH PROGRAM.—

(1) IN GENERAL.—Not later than April 1, 1988, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall jointly commence and thereafter conduct for a period of at least 3 years, a public outreach program to educate the public (including recreational boaters, fishermen, and other users of the marine environment) regarding—

(A) the harmful effects of plastic pollution;

(B) the need to reduce such pollution;

(C) the need to recycle plastic materials; and

(D) the need to reduce the quantity of plastic debris in the marine environment.

(2) AUTHORIZED ACTIVITIES.—A public outreach program under paragraph (1) may include—

(A) workshops with interested groups;

(B) public service announcements;

(C) distribution of leaflets and posters; and

(D) any other means appropriate to educating the public.

Voluntarism.

(b) CITIZEN POLLUTION PATROLS.—The Secretary of Commerce, along with the Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating, shall conduct a program to encourage the formation of volunteer groups, to be designated as "Citizen Pollution Patrols", to assist in monitoring, reporting, cleanup, and prevention of ocean and shoreline pollution.

Subtitle C—New York Bight

33 USC 2267 note.

SEC. 2301. NEW YORK BIGHT RESTORATION PLAN.

State and local governments.

(a) IN GENERAL.—Within 3 years after the effective date of this section, the Administrator, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and other Federal, State, and interstate agencies, shall prepare a New York Bight Restoration Plan. In preparing such plan, the Administrator shall seek the views and comments of interested persons and hold public hearings in States to be affected by the plan. The first such public hearing shall occur not later than 8 months after the effective date of this section.

(b) SCOPE OF PLAN.—The New York Bight Restoration Plan prepared under subsection (a) shall, at a minimum—

(1) identify and assess the impact of pollutant inputs, such as treated and untreated sewage discharge, industrial outfalls, agricultural and urban runoff, storm sewer overflow, upstream contaminant sources, atmospheric fallout, and dumping, that are affecting the water quality and marine resources of the New York Bight;

(2) identify those uses in the New York Bight and other areas that are being adversely affected by such pollutant inputs;

(3) determine the fate of the contaminants from such pollutant inputs and their effect on human health and the marine environment;

(4) identify technologies and management practices necessary for controlling such pollutant inputs;

(5) identify the costs of implementing such technologies and practices and any impediments to such implementation;

(6) devise a schedule of economically feasible projects to implement such technologies and practices and to remove such impediments;

State and local governments.

(7) develop recommendations for funding and coordinating the various Federal, State, and local government programs necessary to implement the projects referred to in paragraph (6); and

(8) comprehensively assess alternatives to dumping of municipal sludge and the burning of timber in the New York Bight.

SEC. 2302. NEW YORK BIGHT PLASTIC STUDY.

Reports.

The Administrator shall conduct a study of problems associated with plastic debris in the New York Bight, with specific attention to the effect of such debris on beaches, marine life, the environment, and coastal waters, and shall report to the Congress within 6 months after the effective date of this section with recommendations for the elimination of the threats posed by such plastic debris.

SEC. 2303. REPORTS.

(a) SCHEDULE FOR PRELIMINARY REPORTS AND RESTORATION PLAN.—Not later than 6 months after the effective date of this section, the Administrator shall submit to the Congress a detailed schedule (including associated funding requirements) for completing preliminary reports and the New York Bight Restoration Plan under this subtitle.

(b) PRELIMINARY REPORT ON ALTERNATIVES.—Not later than the earlier of January 1, 1990, or the date of any decision by the Administrator affecting the redesignation of the 106-mile Ocean Waste Dump site for municipal sludge or the designation of any additional municipal sludge dump site, the Administrator shall submit to the Congress a preliminary report assessing alternatives to the ocean dumping of municipal sludge.

(c) PRELIMINARY REPORT ON POLLUTANT INPUTS.—Not later than 1 year after the effective date of this section, the Administrator shall submit to the Congress a preliminary report on the examinations required under section 2301(b)(1), (b)(2), and (b)(3).

(d) PRELIMINARY REPORT ON CONTROL MEASURES.—Not later than 2 years after the effective date of this section, the Administrator shall submit to the Congress a preliminary report on the examinations required under section 2301(b)(4), (b)(5), (b)(6), and (b)(7).

(e) SUBMISSION OF RESTORATION PLAN TO CONGRESS.—Not later than 3 years after the effective date of this section, the Administrator shall submit to the Congress the New York Bight Restoration Plan prepared under section 2301.

SEC. 2304. DEFINITIONS.

For purposes of this subtitle—

(1) NEW YORK BIGHT.—The term "New York Bight" means an area comprised of the Hudson-Raritan Estuary and waters of the Atlantic Ocean—

(A) west of Montauk, Long Island, New York (71 degrees, 50 minutes west longitude);

(B) north of Cape May, New Jersey; and

(C) extending seaward to the edge of the Continental Shelf.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator not more than $3,000,000 for carrying out this subtitle during fiscal years 1988, 1989, and 1990.

TITLE III—MARINE SCIENCE, TECHNOLOGY, AND POLICY DEVELOPMENT

Marine Science, Technology, and Policy Development Act of 1987.
33 USC 1121 note.

SEC. 3001. SHORT TITLE.

This title may be cited as the "Marine Science, Technology, and Policy Development Act of 1987".

Subtitle A—National Sea Grant College Program Authorization

National Sea Grant College Program Authorization Act of 1987.
33 USC 1121 note.
Education.
Research and development.

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "National Sea Grant College Program Authorization Act of 1987".

SEC. 3102. REFERENCE TO THE NATIONAL SEA GRANT COLLEGE PROGRAM ACT.

Unless otherwise provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, section, subsection, or other provision, the reference shall be considered to be made to a title, section, subsection, or other provision of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

SEC. 3103. DECLARATION OF POLICY.

Section 202 (33 U.S.C. 1121) is amended as follows:

(1) Subsection (a) is amended—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), respectively; and

(B) by inserting before paragraph (4) (as redesignated) the following:

"(1) The national interest requires a strategy to—

"(A) provide for the understanding and wise use of ocean, coastal, and Great Lakes resources and the environment;

"(B) foster economic competitiveness;

"(C) promote public stewardship and wise economic development of the coastal ocean and its margins, the Great Lakes, and the exclusive economic zone;

"(D) understand global environmental processes; and

"(E) promote domestic and international cooperative solutions to ocean, coastal, and Great Lakes issues.

"(2) Investment in a strong program of research, education, training, technology transfer, and public service is essential for this strategy.

"(3) The expanding use and development of ocean, coastal, and Great Lakes resources resulting from growing coastal area populations and the increasing pressures on the coastal and Great Lakes environment challenge the ability of the United States to manage such resources wisely.".

(2) Subsection (b) is amended by striking "ocean and coastal resources" and all that follows through the end of such subsection and inserting in lieu thereof the following: "ocean, coastal, and Great Lakes resources by providing assistance to promote a strong educational base, responsive research and training activities, broad and prompt dissemination of knowledge and techniques, and multidisciplinary approaches to environmental problems.".

SEC. 3104. DEFINITIONS.

(a) In General.—Section 203 (33 U.S.C. 1122) is amended—

(1) by striking paragraph (2);

(2) by renumbering paragraph (3) as paragraph (2) and inserting immediately thereafter the following:

"(3) the term 'director of a sea grant college' means a person designated by their university or institution to direct a sea grant college, programs, or regional consortium.";

(3) by striking paragraphs (6) and (7) and inserting in lieu thereof the following:

"(6) The term 'ocean, coastal, and Great Lakes resources' means the resources that are located in, derived from, or traceable to, the seabed, subsoil, and waters of—

"(A) the coastal zone, as defined in section 304(1) of the Coastal Zone Management Act (16 U.S.C. 1453(1));

"(B) the Great Lakes;

"(C) the territorial sea;

"(D) the exclusive economic zone;

"(E) the Outer Continental Shelf; and

"(F) the high seas.

"(7) The term 'resource' means—

"(A) living resources (including natural and cultured plant life, fish, shellfish, marine mammals, and wildlife);

"(B) nonliving resources (including energy sources, minerals, and chemical substances);

"(C) the habitat of a living resource, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment that contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, biological, habitational, commercial, economic, or conservation values; and

"(D) man-made, tangible, intangible, actual, or potential resources."; and

(4) by adding at the end the following:

"(15) The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.".

(b) Conforming Amendments Relating to Great Lakes Resources.—

(1) Each of the following provisions of the National Sea Grant College Program Act are amended by striking "ocean and coastal resources" each place it appears and inserting in lieu thereof "ocean, coastal, and Great Lakes resources":

33 USC 1121. (A) Paragraphs (4) and (5) of section 202(a) (as redesignated by section 3103(1)(A) of this subtitle).

(B) Section 202(c).

(C) Paragraphs (4) and (11) of section 203.

33 USC 1123. (D) Sections (b)(1)(A) and (d)(3) of section 204.

33 USC 1126. (E) Paragraphs (2)(A) and (3) (A) and (B) of section 207(a).

(F) Paragraph (1) of section 209(c). 33 USC 1128.

(G) Section 210. 33 USC 1129.

(2) Paragraph (5) of section 204(c) is amended by striking "ocean and coastal resource" and inserting in lieu thereof "ocean, coastal, and Great Lakes resources". 33 USC 1123.

(c) CONFORMING AMENDMENTS RELATING TO UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.—Section 204(c) is amended by striking "Administrator" each place it appears and inserting in lieu thereof "Under Secretary".

SEC. 3105. CONTRACTS AND GRANTS.

(a) MINIMIZATION OF PRIOR APPROVAL REQUIREMENTS.—Section 205 (33 U.S.C. 1124) is amended by adding at the end of subsection (d)(1) the following: "Terms, conditions, and requirements imposed by the Secretary under this paragraph shall minimize any requirement of prior Federal approval.".

(b) ACCEPTANCE OF FUNDS FROM OTHER FEDERAL AGENCIES.—Section 204(d)(6) is amended by striking "under section 205(a)".

SEC. 3106. SEA GRANT STRATEGIC RESEARCH PROGRAM.

(a) IN GENERAL.—Section 206 (33 U.S.C. 1125) is amended to read as follows:

"SEC. 206. STRATEGIC MARINE RESEARCH PROGRAM.

"(a) GRANT AND CONTRACT AUTHORITY.—The Under Secretary may make grants and enter into contracts to carry out the strategic research program provided for under this section. A grant or contract may cover up to 100 percent of the cost of the research for which the grant or contract is made or awarded.

Federal Register, publication.

"(b) STRATEGIC RESEARCH PLAN.—Within 1 year after the effective date of the Marine Science, Technology, and Policy Development Act of 1987, and every 3 years after that date, the Under Secretary shall develop and publish in the Federal Register, a sea grant strategic research plan for the next 3 years. The plan shall—

"(1) identify and describe a limited number of priority areas for strategic research in fields associated with ocean, coastal, and Great Lakes resources; and

"(2) indicate the goals and timetables for the research in those fields.

"(c) CONSULTATION AND CONGRESSIONAL REVIEW.—

"(1) CONSULTATION.—In developing each sea grant strategic research plan, the Under Secretary shall consult with relevant Federal agencies; sea grant directors; other representatives of sea grant colleges, sea grant programs, and sea grant regional consortia; non-governmental marine scientists; and other interested parties, both public and private.

"(2) SUBMITTAL TO CONGRESS.—Upon publication of each sea grant strategic research plan under subsection (b), the Under Secretary shall submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(3) RESTRICTION ON GRANTS AND CONTRACTS.—The Under Secretary shall not make a grant or enter into a contract under this section for priority area research under a strategic research plan before the 45th day after the date of receipt of the plan by the Committees referred to in paragraph (2).

"(d) CRITERIA FOR AREAS TO BE INCLUDED IN PLAN.—In selecting priority areas for inclusion in the sea grant strategic research plan, the Under Secretary shall concentrate on—

"(1) critical resource and environmental areas that are precluded from adequate funding under other provisions of this Act because of—

"(A) their national, international, or global scope, fundamental nature, or long-range aspects;

"(B) the scale of the needed research effort; or

"(C) the need for the broadest possible university involvement; and

"(2) areas where the strength and capabilities of the sea grant colleges, sea grant programs, and sea grant regional consortia in mobilizing talent for sustained programmatic research and technology transfer make them particularly qualified to manage strategic marine research under this section.

"(e) CONTRACT AND GRANT REQUIREMENTS.—Subsections (c) and (d) of section 205 apply to applications for grants or contracts, and to grants made and contracts entered into, under this section.

State and local governments. 33 USC 1125 note.

(b) REGULATIONS.—Within 1 year after the effective date of this title, the Under Secretary of Commerce for Oceans and Atmosphere shall adopt rules and regulations in accordance with section 553 of title 5, United States Code, to carry out section 206(a), after giving notice and opportunity for full participation by relevant Federal agencies; State agencies; local governments; regional organizations; nongovernmental marine scientists; sea grant directors and other representatives of sea grant colleges, programs, and regional consortia; and other interested parties, both public and private.

SEC. 3107. FELLOWSHIPS.

Section 208 (33 U.S.C. 1127) is amended to read as follows:

"SEC. 208. FELLOWSHIPS.

"(a) IN GENERAL.—To carry out the educational and training objectives of this Act, the Under Secretary shall support a program of fellowships for qualified individuals at the graduate and postgraduate level. The fellowships shall be related to ocean, coastal, and Great Lakes resources and awarded pursuant to guidelines established by the Under Secretary.

"(b) DEAN JOHN A. KNAUSS MARINE POLICY FELLOWSHIP.—The Under Secretary may award marine policy fellowships to support the placement of individuals at the graduate level of education in fields related to ocean, coastal and Great Lakes resources in positions with the executive and legislative branches of the United States Government. A fellowship awarded under this subsection shall be for a period of not more than 1 year.

"(c) POSTDOCTORAL FELLOWSHIPS.—The Under Secretary shall establish and administer a program of postdoctoral fellowships to accelerate research in critical subject areas. The fellowship awards—

"(1) shall be for 2 years;

"(2) may be renewed once for not more than 2 years;

"(3) shall be awarded on a nationally competitive basis;

"(4) may be used at any institution of post-secondary education involved in the national sea grant college program;

"(5) shall be for up to 100 percent of the total cost of the fellowship;

"(6) may be made for any of the priority areas of research identified in the sea grant strategic research plan in effect under section 206; and

"(7) may be made to recipients of terminal professional degrees, as well as doctoral degree recipients.".

SEC. 3108. SEA GRANT REVIEW PANEL.

Section 209 (33 U.S.C. 1128) is amended as follows:

(1) Subsection (b) is amended—

(A) by striking the matter preceding paragraph (1) and inserting "The Panel shall advise the Secretary, the Under Secretary, and the Director concerning—"; and

(B) by inserting "and section 3 of the Sea Grant Program Improvement Act of 1976" before the semicolon at the end of subsection (b)(1).

(2) Subsection (c) is amended—

(A) by striking the second sentence of paragraph (1) and inserting in lieu thereof the following: "The Director and a director of a sea grant program who is elected by the various directors of sea grant programs shall serve as nonvoting members of the panel.";

(B) by striking "five" in paragraph (1) and inserting in lieu thereof "8";

Federal Register, publication.

(C) by adding at the end of paragraph (2) the following: "At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel."; and

(D) by striking "office, or until 90 days after such date, whichever is earlier." in paragraph (3) and inserting in lieu thereof "office.".

SEC. 3109. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

Section 211 (33 U.S.C. 1130) is amended to read as follows:

"SEC. 211. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

"(a) In General.—The Under Secretary may provide annual grants during fiscal years 1988 through 1990 to institutions eligible under subsection (b) to assist the institutions in achieving the following objectives:

"(1) Development and improvement of curriculum offerings in marine affairs and resource management at the graduate level, and development of related educational materials.

"(2) Fostering support of graduate students, through scholarships and teaching and research fellowships, in marine affairs and resource management.

"(3) Increasing multidisciplinary research in marine resources management.

"(b) Eligibility.—An institution is eligible for grants under this section if it is a sea grant college, sea grant regional consortium, or institution of higher education having a sea grant program that—

"(1) maintains a graduate program in, or institute or center for, marine affairs and resource management;

"(2) has prepared a development plan to improve and strengthen that program, institute, or center; and

"(3) has demonstrated, to the extent consistent with State law, its intention to support such improved and strengthened education and training after financial assistance under this section has ceased.

"(c) APPLICATIONS.—Applications for grants under this section shall be made in such manner as the Under Secretary shall require.

"(d) LIMITATIONS ON GRANTS.—No grant in excess of $400,000 may be made to an eligible institution under this section for any year, and no more than 2 annual grants may be made to any such institution.

"(e) REPORT BY GRANT RECIPIENT.—Each institution receiving a grant under this subsection shall report to the Under Secretary, in such manner as the Under Secretary may require annually, and within 90 days following the termination of the grant, regarding the activities conducted with the grant.".

SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.

Section 212 (33 U.S.C. 1131) is amended to read as follows:

"SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out the provisions of this Act other than sections 206 and 211, an amount—

"(1) for fiscal year 1988, not to exceed $41,500,000;
"(2) for fiscal year 1989, not to exceed $50,500,000; and
"(3) for fiscal year 1990, not to exceed $51,000,000.

"(b) STRATEGIC MARINE RESEARCH.—There is authorized to be appropriated to carry out section 206 and section 208(c), an amount—

"(1) for fiscal year 1988, not to exceed $500,000;
"(2) for fiscal year 1989, not to exceed $5,000,000; and
"(3) for fiscal year 1990, not to exceed $10,000,000.

"(c) MARINE AFFAIRS AND RESOURCE MANAGEMENT GRANTS.—There is authorized to be appropriated to carry out section 211, an amount—

"(1) for fiscal year 1988, not to exceed $2,000,000;
"(2) for fiscal year 1989, not to exceed $2,500,000; and
"(3) for fiscal year 1990, not to exceed $3,000,000.

"(d) AVAILABILITY OF SUMS.—Sums appropriated pursuant to this section shall remain available until expended.

"(e) REVERSION OF UNOBLIGATED AMOUNTS.—The amount of any grant, or portion of a grant, made to a person under any section of this Act that is not obligated by that person during the first fiscal year for which it was authorized to be obligated or during the next fiscal year thereafter shall revert to the Secretary. The Secretary shall add that reverted amount to the funds available for grants under the section for which the reverted amount was originally made available.".

SEC. 3111. SEA GRANT INTERNATIONAL PROGRAM.

Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended to read as follows:

"SEC. 3. SEA GRANT INTERNATIONAL PROGRAM.

Contracts.

"(a) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere may enter into contracts and make grants under this section to—

"(1) enhance cooperative international research and educational activities on ocean, coastal and Great Lakes resources;

"(2) promote shared marine activities with universities in countries with which the United States has sustained mutual interest in ocean, coastal, and Great Lakes resources;

"(3) encourage technology transfer that enhances wise use of ocean, coastal, and Great Lakes resources in other countries and in the United States;

"(4) promote the exchange among the United States and foreign nations of information and data with respect to the assessment, development, utilization, and conservation of such resources;

"(5) use the national sea grant college program as a resource in other Federal civilian agency international initiatives whose purposes are fundamentally related to research, education, technology transfer and public service programs concerning the understanding and wise use of ocean, coastal, and Great Lakes resources; and

"(6) enhance regional collaboration between foreign nations and the United States with respect to marine scientific research, including activities which improve understanding of global oceanic and atmospheric processes, undersea minerals resources within the exclusive economic zone, and productivity and enhancement of living marine resources in—

"(A) the Caribbean and Latin American regions;

"(B) the Pacific Islands region;

"(C) the Arctic and Antarctic regions;

"(D) the Atlantic and Pacific Oceans; and

"(E) the Great Lakes.

Caribbean.
Latin America.
Pacific Islands.
Arctic and Antarctic.
Atlantic Ocean.
Pacific Ocean.
Great Lakes.

"(b) Eligibility, Procedures, and Requirements.—Any sea grant college, sea grant program, or sea grant regional consortium, and any institution of higher education, laboratory, or institute (if the institution, laboratory, or institute is located within a State, as defined in section 203(14) of the National Sea Grant College Program Act (33 U.S.C. 1122(14)), may apply for and receive financial assistance under this section. The Under Secretary shall prescribe rules and regulations, in consultation with the Secretary of State, to carry out this section. Before approving an application for a grant or contract under this section, the Under Secretary shall consult with the Secretary of State. A grant made, or contract entered into, under this section is subject to section 205(d) (2) and (4) of the National Sea Grant College Program Act (33 U.S.C. 1124(d) (2) and (4)) and to any other requirements that the Under Secretary considers necessary and appropriate.".

Contracts.

Subtitle B—Great Lakes Mapping

Great Lakes Shoreline Mapping Act of 1987.
33 USC 883a note.

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Great Lakes Shoreline Mapping Act of 1987".

SEC. 3202. GREAT LAKES SHORELINE MAPPING PLAN.

33 USC 883a note.

(a) Preparation of Plan.—Not later than nine months after the date of the enactment of this subtitle, the Director, in consultation with the Director of the United States Geological Survey, shall submit to the Congress a plan for preparing maps of the shoreline of the Great Lakes under section 3203.

(b) CONTENT OF PLAN.—A plan prepared under paragraph (1) shall include—

(1) a work proposal and a division of responsibilities between the National Oceanic and Atmospheric Administration and the United States Geological Survey;

(2) a time schedule for completion of maps;

(3) recommendation of funding needed for preparing the maps; and

(4) an area mapping schedule, with first priority given to shoreline areas subject to a high risk of erosion or flooding.

SEC. 3203. PREPARATION OF GREAT LAKES SHORELINE MAPS.

(a) IN GENERAL.—The following completion of a shoreline mapping plan under section 3202 and subject to authorization and appropriation of funds, the Director, in consultation with the Director of the United States Geological Survey, shall prepare maps of the shoreline areas of the Great Lakes.

(b) CONTENT OF MAPS.—Maps prepared under this section—

(1) shall include—

(A) bathymetry of the nearshore area, to the extent that this area will affect coastal erosion and flooding;

(B) topography of the adjacent shoreline, to the extent that this area will directly affect or be affected by coastal erosion and flooding;

(C) the geological conditions of the nearshore area and shoreline to the extent that these areas will directly affect or be affected by coastal erosion and flooding;

(D) information on the recent geological past of the nearshore area and shoreline areas described in paragraph (3); and

(E) appropriate information for use in predicting and preventing damage caused by erosion and flooding in the Great Lakes;

(2) shall be of appropriate scale and detail and take into account the greater informational needs of areas subject to a high risk of erosion or flooding; and

Canada.

(3) to the maximum extent practicable, shall be consistent with similar shoreline maps prepared by, or for the use of, the Government of Canada.

State and local governments.

(c) CONSULTATION.—In preparing maps under this section, the Director shall consult with, and take into consideration, the informational needs of—

(1) the Army Corps of Engineers;

(2) the Federal Emergency Management Agency;

(3) other appropriate Federal agencies;

Illinois.
Indiana.
Michigan.
Minnesota.
New York.
Ohio.
Pennsylvania.
Wisconsin.

(4) the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

(5) appropriate local government units; and

(6) the general public.

Public information.
State and local governments.
Canada.

(d) AVAILABILITY OF MAPS.—The Director shall make maps prepared under this section available to—

(1) Federal agencies;

(2) State governments;

(3) local government units;

(4) the Government of Canada; and

(5) the general public.

(e) RECOVERY OF COSTS.—The costs of reproducing and distributing maps prepared under this section may be recovered under section 9701 of title 31, United States Code, or another law.

SEC. 3204. CONTRACT AUTHORITY.

State and local governments.

The Director may, subject to appropriations, enter into contracts and agreements on a reimbursable or cost-sharing basis with other Federal agencies, State governments, local governments, and private entities, to carry out this subtitle.

SEC. 3205. DEFINITIONS.

For purposes of this subtitle—

(1) The term "Director" means the Director of Charting and Geodetic Services of the National Ocean Service, within the National Oceanic and Atmospheric Administration.

(2) The term "Great Lakes" means Lake Erie, Lake Huron, Lake Michigan, Lake Ontario, Lake St. Clair, Lake Superior, the Saint Mary's River, the Saint Clair River, the Detroit River, the Niagara River, the Saint Lawrence River to the Canadian border, to the extent such lakes and rivers are subject to the jurisdiction of the United States.

(3) The term "high risk of erosion" means subject to erosion at a rate greater than 1 foot per year.

SEC. 3206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out section 3202 not more than $100,000 for fiscal year 1988. Amounts appropriated pursuant to this section shall remain available until expended.

TITLE IV—DRIFTNET IMPACT MONITORING, ASSESSMENT, AND CONTROL

Driftnet Impact Monitoring, Assessment, and Control Act of 1987.
North Pacific Ocean.
16 USC 1822 note.

SEC. 4001. SHORT TITLE.

This title may be cited as the "Driftnet Impact Monitoring, Assessment, and Control Act of 1987".

SEC. 4002. FINDINGS.

The Congress finds that—

(1) the use of long plastic driftnets is a fishing technique that may result in the entanglement and death of enormous numbers of target and nontarget marine resources in the waters of the North Pacific Ocean, including the Bering Sea;

(2) there is a pressing need for detailed and reliable information on the number of marine resources that become entangled and die in actively fished driftnets and in driftnets that are lost, abandoned, or discarded; and

(3) increased efforts are necessary to monitor, assess, and reduce the adverse impacts of driftnets.

SEC. 4003. DEFINITIONS.

As used in this title—

(1) DRIFTNET.—The term "driftnet" means a gillnet composed of a panel of plastic webbing one and one-half miles or more in length.

(2) DRIFTNET FISHING.—The term "driftnet fishing" means a fish-harvesting method in which a driftnet is placed in water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(3) EXCLUSIVE ECONOMIC ZONE OF THE UNITED STATES.—The term "exclusive economic zone of the United States" means the zone defined in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(b)).

(4) MARINE RESOURCES.—The term "marine resources" includes fish, shellfish, marine mammals, seabirds, and other forms of marine life or waterfowl.

(5) MARINE RESOURCES OF THE UNITED STATES.—The term "marine resources of the United States" means—

(A) marine resources found in, or which breed within, areas subject to the jurisdiction of the United States, including the exclusive economic zone of the United States; and

(B) species of fish, wherever found, that spawn in the fresh or estuarine waters of the United States.

(6) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

International agreements.

SEC. 4004. MONITORING AGREEMENTS.

(a) NEGOTIATIONS.—The Secretary, through the Secretary of State and in consultation with the Secretary of the Interior, shall immediately initiate, negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for statistically reliable cooperative monitoring and assessment of the numbers of marine resources of the United States killed and retrieved, discarded, or lost by the foreign government's driftnet fishing vessels. Such agreements shall provide for—

(1) the use of a sufficient number of vessels from which scientists of the United States and the foreign governments may observe and gather statistically reliable information; and

(2) appropriate methods for sharing equally the costs associated with such activities.

(b) REPORT.—The Secretary, in consultation with the Secretary of State, shall provide to the Congress not later than 1 year after the date of enactment of this Act a full report on the results of negotiations under this section.

SEC. 4005. IMPACT REPORT.

(a) IN GENERAL.—The Secretary shall provide to the Congress within 1 year after the date of the enactment of this Act, and at such other times thereafter as the Secretary considers appropriate, a report identifying the nature, extent, and effects of driftnet fishing in waters of the North Pacific Ocean on marine resources of the United States. The report shall include the best available information on—

Maritime affairs.

(1) the number and flag state of vessels involved;

(2) the areas fished;

(3) the length, width, and mesh size of driftnets used;

(4) the number of marine resources of the United States killed by such fishing;

(5) the effect of seabird mortality, as determined by the Secretary of the Interior, on seabird populations; and

(6) any other information the Secretary considers appropriate.

(b) INFORMATION FROM FOREIGN GOVERNMENTS.—The Secretary, through the Secretary of State, shall—

(1) request relevant foreign governments to provide the information described in subsection (a), and

(2) include in a report under this section the information so provided and an evaluation of the adequacy and reliability of such information.

Reports.

International agreements.

SEC. 4006. ENFORCEMENT AGREEMENTS.

(a) NEGOTIATIONS.—The Secretary shall immediately initiate, through the Secretary of State and in consultation with the Secretary of the Department in which the Coast Guard is operating negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for effective enforcement of laws, regulations, and agreements applicable to the location, season, and other aspects of the operations of the foreign government's driftnet fishing vessels. Such agreements shall include measures for—

(1) the effective monitoring and detection of violations;

(2) the collection and presentation of such evidence of violations as may be necessary for the successful prosecution of such violations by the responsible authorities;

(3) reporting to the United States of penalties imposed by the foreign governments for violations; and

(4) appropriate methods for sharing equally the costs associated with such activities.

(b) CERTIFICATION FOR PURPOSES OF FISHERMEN'S PROTECTIVE ACT OF 1967.—If the Secretary, in consultation with the Secretary of State, determines that a foreign government has failed, within 18 months after the date of the enactment of this Act, to enter into and implement an agreement under subsection (a) or section 4004(a) that is adequate, the Secretary shall certify such fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

SEC. 4007. EVALUATIONS AND RECOMMENDATIONS.

(a) MARKING, REGISTRY, AND IDENTIFICATION SYSTEM.—The Secretary shall evaluate, in consultation with officials of other Federal agencies and such other persons as may be appropriate, the feasibility of and develop recommendations for the establishment of a driftnet marking, registry, and identification system to provide a reliable method for the determination of the origin by vessel, of lost, discarded, or abandoned driftnets and fragments of driftnets. In conducting such evaluation, the Secretary shall consider the adequacy of existing driftnet identification systems of foreign nations and the extent to which these systems achieve the objectives of this title.

(b) ALTERNATIVE DRIFTNET MATERIALS.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the use of alternative materials in driftnets for the purpose of increasing the rate of decomposition of driftnets that are discarded or lost at sea.

(c) DRIFTNET BOUNTY SYSTEM.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of and develop appropriate recommendations for the implementation of a driftnet bounty system to pay persons who retrieve from the exclusive economic zone and deposit with the Secretary lost, abandoned, and discarded driftnet and other plastic fishing material.

(d) DRIFTNET FISHING VESSEL TRACKING SYSTEM.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the establishment of a cooperative driftnet fishing vessel tracking system to facilitate efforts to monitor the location of driftnet fishing vessels.

(e) REPORT.—The Secretary shall transmit to the Congress not later than 18 months after the date of the enactment of this Act a report setting forth—

(1) the evaluations and recommendations developed under subsections (a), (b), (c), and (d);

(2) the most effective and appropriate means of implementing such recommendations;

(3) any need for further research and development efforts and the estimated cost and time required for completion of such efforts; and

(4) any need for legislation to provide authority to carry out such recommendations.

SEC. 4008. CONSTRUCTION WITH OTHER LAWS.

This title shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in existing law on the date of the enactment of this Act.

SEC. 4009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Commerce and the Department of State, such sums as may be necessary to carry out the purposes of this title.

North Carolina.

TITLE V—RED TIDE CONTAMINATION

SEC. 5001. DECLARATION OF DISASTER.

Notwithstanding any other provision of law, rule, or regulation, upon the date of the enactment of this Act, the Administrator of the Small Business Administration shall declare the recent North Carolina coast red tide contamination a disaster for purposes of section 7(b) of the Small Business Act (15 U.S.C. 636(b)).

SEC. 5002. PROVISION OF ASSISTANCE.

Notwithstanding any other provision of law, rule, or regulation, for purposes of providing assistance under paragraph (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)(2)) for a disaster declared under section 1 of this Act, eligibility of individual applicants for assistance shall not in any way be dependent on—

(1) the number of disaster victims in any county or other political subdivision; or

(2) whether or not an applicant who normally conducts operations in the area of the recent North Carolina coast red tide contamination is otherwise situated or located in such area; or

(3) the type of business or industry in which the applicant is engaged.

SEC. 5003. RECENT NORTH CAROLINA COAST RED TIDE CONTAMINATION DEFINED.

For purposes of this Act, the term "recent North Carolina coast red tide contamination" means contamination of waters under the jurisdiction of the State of North Carolina by unusually high concentrations of the algae known as Ptychodiscus brevis (commonly referred to as "red tide"), with respect to which the Director of the Division of Marine Fisheries of the North Carolina Department of Natural Resources issues a shell fishing closure proclamation on or after November 2, 1987.

Approved December 29, 1987.

LEGISLATIVE HISTORY—H.R. 3674:

HOUSE REPORTS: No. 100-489 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 133 (1987):
    Dec. 18, considered and passed House.
    Dec. 19, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
    Dec. 29, Presidential statement.

O

Public Law 100-221
100th Congress

An Act

Dec. 29, 1987
[H.R. 3734]

To recognize the significance of the administration of the Federal-Aid Highway System and to express appreciation to Ray A. Barnhart for his dedicated efforts in improving the Federal-Aid Highway System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the funding of the Federal-Aid Highway System has resulted in the development of the greatest system of highways in the world;

(2) such System has enhanced the social and economic well-being of the people of the United States;

(3) administration of such System has become one of the most significant responsibilities;

(4) Ray A. Barnhart who is retiring as Federal Highway Administrator on December 31, 1987, has served as administrator of such System longer than any other person in the history of the Department of Transportation;

(5) Ray A. Barnhart was in the forefront of the coalition which strived successfully to increase the Nation's highway user fees so that our Nation's transportation system could be improved without increasing the Nation's deficit;

(6) Ray A. Barnhart has labored to make certain that highway user fees are utilized only for transportation purposes thus preserving the sanctity of the Highway Trust Fund;

(7) Ray A. Barnhart has persevered in his leadership of the fight against gasoline and diesel fuel tax evasion;

(8) Ray A. Barnhart has worked vigorously to improve safety on our Nation's roads;

(9) Ray A. Barnhart's efforts on behalf of highway safety have included the reorganization of the Federal Highway Administration to upgrade its emphasis on truck and bus safety through the establishment of an Associate Administrator for Motor Carriers;

(10) Ray A. Barnhart has endeavored to preserve, continue, and enhance the high level of professional expertise that has been a hallmark of the Federal Highway Administration;

(11) Ray A. Barnhart is leaving Federal service with the same open door policy and management style that he brought to Washington nearly 7 years ago;

(12) Ray A. Barnhart has demonstrated unfailing professional and personal integrity; and

(13) Ray A. Barnhart has on most occasions been an outstanding ally and when necessary a worthy adversary but always a spokesman for what he believed best for our Nation's highway system.

SEC. 2. RECOGNITION AND EXPRESSION OF GRATITUDE.

In recognition of the importance of the Federal-Aid Highway System and the administration of such System, the United States Government hereby expresses its gratitude to Ray A. Barnhart for his honest, effective, and meaningful efforts to preserve and improve such System—one of the Nation's most vital assets, an asset that contributes mightily to the economic welfare of the Nation and the lifestyle of the American people.

Approved December 29, 1987.

LEGISLATIVE HISTORY—H.R. 3734:

HOUSE REPORTS: No. 100-481 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  Dec. 15, considered and passed House.
  Dec. 17, considered and passed Senate.

○

Public Law 100-222
100th Congress

Joint Resolution

Dec. 29, 1987
[H.J. Res. 430]

Calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses or fiances in the United States.

Whereas the Soviet Union is a signatory of the Final Act of the Conference on Security and Cooperation in Europe which states that "The participating States will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character—such as requests submitted by persons who are ill or old.";

Whereas the Final Act further states that, "In dealing with requests from couples from different participating States, once married, to enable them and the minor children of their marriage to transfer their permanent residence to a State in which either one is normally a resident, the participating States will also apply the provisions accepted for family reunification.";

Whereas the Soviet Union has denied exit visas or marriage permits to several Soviet citizens who are married or engaged to Americans;

Whereas the United States officials have brought these divided spouses and blocked marriage cases to the attention of Soviet diplomats on numerous occasions, including during the recently concluded Washington summit meeting between President Reagan and General Secretary Gorbachev;

Whereas several similar long-term cases have been resolved within the last two years;

Whereas the Soviet Union has initiated a policy of "Democratizatsiya" which claims to give greater emphasis to basic human rights, including the right to live with one's family in the family's country of choice;

Whereas the Soviet Union and the United States have concluded a major arms reduction agreement, and the spirit of this agreement should foster progress between the Soviet Union and the United States in successfully addressing human rights concerns; and

Whereas the Soviet Union, as a signatory of the Final Act of the Conference on Security and Cooperation in Europe, is obligated to comply with the Act's provisions regarding the reunification of divided families and marriage between citizens of different states: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States—

Galina Goltzman Michelson.
Yuri Balovlenkov.
Victor Faermark.
Elena Kaplan.
Victor Novikow.
Leonid Scheiba.

(1) welcomes the recent granting by the Soviet Union of permission to emigrate to several Soviet citizens who have been divided for many years from their American spouses and fiances including Galina Goltzman Michelson, Yuri Balovlenkov, Victor Faermark, Elena Kaplan, Victor Novikow, and Leonid Scheiba; and

(2) calls upon the Soviet Union—

(A) to immediately grant to all those who wish to join spouses or fiances in the United States (including Tatyana Alexandrovich, Yeugeni Grigorishin, Vladislav Kostin, Lyubov Kurillo, Pyatras Pakenas, and Sergei Petrov) permission to emigrate with their family members to the United States; and

(B) to give special consideration to cases that have remained unresolved for many years.

Tatyana Alexandrovich.
Yeugeni Grigorishin.
Vladislav Kostin.
Lyubov Kurillo.
Pyatras Pakenas.
Sergei Petrov.

SEC. 2. The Secretary of State shall transmit a copy of this joint resolution to the President of the Union of Soviet Socialist Republics.

Approved December 29, 1987.

LEGISLATIVE HISTORY—H.J. Res. 430 (H.J. Res. 376):

CONGRESSIONAL RECORD, Vol. 133 (1987):
- Nov. 16, 17, H.J. Res. 376 considered and passed House.
- Dec. 4, H.J. Res. 376 considered and passed Senate, amended.
- Dec. 18, H.J. Res. 430 considered and passed House. House concurred in Senate amendment to H.J. Res. 376 with amendment.
- Dec. 19, H.J. Res. 430 considered and passed Senate. Senate concurred in House amendments to H.J. Res. 376.

○

AIRPORT AND AIRWAY SAFETY AND CAPACITY EXPANSION ACT OF 1987

19-139 0 - 88 (223)

Public Law 100-223
100th Congress

An Act

Dec. 30, 1987
[H.R. 2310]

To amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Airport and Airway Safety and Capacity Expansion Act of 1987.
Transportation.
49 USC app. 2201 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Airport and Airway Safety and Capacity Expansion Act of 1987".

(b) Table of Contents.—

Sec. 1. Short title and table of contents.
Sec. 2. Secretary and Administrator defined.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

Sec. 101. Amendment of Airport and Airway Improvement Act of 1982.
Sec. 102. Declaration of policy.
Sec. 103. Definitions.
Sec. 104. National airport and airway system plans.
Sec. 105. Authorization of appropriations.
Sec. 106. Apportionment of funds.
Sec. 107. Limitations on uses of funds.
Sec. 108. State sponsorship.
Sec. 109. Project sponsorship.
Sec. 110. Grant agreements.
Sec. 111. Project costs.
Sec. 112. Limitation on powers.
Sec. 113. Part-time operation of flight service stations.
Sec. 114. Explosive detection K-9 teams.
Sec. 115. Denial of funds for projects using products or services of foreign countries that deny fair market opportunities.
Sec. 116. State block grant pilot program.

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

Sec. 201. Amendment of Federal Aviation Act of 1958.
Sec. 202. Essential air service.
Sec. 203. Aircraft collision avoidance systems.
Sec. 204. Civil penalties.
Sec. 205. Indemnification of Federal Aviation Administration employees.
Sec. 206. Hazards to safe and efficient air commerce and the preservation of navigable airspace and airport traffic capacity.
Sec. 207. Public aircraft defined.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Noise abatement.
Sec. 302. Air traffic controller workforce.
Sec. 303. Safety rulemaking proceedings.
Sec. 304. Inflation adjustment on collection of certain aviation fees.
Sec. 305. Amendments to the National Driver Register Act.
Sec. 306. Low activity level I air traffic control tower contract program.
Sec. 307. Eligibility of Dermott, Arkansas, municipal airport.
Sec. 308. Standards for navigational aids.
Sec. 309. Long-term airport capacity needs.
Sec. 310. Radio navigation systems.
Sec. 311. Reporting of accidents to NTSB.
Sec. 312. Atlantic City Airport.

Sec. 313. Release of certain conditions.
Sec. 314. Flight service station in Juneau, Alaska.
Sec. 315. Grand Canyon Airport.

TITLE IV—EXTENSION OF AVIATION-RELATED TAXES AND AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY

Sec. 401. Short title.
Sec. 402. 3-year extension of aviation-related taxes.
Sec. 403. Extension of Airport and Airway Trust Fund spending authority.
Sec. 404. Exemption for certain emergency medical transportation by helicopter.
Sec. 405. Reduction in aviation-related taxes where appropriations are significantly below authorizations.

SEC. 2. SECRETARY AND ADMINISTRATOR DEFINED.

49 USC app. 2202 note.

As used in this Act—

(1) the term "Secretary" means the Secretary of Transportation; and

(2) the term "Administrator" means the Administrator of the Federal Aviation Administration.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

SEC. 101. AMENDMENT OF AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201-2225).

SEC. 102. DECLARATION OF POLICY.

49 USC app. 2201.

(a) COMPREHENSIVE AIR SPACE PLAN.—Section 502(a)(4) is amended—

(1) by inserting ", a vertical visual guidance system," after "precision approach system"; and

(2) by inserting "distance-to-go signs for each primary and secondary runway, a surface movement radar system at each category III airport, a taxiway lighting and sign system," after "vertical guidance on all runways,".

(b) CARGO HUB AIRPORTS.—Section 502(a) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively; and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) cargo hub airports play a critical role in the movement of commerce through the airport and airway system and appropriate provisions should be made to facilitate the development and enhancement of such airports;".

(c) INCREASING AIRPORT CAPACITY; NONAVIATION USE OF AIRSPACE; LIMITATION ON ARTIFICIAL RESTRICTIONS ON AIRPORT CAPACITY.—Section 502(a) is amended—

(1) by striking out "and" at the end of paragraph (9), as redesignated by subsection (b);

(2) by striking out the period at the end of paragraph (10), as so redesignated, and by inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(11) airport construction and improvement projects which increase the capacity of facilities to accommodate passenger and cargo traffic, thereby increasing safety and efficiency and reducing delays, should be undertaken to the maximum feasible extent;

"(12) it is in the national interest to ensure that nonaviation usage of navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system; and

"(13) artificial restrictions on airport capacity are not in the public interest and should not be imposed to alleviate air traffic delays unless other reasonably available and less burdensome alternatives have first been attempted.".

49 USC app. 1348 note.

(d) SENSE OF CONGRESS.—It is the sense of Congress that any regulation under which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft at certain airports should be phased out and eliminated at the earliest practicable date the Administrator finds that such phaseout or elimination is consistent with aviation safety.

SEC. 103. DEFINITIONS.

49 USC app. 2202.

(a) INCLUSION OF HELIPORTS AS AIRPORTS.—Section 503(a)(1) is amended—

(1) by inserting "(A)" before "means"; and

(2) by inserting "; and (B) includes any heliport" before the period at the end thereof.

(b) ACQUISITION OF FIRE FIGHTING EQUIPMENT AS AIRPORT DEVELOPMENT.—Section 503(a)(2)(B) is amended—

(1) by striking out "or" at the end of clause (iv);

(2) by striking out "and" at the end of clause (v) and inserting in lieu thereof "or"; and

(3) by adding at the end thereof the following new clause:

"(vi) fire fighting and rescue equipment at any airport which serves scheduled passenger operations of air carrier aircraft designed for more than 20 passenger seats; and".

(c) LANDED WEIGHT DEFINED.—Section 503(a) is amended—

(1) by redesignating paragraphs (9) through (24), and any references thereto, as paragraphs (10) through (25); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) 'Landed weight' means the weight of aircraft providing scheduled and nonscheduled service of only property (including mail) in intrastate, interstate, and foreign air transportation, as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.".

(d) INCLUSION OF CERTAIN INTERNATIONAL PASSENGERS AS PASSENGERS ENPLANED.—Paragraph (10) of section 503(a), as redesignated by subsection (c), is amended by inserting before the period at the end thereof the following: "and includes passengers on board international flights which transit an airport located in the 48 contiguous States for nontraffic purposes".

(e) DEFINITION OF PRIMARY AIRPORT.—Paragraph (12) of section 503(a), as redesignated by subsection (c), is amended by striking out ".01 percent" and all that follows through the period at the end thereof and inserting in lieu thereof the following: "more than 10,000 passengers enplaned annually.".

(f) CONFORMING AMENDMENT.—Section 101(1) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2101(1)) is amended by striking out section "503(17)" and inserting in lieu thereof "503(18)".

SEC. 104. NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS.

(a) REVIEW OF PLAN.—

(1) IN GENERAL.—Section 504(a) is amended— 49 USC app. 2203.

(A) by inserting "(1) PUBLICATION, CONTENTS, AND REVIEW OF PLAN.—" before "Not later than two"; and

(B) by adding at the end thereof the following new paragraph:

"(2) SPECIAL REVIEW.—As soon as feasible following the date of the enactment of this paragraph, the Secretary shall, in reviewing and revising the plan, take into account tall structures which reduce safety or airport capacity and make every reasonable effort to address the legitimate needs of air cargo operations, STOL/VSTOL aircraft operations, and rotary wing aircraft operations.".

(2) CONFORMING AMENDMENT.—Such section is further amended by indenting paragraph (1), as designated by paragraph (1)(A) of this subsection, and aligning such paragraph (1) with paragraph (2), as added by paragraph (1)(B) of this subsection.

(b) STUDY OF SPECIAL USE AIRSPACE.—

(1) IN GENERAL.—Section 504(d) is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph:

"(2) SPECIAL USE AIRSPACE.—

"(A) REVIEW.—The Secretary and the Secretary of Defense, in consultation with aviation users, shall jointly conduct a national review of the need and utilization of special use airspace with a view to determining its impact on civil aviation operations and on the quality of the environment.

"(B) REPORT.—Not later than 18 months after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, the Secretary and the Secretary of Defense shall report to Congress the results of the review conducted under subparagraph (A), together with their recommendations.".

(2) CONFORMING AMENDMENTS.—Section 504(d) is further amended—

(A) in paragraph (1) by inserting "CIVIL USE OF DOMESTIC MILITARY AIRPORTS.—" before "The Department"; and

(B) by indenting paragraph (1) and aligning such paragraph with paragraph (2), as inserted by paragraph (1) of this subsection.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) AIRWAY FACILITIES AND EQUIPMENT.—Section 506(a) is amended— 49 USC app. 2205.

(1) by redesignating paragraph (2) (and any reference thereto) as paragraph (3); and

(2) by striking out "For the purposes of" and all that follows through "remain available until expended." and inserting in lieu thereof the following:

"(1) GENERAL AUTHORIZATION.—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1348(b)), there are authorized to be appropriated from the Trust Fund for fiscal years beginning after September 30, 1981, aggregate amounts not to exceed $6,327,000,000 for fiscal years ending before October 1, 1987, $7,704,000,000 for fiscal years ending before October 1, 1988, $9,434,000,000 for fiscal years ending before October 1, 1989, and $11,625,200,000 for fiscal years ending before October 1, 1990. Amounts appropriated under this subsection shall remain available until expended.

"(2) PURCHASE AND INSTALLATION OF INSTRUMENT LANDING SYSTEMS.—

"(A) MINIMUM OBLIGATION LEVEL.—Of amounts made available under paragraph (1) after September 30, 1987, the Secretary shall obligate not less than $27,000,000 in fiscal year 1988, $30,000,000 in fiscal year 1989, and $35,000,000 in fiscal year 1990 for the purposes of purchasing and installing instrument landing systems at airports under section 307(b) of the Federal Aviation Act of 1958.

"(B) PRIMARY AND RELIEVER AIRPORTS.—75 percent of amounts obligated pursuant to subparagraph (A) in a fiscal year shall be made available for the purchase and installation of instrument landing systems at primary airports and reliever airports.

"(C) OTHER AIRPORTS.—25 percent of amounts obligated pursuant to subparagraph (A) in a fiscal year shall be made available for the purchase and installation of instrument landing systems at airports other than primary airports and reliever airports.".

(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—

49 USC app. 2205.

(1) IN GENERAL.—Section 506(b) is amended to read as follows:

"(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—

"(1) DEMONSTRATION PROJECTS.—The Secretary is authorized to carry out under section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) such demonstration projects as the Secretary determines necessary in connection with research and development activities under such section.

"(2) GENERAL AUTHORIZATION.—For research, engineering and development, and demonstration projects and activities under section 312 of the Federal Aviation Act of 1958 and paragraph (1) of this subsection, there is authorized to be appropriated from the Trust Fund—

"(A) for fiscal year 1988—

"(i) $127,192,000 solely for air traffic control projects and activities;

"(ii) $7,743,000 solely for air traffic control advanced computer projects and activities;

"(iii) $9,818,000 solely for navigation projects and activities;

"(iv) $21,957,000 solely for aviation weather projects and activities;

"(v) $6,307,000 solely for aviation medicine projects and activities of which not less than $250,000 shall be made available for research and development relating to equipment designed to provide improved access by handicapped persons to commercial aircraft;

"(vi) $24,988,000 solely for aircraft safety projects and activities; and

"(vii) $3,000,000 solely for environmental projects and activities;

"(B) for fiscal year 1989—

"(i) $135,866,000 solely for air traffic control projects and activities;

"(ii) $15,716,000 solely for air traffic control advanced computer projects and activities;

"(iii) $11,395,000 solely for navigation projects and activities;

"(iv) $21,797,000 solely for aviation weather projects and activities;

"(v) $6,613,000 solely for aviation medicine projects and activities;

"(vi) $21,013,000 solely for aircraft safety projects and activities; and

"(vii) $2,600,000 solely for environmental projects and activities; and

"(C) for fiscal year 1990, $222,000,000.

"(3) AUTHORITY TO TRANSFER FUNDS.—

"(A) UNLIMITED.—Funds may be transferred among the projects and activities listed in paragraph (2), except that the net funds transferred to or from any category of such projects and activities listed in paragraph (2) in any fiscal year may not exceed 10 percent of the amount authorized for such category by paragraph (2) for such fiscal year.

"(B) AFTER NOTICE.—In addition, the Secretary may propose transfers to or from any category of projects and activities listed in paragraph (2) exceeding 10 percent of the amount authorized for such category. An explanation of the proposed transfer must be transmitted in writing to the Committee on Science, Space, and Technology and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate. The proposed transfer may be made only when—

"(i) 30 calendar days have passed after transmission of such explanation; or

"(ii) each such Committee has transmitted to the Secretary written notice that such Committee has no objection to the proposed transfer.

"(4) FUNDING FOR ENHANCING AIRPORT CAPACITY.—

"(A) GENERAL RULE.—Notwithstanding any other provision of this subsection, of funds made available under paragraph (2) in each of fiscal years 1988, 1989, and 1990, not less than $25,000,000 per fiscal year is authorized to be appropriated for research and development on preserving and enhancing airport capacity (including research and development on improvements to airport design standards, airport maintenance, airport safety, airport operations, and airport environmental concerns) under section 312 of the Federal Aviation Act of 1958.

"(B) REPORT.—Not later than 60 days after the last day of each of fiscal years 1988, 1989, and 1990, the Administrator of the Federal Aviation Administration shall transmit to the Committee on Science, Space, and Technology and the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on expenditures made by the Administrator for research and development under subparagraph (A) in such fiscal year.

"(5) PERIOD OF AVAILABILITY.—Amounts appropriated under this subsection shall remain available until expended.".

49 USC app. 2205 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 1987.

(c) OTHER EXPENSES.—

49 USC app. 2205.

(1) GENERAL LIMITATIONS.—Section 506(c) is amended by adding at the end thereof the following new paragraph:

"(3) FISCAL YEARS 1988-1990.—

"(A) MAXIMUM AMOUNT APPROPRIATED.—Subject to subparagraph (B) of this paragraph, the amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for each of fiscal years 1988, 1989, and 1990 may not exceed 50 percent of the amount of funds made available under section 505 and subsections (a) and (b) of this section for such fiscal year.

"(B) REDUCTION IN MAXIMUM AMOUNT.—The maximum amount which may be appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) for any fiscal year, as determined under subparagraph (A) of this paragraph, shall be reduced by an amount equal to 2 times the excess, if any, of—

"(i) $3,278,000,000 in the case of fiscal year 1988, $3,445,000,000 in the case of fiscal year 1989, $3,863,000,000 in the case of fiscal year 1990, $3,770,000,000 in the case of fiscal year 1991, and $3,778,000,000 in the case of fiscal year 1992, over

"(ii) the amount made available under section 505 and subsections (a) and (b) of this section for such fiscal year.

"(C) INCREASE IN MAXIMUM AMOUNT.—Subject to subparagraph (D), the amount authorized to be appropriated from the Trust Fund under this paragraph for any fiscal year shall be increased by an amount equal to 2 times the excess, if any, of—

"(i) the amount made available under section 505 and subsections (a) and (b) of this section for such fiscal year, over

"(ii) the portion of the amount authorized under such section and subsections for such fiscal year which was not authorized for any previous fiscal year.

"(D) LIMITATION ON INCREASES.—The aggregate amount of increases in the amount authorized to be appropriated from the Trust Fund under this paragraph may not exceed the aggregate amount of reductions made under subparagraph (B) of this paragraph.".

(2) LIMITATION ON FUNDING FOR WEATHER SERVICES.—Section 506(d) is amended— 49 USC app. 2205.

(A) by striking out "$26,700,000" and all that follows through "1986; and"; and

(B) by inserting before the period at the end thereof the following: "and $30,000,000 per fiscal year for each of fiscal years 1988, 1989, and 1990".

(d) LIMITATION ON USES OF TRUST FUND.—

(1) FUNDING OF AIRPORT IMPROVEMENT PROGRAM.—Section 506(e)(1) is amended by inserting "and section 505" before the period.

(2) EXTENSION.—Section 506(e)(5) is amended by striking out "1987" and inserting in lieu thereof "1992".

(e) AIRPORT DEVELOPMENT AND PLANNING.—Section 505(a) is amended by striking out the second sentence and inserting in lieu thereof the following: "The aggregate amounts which shall be available after September 30, 1981, to the Secretary for such grants and for grants for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act shall be $5,116,700,000 of which $475,000,000 shall be credited to the supplementary discretionary fund established by section 507(a)(3)(B) for fiscal years ending before October 1, 1987, $6,816,700,000 for fiscal years ending before October 1, 1988, $8,516,700,000 for fiscal years ending before October 1, 1989, $10,216,700,000 for fiscal years ending before October 1, 1990, $12,016,700,000 for fiscal years ending before October 1, 1991, and $13,816,700,000 for fiscal years ending before October 1, 1992.". 49 USC app. 2204.

(f) DISADVANTAGED BUSINESS ENTERPRISES.—Section 505 is amended by adding at the end thereof the following new subsection:

"(d) DISADVANTAGED BUSINESS ENTERPRISES.—

"(1) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available under subsection (a) in a fiscal year beginning after September 30, 1987, shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $14,000,000, as adjusted by the Secretary for inflation.

"(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term 'socially and economically disadvantaged individuals' has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged for purposes of this subsection.

"(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State or airport sponsor shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State.

"(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments and airport sponsors to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.".

49 USC app. 2205.

(g) CONFORMING AMENDMENTS.—(1) Section 506(a) is further amended—

(A) in paragraph (3), as redesignated by subsection (a)(1) of this section, by inserting "SITE PREPARATION WORK.—" before "The costs of"; and

(B) aligning such paragraph (3) with paragraph (1), as inserted by subsection (a)(2) of this section.

(2) Section 506(c) is further amended—

(A) in paragraph (1) by inserting "DESCRIPTION.—" before "The balance";

(B) in paragraph (2) by inserting "FISCAL YEARS 1982-1987.—" before "The amount appropriated"; and

(C) by indenting paragraph (1) and aligning such paragraph and paragraph (2) with paragraph (3) of such section, as added by subsection (c) of this section.

(3) Section 506(e)(2) is amended by striking out "and (d) and the third sentence of section (c)" and inserting in lieu thereof "(c), and (d)".

(h) SPECIAL RULE FOR HAWAII.—Notwithstanding any other provision of law, funds made available to the State of Hawaii under section 505 of the Airport and Airway Improvement Act of 1982 may be used to acquire properties referred to as areas 46A and 46B of the United States General Services Administration Facility Site in Moanalua, Honolulu, Oahu, Hawaii, or to reimburse the State of Hawaii for such acquisition.

SEC. 106. APPORTIONMENT OF FUNDS.

(a) GENERAL RULES.—Section 507 is amended to read as follows:

49 USC app. 2206.

"SEC. 507. APPORTIONMENT OF FUNDS.

"(a) APPORTIONMENT.—On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 505 of this title, the amount made available for the fiscal year under such section and not previously apportioned shall be apportioned by the Secretary as follows:

"(1) PRIMARY AIRPORTS.—To the sponsor of each primary airport, as follows:

"(A) $7.80 for each of the first 50,000 passengers enplaned at the airport;

"(B) $5.20 for each of the next 50,000 passengers enplaned at the airport;

"(C) $2.60 for each of the next 400,000 passengers enplaned at the airport; and

"(D) $0.65 for each additional passenger enplaned at the airport.

"(2) CARGO SERVICE AIRPORTS.—To the sponsors of airports which are served by aircraft providing air transportation of only property (including mail) with an aggregate annual landed weight in excess of 100,000,000 pounds, 3 percent of the amount made available under section 505 for such fiscal year (but not to exceed $50,000,000) as follows: In the proportion which the aggregate annual landed weight of all such aircraft landing at each such airport bears to the total aggregate annual landed weight of all such aircraft landing at all such airports.

"(3) STATES.—To the States, 12 percent of the amount made available under section 505 for such fiscal year, as follows:

"(A) INSULAR AREAS.—For airports, 1 percent of such amounts to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

Guam.
American Samoa.
Northern Mariana Islands.
Trust Territory of the Pacific Islands.
Virgin Islands.

"(B) STATES.—For airports, other than primary airports and airports described in section 508(d)(3), ½ of the remaining 99 percent in the proportion which the population of each State (other than a State to which subparagraph (A) applies) bears to the total population of all such States and ½ of the remaining 99 percent in the proportion which the area of each such State bears to the total area of all such States.

"(b) SPECIAL RULES.—

"(1) MAXIMUM AND MINIMUM AMOUNTS FOR PRIMARY AIRPORTS.—The Secretary shall not apportion less than $300,000 nor more than $16,000,000 under subsection (a)(1) to an airport sponsor for any primary airport for any fiscal year.

"(2) LIMITATION ON TOTAL APPORTIONMENTS TO PRIMARY AND CARGO SERVICE AIRPORTS.—

"(A) GENERAL RULE.—In no event shall the total amount of all apportionments under subsections (a)(1) and (a)(2) for any fiscal year exceed 49.5 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 505 of this title.

"(B) DISTRIBUTION.—In any case in which apportionments in a fiscal year would be reduced by subparagraph (A), the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an airport under subsections (a)(1) and (a)(2) proportionately so that such 49.5 percent amount is achieved.

"(3) EFFECT OF OBLIGATION CEILING ON PRIMARY AND CARGO SERVICE APPORTIONMENTS.—

"(A) OVERALL LIMIT.—If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505 of this title, the total amount of all apportionments under subsections (a)(1) and (a)(2) for such fiscal year shall not exceed 49.5 percent of such limited or reduced amount.

"(B) DISTRIBUTION.—In any case in which apportionments in a fiscal year would be reduced by subparagraph (A), the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an airport under subsections (a)(1) and (a)(2) proportionately so that such 49.5 percent amount is achieved.

"(4) MAXIMUM PERCENTAGE OF APPORTIONMENTS TO ANY CARGO SERVICE AIRPORT.—The Secretary shall not apportion to the sponsor of any airport more than 8 percent of the total amount of apportionments under subsection (a)(2) for any fiscal year.

"(5) TREATMENT OF ALASKA.—

"(A) APPORTIONMENT FORMULA.—Notwithstanding any other provision of subsection (a), for any fiscal year for which funds are made available under section 505 of this title the Secretary may apportion funds for airports in the State of Alaska in the same manner in which funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970.

"(B) MINIMUM APPORTIONMENT.—In no event shall the total amount apportioned for such airports under this paragraph for any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of such Act.

"(C) HOLD HARMLESS.—In no event shall a primary airport be apportioned less under this paragraph for a fiscal year than it would be apportioned for such fiscal year under subsection (a)(1).

"(D) EXPENDITURES AT COMMERCIAL SERVICE AIRPORTS.—In no event shall the amount of funds apportioned under this paragraph which are expended at any commercial service airport in the State of Alaska during a fiscal year exceed 110 percent of the amount apportioned to such airport for such fiscal year.

"(E) DISCRETIONARY FUNDING.—Nothing in this paragraph shall be construed as prohibiting the Secretary from making additional project grants to airports in the State of Alaska from the discretionary fund established by subsection (c).

"(6) ELIGIBILITY.—

"(A) ALASKA.—Notwithstanding subsection (a)(3)(B), funds apportioned under such subsection for airports in the State of Alaska may be made available by the Secretary for public airports described in section 508(d)(3)(C) in such State.

"(B) PUERTO RICO.—Notwithstanding subsection (a)(3)(B), funds apportioned under such subsection for airports in the Commonwealth of Puerto Rico may be made available by the Secretary for primary airports and airports described in section 508(d)(3) in such Commonwealth.

Grants.

"(c) DISCRETIONARY FUND.—

"(1) ESTABLISHMENT.—Subject to section 508(d) and paragraph (2) of this subsection any amounts—

"(A) which are made available for a fiscal year under section 505,

"(B) which have not been previously apportioned by the Secretary, and

"(C) which are not apportioned under subsections (a) and (b)(5) of this subsection,

shall constitute a discretionary fund to be distributed at the discretion of the Secretary. Such discretionary fund shall be used for making grants for any of the purposes for which funds are made available under section 505 as the Secretary considers most appropriate for carrying out the purposes of this title.

"(2) LEVEL OF FUNDING FOR PRESERVING AND ENHANCING CAPACITY, SAFETY, AND SECURITY.—Subject to section 508(d) and paragraph (4) of this subsection, not less than 75 percent of the funds in the discretionary fund pursuant to paragraph (1) and distributed by the Secretary under this subsection in a fiscal year beginning after September 30, 1987, shall be used for making grants for any of the following purposes: preserving and enhancing capacity, safety, and security at primary airports and reliever airports and carrying out airport noise compatibility planning and programs at primary airports and reliever airports.

"(3) SELECTION CRITERIA.—In selecting projects for grants described in paragraph (2) for preserving and enhancing capacity at airports, the Secretary shall consider each proposed project's effect on overall national air transportation system capacity, project benefit and cost, and the financial commitment of the airport operator or other non-Federal funding sources to preserve or enhance airport capacity.

"(4) LIMITATION.—If the Secretary determines that the Secretary will not be able to comply with the percentage requirement established by paragraph (2) in any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such percentages, the portion of funds which the Secretary determines will not be so distributed shall be available for obligation during such fiscal year without regard to such requirement.

"(d) CALENDAR YEAR AS BASIS FOR DETERMINING CERTAIN APPORTIONMENTS.—

"(1) PASSENGERS ENPLANED.—For purposes of determining apportionments for any fiscal year under subsection (a)(1), the number of passengers enplaned at an airport shall be based on the number of passengers enplaned at such airport during the preceding calendar year.

"(2) LANDED WEIGHT.—For purposes of determining apportionments for any fiscal year under subsection (a)(2), the landed weight of aircraft landing at an airport referred to in subsection (a)(2) shall be based on the landed weight of aircraft landing at such airport and all such airports during the preceding calendar year.

"(e) DEFINITIONS.—As used in subsection (a)(3)—

"(1) POPULATION.—The term 'population' means the population according to the latest decennial census of the United States.

"(2) AREA.—The term 'area' includes both land and water.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 505.—Section 505(a) is amended by striking out "sections 507(a)(1), (2), (3)(A), or" and inserting in lieu thereof "sections 507(a)(1), 507(a)(2), 507(a)(3), 507(c), and". 49 USC app. 2204.

(2) SECTION 508.—Section 508 is amended— 49 USC app. 2207.

(A) in subsection (a) by striking out "paragraph (1), (2), or (4) of section 507(a)" and inserting in lieu thereof "subsection (a) or (b)(5) of section 507";

(B) in subsection (a) by striking out "507(a)(3)" and inserting in lieu thereof "507(c)";

(C) in subsection (c) by striking out "507(a)(2)" each place it appears and inserting in lieu thereof "507(a)(3)";

(D) in subsection (d)(3) by striking out "paragraph (4) of section 507(a)" and inserting in lieu thereof "section 507(b)(5)"; and

(E) in subsection (e)(1) by striking out "507(a)" and inserting in lieu thereof "507(a) or 507(b)(5)".

49 USC app. 2208.

(3) SECTION 509.—Section 509 is amended—

(A) in subsection (a)(2) by striking out "507(a)" and inserting in lieu thereof "507"; and

(B) in subsection (e) by striking out "507(a)(1)" and inserting in lieu thereof "507(a)(1) or 507(a)(2)".

49 USC app. 2211.

(4) SECTION 512.—Section 512(a) is amended by striking out "507(a)(1)" and inserting in lieu thereof "507(a)(1) or 507(a)(2)".

49 USC app. 2212.

(5) SECTION 513.—Section 513(b) is amended—

(A) in paragraph (2) by striking out "507(a)(3)" and inserting in lieu thereof "507(c)"; and

(B) in paragraph (4) by striking out "507(a)" and inserting in lieu thereof "507(a) or 507(b)(5)".

49 USC app. 2204 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1987, and apply to fiscal years beginning on and after such date.

49 USC app. 2207.

SEC. 107. LIMITATIONS ON USES OF FUNDS.

(a) NOISE COMPATIBILITY PLANNING AND PROGRAMS.—Section 508(d)(2) is amended by striking out "8 percent" and inserting in lieu thereof "10 percent".

(b) REDUCTION IN SET ASIDE FOR SMALL AIRPORTS.—Section 508(d)(3) is amended by striking out "5.5 percent" each place it appears and inserting in lieu thereof "2.5 percent".

(c) INTEGRATED AIRPORT SYSTEM PLANNING.—Section 508(d)(4) is amended by striking out "one percent" and inserting in lieu thereof "½ of 1 percent".

(d) CONFORMING AMENDMENT.—Section 508(d)(2) is amended—

(1) by striking out "(A)"; and

(2) by striking out ", and (B) in the case of fiscal year 1982, for any of the purposes set forth in section 505(c) of this title".

SEC. 108. STATE SPONSORSHIP.

49 USC app. 2208.

Section 509(a) is amended by adding at the end thereof the following new paragraph:

"(3) STATE SPONSORSHIP.—Nothing in this title shall preclude a State from submitting, as sole sponsor, a project application under this title for an airport development project benefitting 2 or more airports in the State or airport planning for similar projects at 2 or more airports in the State if—

"(A) the sponsors of such airports consent in writing to State sponsorship of such projects or planning;

"(B) the Secretary is satisfied that there is administrative merit and aeronautical benefit to State sponsorship of such projects or planning; and

"(C) an acceptable agreement exists to ensure compliance by the State with appropriate grant conditions and other assurances required by the Secretary.".

SEC. 109. PROJECT SPONSORSHIP.

(a) NONDISCRIMINATION ASSURANCE.—Section 511(a)(1)(A) is amended—

49 USC app. 2210.

(1) by inserting "with respect to facilities directly and substantially related to providing air transportation" after "and other charges";

(2) by striking out "and combined passenger and cargo flights or all cargo flights," and inserting in lieu thereof "and signatory carriers and nonsignatory carriers,";

(3) by inserting "or signatory" after "or status as tenant"; and

(4) by striking out "on tenant air carriers," and inserting in lieu thereof "on air carriers in such classification or status,".

(b) APPROVAL OF NONAERONAUTICAL CLOSING OF AIRPORTS.—Section 511(a)(3) is amended by inserting before the semicolon at the end thereof the following: ", and any proposal to temporarily close the airport for nonaeronautical purposes must first be approved by the Secretary".

(c) TERMINAL AIRSPACE ASSURANCE.—Section 511(a)(4) is amended to read as follows:

"(4) appropriate action will be taken to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards;".

(d) REVENUE ASSURANCE.—Section 511(a)(12) is amended to read as follows:

Taxes.

"(12) all revenues generated by the airport, if it is a public airport, and any local taxes on aviation fuel (other than taxes in effect on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987) will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property; except that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in the governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply;".

(e) DISPOSAL OF LAND ASSURANCES.—Section 511(a) is amended by striking out paragraph (13) and inserting in lieu thereof the following new paragraphs:

"(13) if the airport operator or owner receives a grant before, on, or after the date of the enactment of this paragraph for the purchase of land for airport noise compatibility purposes—

"(A) the owner or operator will, when the land is no longer needed for such purposes, dispose of such land at fair market value at the earliest practicable time;

"(B) such disposition will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport; and

"(C) that portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will, at the discretion of the Secretary—

"(i) be paid to the Secretary for deposit in the Trust Fund; or

"(ii) be reinvested in an approved noise compatibility project as prescribed by the Secretary;

"(14) if the airport operator or owner receives a grant before, on, or after the date of the enactment of this paragraph for the purchase of land for airport purposes (other than noise compatibility purposes)—

"(A) the owner or operator will, when the land is no longer needed for airport purposes, dispose of such land at fair market value;

"(B) such disposition will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport; and

"(C) that portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will be paid to the Secretary for deposit in the Trust Fund;".

49 USC app. 2210.

(f) AIRPORT LAYOUT PLAN ASSURANCE.—Section 511(a) is further amended by adding at the end thereof the following new paragraph:

"(15) the airport owner or operator will keep up to date at all times a layout plan of the airport which meets the following requirements:

"(A) the plan will be in a form prescribed by the Secretary;

"(B) before the plan and an amendment, revision, or modification thereof may take effect, the plan, amendment, revision, or modification will be submitted to, and receive approval of, the Secretary;

"(C) the owner or operator will not make or permit any changes or alterations in the airport or in any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility, or efficiency of the airport;

"(D) if a change or alteration in the airport or its facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested by the Secretary—

"(i) eliminate such adverse effect in a manner approved by the Secretary; or

"(ii) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities;".

(g) ASSURANCE RELATING TO CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—Section 511(a) is further amended by adding at the end thereof the following new paragraph:

"(16) each contract or subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project will be awarded in the same manner as a contract for architectural and engineering services is negotiated under title IX of the Federal Property Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport; and".

(h) ASSURANCE RELATING TO DISADVANTAGED BUSINESS ENTERPRISES.—Section 511(a) is further amended by adding at the end thereof the following new paragraph:

"(17) the airport owner or operator will take such action as may be necessary to ensure that, to the maximum extent practicable, at least 10 percent of all businesses at the airport which sell food, beverages, printed materials, or other consumer products to the public are small business concerns (as defined by the Secretary by regulation) owned and controlled by socially and economically disadvantaged individuals (as defined under section 505(d)(2)(B)).".

(i) USE OF STATE TAXES ON AVIATION FUEL.—Section 511 is further amended by adding at the end thereof the following new subsection:

"(d) USE OF STATE TAXES ON AVIATION FUEL.—Nothing in subsection (a)(12) of this section shall preclude the use of State taxes on aviation fuel to support a State aviation program or preclude use of airport revenue on or off the airport for noise mitigation purposes.".

(j) USE OF LAND DISPOSAL FUNDS.—Section 511 is further amended by adding at the end thereof the following new subsection:

"(e) USE OF LAND DISPOSAL FUNDS.—

"(1) AIRPORT NOISE COMPATIBILITY LANDS.—Amounts deposited in the Trust Fund in accordance with subsection (a)(13) of this section shall be available to the Secretary for making grants for airport development and airport planning under section 505(a). Such amounts shall be in addition to amounts made available to the Secretary under section 505 and not subject to the apportionment provisions of sections 507(a) and 507(b)(5).

"(2) OTHER AIRPORT LANDS.—Amounts deposited in the Trust Fund in accordance with subsection (a)(14) of this section—

"(A) shall be available to the Secretary for making grants at the discretion of the Secretary for the purposes described in section 507(c)(2) at primary airports and reliever airports; and

"(B) shall be available to the Secretary for use in accordance with section 507(a)(3) at other airports in the State in which the land disposition occurred under subsection (a)(14).

Such amounts shall be in addition to amounts made available to the Secretary under section 505 and not subject to the apportionment provisions of sections 507(a) and 507(b)(5).".

49 USC app. 2210.

(k) Procedures for Modifying Assurances.—Section 511 is further amended by adding at the end thereof the following new subsection:

"(f) Procedures for Modifying Assurances.—If the Secretary proposes to modify any assurance required of a person receiving a grant under this Act and in effect on or after the date of the enactment of this subsection or proposes to require compliance with any additional assurance from such person, the Secretary shall first—

Federal Register, publication.

"(1) publish notice of such proposal in the Federal Register, and

"(2) provide an opportunity for comment on such proposal.".

SEC. 110. GRANT AGREEMENTS.

49 USC app. 2211.

(a) Maximum Obligation of the United States.—Section 512(b) is amended to read as follows:

"(b) Maximum Obligation of the United States.—

"(1) General rule.—Subject to paragraphs (2) and (3) of this subsection, when an offer is accepted in writing by a sponsor, the amount stated in the offer as the maximum obligation of the United States may not be increased.

"(2) Exceptions for fiscal years 1987 and before.—The maximum obligation of the United States under this subsection with respect to a project receiving assistance under a grant approved under this title on or before September 30, 1987, may be increased—

"(A) by not more than 10 percent in the case of a project for airport development (other than a project for land acquisition); and

"(B) by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to an acquisition of land or interests in land, based upon current credible appraisals.

Any increase under this section may be paid only from funds recovered by the United States from other grants made under this title.

"(3) Exceptions for fiscal years 1988 and thereafter.—The maximum obligation of the United States under this subsection with respect to a project receiving assistance under a grant approved under this title or the Aviation Safety and Noise Abatement Act of 1979 after September 30, 1987, may be increased by not more than 15 percent in the case of a project for airport development.".

(b) Workscope.—Section 512 is amended by adding at the end thereof the following new subsection:

"(d) Workscope.—The Secretary may amend, with the consent of the grant recipient, a grant agreement entered into under this title to change the workscope of a project funded under such grant if such amendment does not result in any increase in the maximum obligation of the United States authorized under subsection (b) of this section.".

(c) Conforming Amendment.—Section 512(c) is amended by inserting "Maximum Obligation for Grants Under the Airport and Airway Development of 1970.—" before "Notwithstanding".

SEC. 111. PROJECT COSTS.

(a) **Authority To Modify Certain Limitations on Expenditures for Terminal Development.—**

(1) **Obligation limitation.**—The first sentence of section 513(b)(2) is amended by striking out "Not more" and all that follows through "60 percent" and inserting in lieu thereof "All or any portion". 49 USC app. 2212.

(2) **Maximum federal share.**—Section 513(b)(5) is amended by striking out "50 percent" and inserting in lieu thereof "75 percent".

(b) **Costs Not Allowed.**—Section 513(c) is amended—

(1) by striking out "or" the first place it appears; and

(2) by inserting before the period at the end thereof the following: "; or (3) the cost of decorative landscaping or the provision or installation of sculpture or art works".

(c) **Reimbursement for Certain Advance Expenditures.**—Section 513 is amended by adding at the end thereof the following new subsection:

"(d) **Reimbursement for Certain Advance Expenditures.—**

"(1) **Letters of intent.—**

"(A) **Announcement of intention.**—The Secretary is authorized to announce an intention to obligate for an airport development project (including formulation of the project) at a primary airport or a reliever airport under this subsection through the issuance of a letter of intent to the applicant.

"(B) **Schedule of reimbursement.**—Subject to the provisions of this paragraph, a letter of intent issued under this paragraph shall establish a schedule under which the Secretary will make payments under paragraph (2) of this subsection to the sponsor of the airport at which the airport development project will be carried out.

"(C) **Limitation on projects eligible for advance funding.**—The provisions of this subsection only apply to an airport development project—

"(i) regarding which the sponsor notifies the Secretary of the sponsor's intent to carry out such project before commencement of such project;

"(ii) which will be carried out in accordance with all applicable statutory and administrative requirements that would be applicable to the project if the project were being carried out with funds made available under this title; and

"(iii) which the Secretary determines will result in a significant enhancement of system-wide airport capacity and meets the criteria of section 507(c)(3).

Clause (i) shall not apply to a project which is commenced on or after November 20, 1987, and for which a letter of intent is signed under this subsection in the 90-day period beginning on the date of the enactment of this subsection.

"(D) **Limitation on effect.**—An action under subparagraph (A) shall not be deemed an obligation of the United States Government under section 1501 of title 31, United States Code, and a letter of intent issued under this paragraph shall not be deemed to be an administrative commitment for funding.

"(E) Treatment of letter.—A letter of intent under this paragraph shall be regarded as an intention to obligate from future budget authority not to exceed an amount stipulated as the United States share of allowable project costs for the project under this subsection. No obligation or administrative commitment may be made pursuant to such a letter of intent except as funds are provided in authorization and appropriation Acts.

"(F) Limitations on aggregate amount.—The total estimated amount of future Federal obligations covered by all outstanding letters of intent under this paragraph shall not exceed the amount authorized to carry out section 505(a), less an amount reasonably estimated by the Secretary to be necessary for grants under section 505(a) which are not covered by a letter of intent.

"(2) Reimbursement.—If the Secretary issues under paragraph (1) a letter of intent to obligate funds for an airport development project (including formulation of the project) at a primary airport or reliever airport and if the sponsor of such airport proceeds with such project without the aid of funds under this title, the Secretary shall pay, as funds become available, the sponsor for the United States share of allowable project costs payable on account of such project in accordance with such letter of intent.".

49 USC app. 2218.

SEC. 112. LIMITATION ON POWERS.

Section 519 is amended—

(1) by inserting "(a) General Rule.—" before "The Secretary"; and

(2) by adding at the end thereof the following new subsection:

"(b) Limitations.—

"(1) Withholding of approval.—The Secretary may not withhold approval of a grant application for funds apportioned under sections 507(a)(1), 507(a)(2), and 507(b)(5) for a violation of an assurance or other requirement of this title unless—

"(A) the Secretary provides the applicant with an opportunity for a hearing; and

"(B) within 180 days after the date of such application or the date the Secretary first knows of such noncompliance, whichever is later, the Secretary makes a determination that the violation has occurred.

"(2) Withholding of payment.—The Secretary may not withhold a payment under any grant agreement entered into under this title for more than 180 days after the date such payment is due—

"(A) without providing the recipient of such payment with notice and an opportunity for a hearing; and

"(B) without determining that the grant recipient has violated such agreement.

"(3) Extension of time limits.—The time limits established by paragraphs (1) and (2) of this section may be extended—

"(A) by mutual agreement of the Secretary and the grant applicant or recipient, as the case may be; or

"(B) at the discretion of the hearing officer if the hearing officer determines that such extension is necessary as a result of a failure of the applicant or recipient to adhere to the hearing schedule established by such officer.

"(4) JUDICIAL REVIEW.—A person aggrieved by an order of the Secretary withholding (A) approval of a grant application under paragraph (1), and (B) a payment under a grant agreement under paragraph (2), may obtain review of the order by petition to the Court of Appeals for the District of Columbia Circuit or the court of appeals for the circuit in which the project is located. Such petition shall be filed not later than 60 days after the date on which the order is served on the petitioner.".

SEC. 113. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

Section 528 is amended to read as follows:

"SEC. 528. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

49 USC app. 2224.

"(a) GENERAL RULE.—On or after July 15, 1987, the Secretary shall not close, or reduce the hours of operation of, any flight service station in any area unless the service provided in such area after the closure of such station or during the hours such station is not in operation will be provided by an automated flight service station with model 1 or better equipment.

"(b) RULE FOR CERTAIN CLOSED STATIONS.—As soon as practicable after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, the Secretary shall reopen any flight service station closed between March 25, 1987, and July 14, 1987, if the service provided in the area in which such station is located since the date of such closure has not been provided by an automated flight service station with model 1 or better equipment. The hours of operation for such station shall be the same as the hours of operation of such station on March 25, 1987. After reopening such station, the Secretary may only close or reduce the hours of operation of such station in accordance with subsection (a).".

SEC. 114. EXPLOSIVE DETECTION K-9 TEAMS.

49 USC app. 2225.

Section 529 is amended—

(1) in the first sentence by striking out "shall" and inserting in lieu thereof "may"; and

(2) by striking out the second sentence.

SEC. 115. DENIAL OF FUNDS FOR PROJECTS USING PRODUCTS OR SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.

The Airport and Airway Improvement Act of 1982 is amended by adding at the end thereof the following new section:

"SEC. 533. DENIAL OF FUNDS FOR PROJECTS USING PRODUCTS OR SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.

Commerce and trade.
49 USC app. 2226.

"(a) IN GENERAL.—

"(1) PROHIBITION ON FUNDING.—No funds made available under this Act may be used to fund any project which uses any product or service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

"(2) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply with respect to the use of a product or service in a project if the Secretary determines that—

"(A) the application of paragraph (1) to such product, service, or project would not be in the public interest, "(B) products of the same class or kind as such product or service are not produced or offered in the United States, or in any foreign country that is not listed under subsection (c), in sufficient and reasonably available quantities and of a satisfactory quality, or

"(C) exclusion of such product or service from the project would increase the cost of the overall project contract by more than 20 percent.

"(b) DETERMINATIONS.—

"(1) DEADLINE.—By no later than the date which is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether or not such foreign country—

"(A) denies fair and equitable market opportunities for products and suppliers of the United States in procurement, or

"(B) denies fair and equitable market opportunities for United States bidders,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country.

"(2) INFORMATION CONSIDERED.—In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181 of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

"(c) LISTING OF FOREIGN COUNTRIES.—

"(1) GENERAL RULE.—The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

"(2) REMOVAL FROM LIST.—Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

Federal Register, publication.

"(3) PUBLICATION.—The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

"(d) SPECIAL RULES.—

"(1) For purposes of this section, each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

"(2) For purposes of this section, any article that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

"(3) For purposes of this section, any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.".

SEC. 116. STATE BLOCK GRANT PILOT PROGRAM.

The Airport and Airway Improvement Act of 1982 is further amended by adding at the end the following new section:

"SEC. 534. STATE BLOCK GRANT PILOT PROGRAM.

49 USC app. 2227.
Regulations.

"(a) PROMULGATION OF REGULATIONS; EFFECTIVE PERIOD.—Not later than 180 days after the date of the enactment of this section, the Secretary shall promulgate regulations to implement a State block grant pilot program to become effective on October 1, 1989. Such program shall not be effective after September 30, 1991.

Termination date.
Regulations.

"(b) ASSUMPTION OF CERTAIN RESPONSIBILITIES.—Such regulations shall provide that the Secretary may designate not more than 3 qualified States to assume administrative responsibility for all airport grant funding available under this title, other than funding which has been designated for use at primary airports.

"(c) SELECTION OF STATE PARTICIPANTS.—The Secretary shall select States for participation in such program on the basis of applications submitted to the Secretary. The Secretary shall select a State only if the Secretary determines that the State—

"(1) has an agency or organization capable of administering effectively any block grant made under this section;

"(2) uses a satisfactory airport system planning process;

"(3) uses a programming process acceptable to the Secretary;

"(4) has agreed to comply with Federal procedural and other standard requirements for administering any such block grant; and

"(5) has agreed to provide the Secretary with such program information as the Secretary may require.

Before determining that any planning process is satisfactory or any programming process is acceptable, the Secretary shall ensure that such process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding to which projects funds will be provided.

"(d) REVIEW AND REPORT.—The Secretary shall conduct an ongoing review of the program established under this section, and shall, not later than 90 days before its scheduled termination, report to Congress the results of such review, together with recommendations for further action relating to the program.".

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

SEC. 201. AMENDMENT OF FEDERAL AVIATION ACT OF 1958.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301-1551).

SEC. 202. ESSENTIAL AIR SERVICE.

(a) FISCAL YEAR 1987.—

49 USC app. 1389.

(1) TRANSFER OF OPERATIONAL AUTHORITY.—Section 419 is amended by adding at the end of subsection (a) the following new paragraph:

"(12) If an air carrier which is providing on or after October 1, 1987, essential air transportation under this subsection between an eligible point and an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft provides notice to the Secretary of its intention to suspend, terminate, or reduce such transportation and another air carrier is secured to provide such transportation on a continuing basis, the Secretary shall require the carrier suspending, terminating, or reducing such service to transfer any operational authority which such carrier has to conduct a landing or takeoff at such airport with respect to such service to the carrier secured to provide such service unless the carrier secured to provide such service does not need such authority or such authority is being used to provide air service with respect to more than 1 eligible point.".

(2) TERMINATION DATE.—Section 419(g) is amended by striking out "the last day" and all that follows through the period at the end thereof and inserting in lieu thereof "September 30, 1988.".

49 USC app. 1389 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect October 1, 1987.

(b) FISCAL YEARS 1988–1998.—

(1) GENERAL RULES.—Section 419 is amended to read as follows:

"SEC. 419. SMALL COMMUNITY AIR SERVICE.

"(a) ELIGIBLE POINT DEFINED.—For the purposes of this section, the term 'eligible point' means any point in the United States—

"(1) which is defined as an eligible point under this section as in effect before October 1, 1988, and which, at any time in the 12-month period ending on such date, received scheduled air transportation, and

"(2) which the Secretary determines is 45 highway miles or more from the nearest hub airport.

State and local governments.

"(b) BASIC ESSENTIAL AIR SERVICE.—

"(1) LEVEL OF SERVICE.—

"(A) DETERMINATION FOR ESSENTIAL AIR SERVICE POINTS.—With respect to each eligible point for which a determination of what constitutes essential air transportation was made under this section before October 1, 1988, the Secretary shall determine what is basic essential air service for such point. Such determination shall be made no later than the last day of the 1-year period beginning on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987 and only after consideration of the views of any interested community and the State agency of the State in which such community is located.

"(B) DETERMINATION FOR OTHER POINTS.—With respect to each eligible point for which a determination of what constitutes essential air transportation was not made before October 1, 1988, the Secretary shall determine what is basic essential air service to such point if the Secretary receives notice that service to such point will be provided by only 1 air carrier. Such determination shall be made no later than the last day of the 6-month period beginning on the date on which the Secretary receives such notice and only after the

Secretary considers the views of any interested community and the State agency of the State in which such community is located. The Secretary may impose such notice requirements as may be necessary to implement this subparagraph.

"(C) CONTINUATION OF REQUIREMENT; TRANSITION PROVISIONS.—An air carrier required to provide essential air transportation before October 1, 1988, to an eligible point shall be required to continue to provide such transportation to such point after such date and the level of such transportation shall be deemed to be basic essential air service for purposes of this subsection until a determination is made under subparagraph (A) with respect to such point. The rate of compensation in effect for essential air transportation before such date shall continue in effect until a new rate is determined in accordance with the guidelines under subsection (f) of this section.

"(D) REVIEW.—The Secretary shall periodically review the basic essential air service level for each eligible point, and may, based upon such review and consultations with the interested community and the State agency of the State in which such community is located, make appropriate adjustments to the basic essential air service level.

"(2) NOTICE REQUIRED BEFORE TERMINATION, SUSPENSION, OR REDUCTION IN SERVICE.—An air carrier may not terminate, suspend, or reduce air transportation to any eligible point below the level of basic essential air service established under paragraph (1) unless such air carrier has given the Secretary, the appropriate State agency or agencies, and the communities affected at least 90 days notice before such termination, suspension, or reduction.

"(3) DETERMINATION OF NEED FOR COMPENSATION.—

"(A) SELECTION OF CARRIER.—Whenever the Secretary determines that basic essential air service will not be provided to an eligible point without compensation, the Secretary shall provide notice that applications may be submitted by any air carrier that is willing to provide such service to such point for compensation under this subsection. In selecting an applicant to provide basic essential air service to a point for compensation the Secretary shall, among other factors, consider—

"(i) the applicant's demonstrated reliability in providing scheduled air service;

"(ii) the contractual and marketing arrangements that the applicant has made with a larger air carrier to assure service beyond the hub airport;

"(iii) the interline arrangements which the applicant has made with a larger air carrier which allow passengers and cargo of the applicant at the hub airport to be transported by such large carrier through one reservation, one ticket, and one baggage check-in;

"(iv) the preferences of the actual and potential users of air transportation at the eligible point, giving substantial weight to the views of elected officials representing such users; and

"(v) with respect to any eligible point in the State of Alaska, the experience of an applicant in providing

Alaska.

scheduled air service, or significant patterns of nonscheduled air service pursuant to an exemption granted pursuant to section 416 of this title, in Alaska.

"(B) RATE OF COMPENSATION.—The Secretary shall establish, in accordance with the guidelines promulgated under subsection (f), the rate of compensation to be paid for providing basic essential air service under this subsection.

"(4) PAYMENT OF COMPENSATION.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay compensation to any air carrier to provide basic essential air service to an eligible point only for so long as the Secretary determines it is necessary in order to maintain basic essential air service to such point.

"(5) REQUIREMENT TO CONTINUE SERVICE.—If an air carrier has provided notice to the Secretary under paragraph (2) of such air carrier's intention to suspend, terminate, or reduce service to any eligible point below the level of basic essential air service to such point, and if at the conclusion of the applicable period of notice the Secretary has not been able to find another air carrier to provide basic essential air service to such point, the Secretary shall require the carrier which provided such notice to continue such service to such point for an additional 30-day period, or until another air carrier has begun to provide basic essential air service to such point, whichever first occurs. If at the end of such 30-day period the Secretary determines that no other air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis, either with or without compensation, then the Secretary shall extend such requirement for such additional 30-day periods (making the same determination at the end of each such period) as may be necessary to continue basic essential air service to such eligible point until an air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis.

"(6) COMPENSATION FOR CONTINUED SERVICE.—

"(A) CARRIERS RECEIVING COMPENSATION.—If an air carrier (i) which is providing air transportation to any eligible point, and (ii) which is receiving compensation under this subsection for providing such transportation, is required by the Secretary to continue service to such point beyond the date on which such carrier would, but for paragraph (5), be able to suspend, terminate, or reduce such service below the level of basic essential air service to such point, then after such date such carrier shall continue to receive such compensation until the Secretary secures another air carrier to provide basic essential air service to such point or the 90th day following such date, whichever is earlier. If, after such 90th day, the Secretary has not secured another air carrier to provide such service, the carrier required to continue to provide such service shall receive compensation in an amount sufficient—

"(i) to cover the carrier's fully allocated actual cost of performing the basic essential air service that was being provided at the time the 90-day notice of termination, suspension, or reduction of service is given to the Secretary under paragraph (2) plus a fair and reasonable return on investment which shall not be less than 5 percent of operating costs; and

"(ii) to provide the carrier an additional return which recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that such lost profits increase as the duration of the required basic essential air service increases.

"(B) Carriers not receiving compensation.—If the Secretary requires an air carrier which is providing air transportation to an eligible point without compensation pursuant to paragraph (4) to continue to provide basic essential air service to such point beyond the 90-day notice period after which, but for paragraph (5) of this subsection, such air carrier would be able to suspend, terminate, or reduce service to such point below basic essential air service for such point, then the Secretary shall compensate such air carrier in an amount sufficient—

"(i) to cover the carrier's fully allocated actual cost of performing the basic essential air service that was being provided at the time the 90-day notice of termination, suspension, or reduction of service is given to the Secretary under paragraph (2) plus a fair and reasonable return on investment which shall not be less than 5 percent of operating costs; and

"(ii) to provide the carrier an additional return which recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that such lost profits increase as the duration of the required basic essential air service increases.

"(7) Transfer of operational authority at certain high-density airports.—If an air carrier which is providing basic essential air service under this subsection between an eligible point and an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft provides notice to the Secretary of its intention to suspend, terminate, or reduce such service and another air carrier is secured to provide such service on a continuing basis, the Secretary shall require the carrier suspending, terminating, or reducing such service to transfer any operational authority which such carrier has to conduct a landing or takeoff at such airport with respect to such service to the carrier secured to provide such service unless the carrier secured to provide such service does not need such authority or such authority is being used to provide air service with respect to more than 1 eligible point.

"(8) Effort to secure carriers.—During any period for which the Secretary requires an air carrier to continue providing air transportation to an eligible point which such air carrier has proposed to terminate, reduce, or suspend, the Secretary shall continue to make every effort to secure an air carrier to provide at least basic essential air service to such eligible point, on a continuing basis.

"(9) Prohibition on certain reductions in service.—Unless the Secretary has determined what is basic essential air service for any eligible point pursuant to paragraph (1) of this subsection, the Secretary shall, upon petition of any appropriate representative of such point prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of basic essential air service, until the Secretary has completed such determination.

State and local governments.
Contracts.

"(c) ENHANCED ESSENTIAL AIR SERVICE.—

"(1) PROPOSAL.—

"(A) SUBMISSION.—A State or local government may submit a proposal to the Secretary for enhanced essential air service to an eligible point with respect to which basic essential air service is being provided under subsection (b).

"(B) CONTENTS.—A proposal submitted under this subsection shall specify the level and type of enhanced essential air service which the State or local government considers appropriate. Such proposal shall also include an agreement relating to compensation required for the proposed enhanced essential air service. Such agreement shall be subject to the requirements of subparagraph (C).

"(C) COMPENSATION AGREEMENT.—The agreement relating to compensation included in the proposal submitted by a State or local government under this subsection shall either—

"(i) provide for the State or local government or any person to pay 50 percent of the compensation required for the proposed enhanced essential air service and for the Federal share of such compensation to be 50 percent; or

"(ii) provide for the Federal share for such compensation to be 100 percent and provide that, if the proposed service is not successful in terms of the criteria established under paragraph (3)(C) for not less than a 2-year period, the eligible point shall not be eligible for air service for which compensation is payable by the Secretary under this section.

"(2) ESTABLISHMENT OF SERVICE.—Not later than 90 days after receiving a proposal under paragraph (1), the Secretary shall issue a decision on the proposal. The Secretary shall approve such proposal unless the Secretary determines that such proposal is not reasonable. If the Secretary determines that such proposal is not reasonable, the Secretary shall disapprove such proposal and notify the State or local government submitting such proposal of such disapproval and the reasons therefor.

"(3) REVIEW.—

"(A) PROPOSALS FOR 50 PERCENT FEDERAL SHARE.—If the enhanced essential air service approved under this subsection is to be at a 50 percent Federal share, the Secretary shall periodically review the level and type of such service to an eligible point and may, based upon such review and consultations with the community and the government or person paying the non-Federal share, make appropriate adjustments to the level and type of enhanced essential air service to such point.

"(B) PROPOSALS FOR 100 PERCENT FEDERAL SHARE.—If the enhanced essential air service approved under this subsection is to be at a 100 percent Federal share, the Secretary shall periodically review air service provided to an eligible point under this subsection. If the Secretary finds, after consultation with the State or local government which submitted the proposal, that such service has not been successful in terms of the criteria established under subparagraph (C) for not less than a 2-year period, such eligible point shall not be eligible for air service for which compensation is payable by the Secretary under this section.

Regulations.

"(C) CRITERIA OF SUCCESS.—The Secretary shall establish, by regulation, objective criteria for determining whether or not enhanced essential air service to an eligible point provided under this subsection is successful in terms of increasing passenger usage of the airport facilities at such point and reducing the amount of compensation provided by the Secretary under this subsection for such service.

"(4) NOTICE BEFORE TERMINATION, SUSPENSION, OR REDUCTION OF SERVICE.—An air carrier may not terminate, suspend, or reduce air transportation to an eligible point for which a determination of enhanced essential air service has been made below the level of such service approved by the Secretary under this subsection unless such carrier has given the Secretary, the community affected, and the government or person paying the non-Federal share at least 30 days' notice before such termination, suspension, or reduction. Nothing in this paragraph relieves an air carrier of its obligations under subsection (b).

"(5) PAYMENT OF COMPENSATION.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay the compensation to an air carrier to provide enhanced essential air service to an eligible point only for so long as such carrier maintains the level of enhanced essential air service and the government or person agreeing to pay any non-Federal share continues to pay such share and only for so long as the Secretary determines it is necessary in order to maintain such service to such point.

"(6) PAYMENT OF NON-FEDERAL SHARE.—The Secretary may require appropriate payment in advance or such other security to assure that non-Federal payments for enhanced essential air service under this subsection are made on a timely basis.

"(7) COMPENSATION FOR ENHANCED ESSENTIAL AIR SERVICE DEFINED.—For purposes of this subsection, compensation for enhanced essential air service to an eligible point covers only those costs incurred for providing air service to such point which are in addition to the costs incurred for providing basic essential air service to such point under this section.

State and local governments.

"(d) COMPENSATION FOR SERVICE TO OTHER SMALL COMMUNITIES.—

"(1) PROPOSAL.—A State or local government may make a proposal to the Secretary for compensated air transportation in accordance with this subsection to a point that is not an eligible point under this section.

"(2) DETERMINATION OF ELIGIBILITY.—

"(A) DESIGNATION OF POINTS.—Not later than 90 days after the submission of a proposal under this subsection, the Secretary—

"(i) shall determine whether or not to designate the point for which such proposal is made as eligible to receive compensation under this subsection; and

"(ii) shall approve or disapprove such proposal and notify the State or local government submitting such proposal of such decision.

The Secretary shall approve such proposal if the State or local government submitting the proposal or any other person is willing and able to pay 50 percent of the cost of providing the proposed compensated air transportation; except that the Secretary shall disapprove such proposal if the Secretary determines that such proposal is not reasonable. In the case of disapproval of a proposal, the notification of such disapproval must include the reasons for such disapproval.

"(B) SMALL COMMUNITY SERVICE.—Notwithstanding subparagraph (A)(ii), the Secretary shall approve a proposal submitted under this subsection for compensated air transportation to a point in the 48 contiguous States and designate such point as eligible for compensation under this subsection—

"(i) if, at any time before October 23, 1978, the point was served by an air carrier that held a certificate issued under section 401;

"(ii) if the point is more than 50 miles from the nearest small hub airport or an eligible point;

"(iii) if the point is more than 150 miles from the nearest hub airport; and

"(iv) if the State or local government submitting the proposal or any other person is willing and able to pay 25 percent of the cost of providing the proposed compensated air transportation.

"(C) CRITERIA FOR DETERMINING REASONABLENESS.—In determining whether or not a proposal submitted under this subsection is reasonable, the Secretary shall consider, among other factors, the traffic generating potential of the point, the cost to the Federal Government of providing the proposed service, and the distance of the point from the closest hub airport.

"(D) WITHDRAWAL OF DESIGNATION.—After notice and an opportunity for any interested person to comment, the Secretary may withdraw the designation of a point under subparagraph (A) as eligible to receive compensation under this subsection if the point has received air service under this subsection for at least 2 years and the Secretary determines that withdrawal of that designation would be in the public interest. The Secretary shall establish, by regulation, standards for determining whether or not withdrawal of a designation under this paragraph is in the public interest. Such standards shall include, but not be limited to, the factors set forth in subparagraph (C).

Regulations.

"(3) LEVEL OF SERVICE.—

"(A) INITIAL DETERMINATION.—If the Secretary designates a point under paragraph (2), the Secretary shall determine the level of service to be provided under this subsection. The Secretary shall determine such level after considering the views of any interested community, the State agency of the State in which the point is located, and the government or person agreeing to pay the non-Federal share of the cost of the proposed service. The Secretary shall determine such level not later than 6 months after the date on which the Secretary designates such point under paragraph (2).

"(B) Review.—The Secretary shall periodically review the level of air service provided under this subsection and may, based upon such review and consultation with any interested community, any State agency of the State in which the community is located, and any government or person providing the non-Federal share of the compensation for the service, make appropriate adjustments in the level of service.

"(4) Selection of carrier.—After making the determinations required by paragraph (3) with respect to a designated point, the Secretary shall provide notice that applications may be submitted by any air carrier that is willing to provide the level of air service determined under paragraph (3) with respect to such point. In selecting an applicant to provide such service the Secretary shall, among other factors, consider the factors set forth in subsection (b)(3)(A) and shall also consider the views of the government or person paying the non-Federal share of the cost of the service.

"(5) Non-federal share.—Except as provided in paragraph (2)(B), the non-Federal share for compensation required for providing air service under this subsection shall be 50 percent.

"(6) Notice before termination, suspension, or reduction of service.—An air carrier may not terminate, suspend, or reduce air transportation to an eligible point for which compensation is paid under this subsection below the level of such service established by the Secretary under paragraph (3) unless such carrier has given the Secretary, the community affected, and the government or person paying the non-Federal share at least 30 days' notice before such termination, suspension, or reduction.

"(7) Payment of compensation.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay compensation to an air carrier to provide service to a point designated under this subsection only for so long as such carrier maintains such service and the government or person agreeing to pay the non-Federal share continues to pay such share and only for so long as the Secretary determines it is necessary in order to maintain such service to such point.

"(8) Payment of non-federal share.—The Secretary may require appropriate payment in advance or such other security to assure that the non-Federal payments for air service under this subsection are timely made.

"(e) Fitness.—

"(1) General rule.—Notwithstanding section 416(b) of this title, the Secretary shall prohibit any air carrier from providing service to an eligible point and from providing service to a point designated under subsection (d), unless the Secretary determines that such air carrier—

"(A) is fit, willing, and able to perform such service; and

"(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator.

"(2) Limitation on compensation.—The Secretary may not pay compensation to any air carrier for providing air service under this section unless the Secretary finds that such carrier is able to provide the air service in a reliable manner.

"(f) GUIDELINES FOR COMPENSATION.—The Secretary shall establish guidelines to be used in computing the fair and reasonable amount of compensation required to ensure the continuation of air service under this section. Such guidelines shall provide for a reduction in compensation in any case in which an air carrier fails to perform any agreed upon air service. Such guidelines shall take into account amounts needed by air carriers to promote public use of the service for which compensation is to be made and shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Secretary to be appropriate for providing such service. Amounts needed for promotion of such service shall be a special, segregated element of the required compensation.

"(g) DEADLINE FOR PAYMENT OF COMPENSATION.—Not later than 15 days after receiving a written claim for compensation from an air carrier for providing air service under this section, the Secretary shall pay the Federal share of such claim or deny payment of the Federal share of such claim and notify the carrier of such denial and the reasons therefor.

"(h) INSURANCE.—An air carrier shall not receive compensation under this section unless such air carrier complies with regulations or orders issued by the Secretary governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft.

"(i) CARRIER OBLIGATIONS.—If 2 or more air carriers enter into an agreement to operate under or use a single air carrier designator code to provide air transportation, the air carrier whose code is being used under such agreement shall share responsibility with the other carriers for the quality of service provided under such code to the public by such other carriers.

"(j) ENCOURAGEMENT OF JOINT AIR SERVICE PROPOSALS.—The Secretary shall encourage the submission of joint proposals by 2 or more air carriers for providing air service under this section through arrangements which will maximize service to and from major destinations beyond the hub.

"(k) DEFINITIONS.—For purposes of this section—

"(1) BASIC ESSENTIAL AIR SERVICE.—The term 'basic essential air service' means scheduled air transportation of persons and cargo to a hub airport (or, in any case in which the nearest hub airport is more than 400 miles and in the case of Alaska, to a small hub or nonhub airport) which has convenient connecting or single-plane air service to a substantial number of destinations beyond such airport. Such transportation shall include, at least, the following elements:

"(A)(i) with respect to a point not in the State of Alaska, 2 daily round trips 6 days per week, with not more than 1 intermediate stop on each flight; or

"(ii) with respect to a point in the State of Alaska, a level of service that is not less than that which existed in calendar year 1976, or 2 round trips per week, whichever is greater, unless otherwise specified under an agreement between the Secretary and the State agency of the State of Alaska, after consultation with the community affected;

"(B) flights at reasonable times taking into account the needs of passengers with connecting flights at such airport and at rates, fares, and charges which are not excessive when compared to the generally prevailing fares of other air carriers for like service between similar pairs of points;

"(C) with respect to a point not in the State of Alaska, service provided in an aircraft with an effective capacity of at least 15 passengers if the average daily enplanements at such point in any calendar year beginning after December 31, 1975, and ending on or before December 31, 1986, exceeded 11 passengers unless—

"(i) requiring such service would require the payment of compensation in a fiscal year under subsection (b)(4) or (b)(6) with respect to such point when no compensation under such subsection would otherwise be paid with respect to such point in such fiscal year; or

"(ii) the community concerned agrees in writing with the Secretary to the use of smaller aircraft to provide service to such point;

"(D) service which accommodates the estimated passenger and cargo traffic at an average load factor of not greater than—

"(i) 50 percent, or

"(ii) in any case in which such service is being provided with aircraft with 15 passenger seats or more, 60 percent,

for each class of traffic taking into account seasonal demands for such service;

"(E) service provided in an aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation in aircraft with at least 2 engines and using 2 pilots has not been provided with respect to the point on each of 60 consecutive operating days at any time since October 31, 1978; and

"(F) in the case of service which regularly exceeds 8,000 feet in altitude, service provided with pressurized aircraft.

"(2) ENHANCED ESSENTIAL AIR SERVICE.—The term 'enhanced essential air service' means scheduled air transportation to an eligible point of a higher level or quality than basic essential air service.

"(3) HUB AIRPORT.—The term 'hub airport' means an airport that annually has 0.25 percent or more of the total annual enplanements in the United States.

"(4) NONHUB AIRPORT.—The term 'nonhub airport' means an airport that annually has less than 0.05 percent of the total annual enplanements in the United States.

"(5) SMALL HUB AIRPORT.—The term 'small hub airport' means an airport that annually has 0.05 percent or more, but less than 0.25 percent, of the total annual enplanements in the United States.

Termination date.

"(l) DURATION OF PROGRAM.—This section shall not be in effect after September 30, 1998.".

(2) CONFORMING AMENDMENT.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is

amended by striking out the item relating to section 419 and inserting in lieu thereof the following:

"Sec. 419. Small community air service.
"(a) Eligible point defined.
"(b) Basic essential air service.
"(c) Enhanced essential air service.
"(d) Compensation for service to other small communities.
"(e) Fitness.
"(f) Guidelines for compensation.
"(g) Deadline for payment of compensation.
"(h) Insurance.
"(i) Carrier obligations.
"(j) Encouragement of joint air service proposals.
"(k) Definitions.
"(l) Duration of program.".

49 USC app. 1389 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect October 1, 1988.

49 USC app. 1421 note.

SEC. 203. AIRCRAFT COLLISION AVOIDANCE SYSTEMS.

(a) FINDINGS.—Congress finds that—

(1) the number of near midair collisions is an indication that additional measures must be taken to assure the highest level of air safety in the United States;

(2) public health and safety requirements necessitate the timely completion and installation of a collision avoidance system for use by commercial aircraft flying in the United States;

(3) the Traffic Alert and Collision Avoidance System promises to reduce the threat to life caused by midair collisions, particularly collisions between general aviation aircraft and commercial aircraft;

(4) the Traffic Alert and Collision Avoidance System will succeed only to the degree that other aircraft posing a collision threat use operating transponders with automatic altitude reporting capability; and

(5) the Federal Aviation Administration should continue at a deliberate pace the development of additional technologies, including the collision avoidance system known as TCAS-III, to ensure the safe separation of aircraft.

49 USC app. 1421.

(b) GENERAL RULES.—Section 601 is amended by adding at the end the following new subsection:

"(f) COLLISION AVOIDANCE SYSTEMS.—

"(1) DEVELOPMENT AND CERTIFICATION.—

"(A) STANDARDS.—The Administrator shall complete development of the collision avoidance system known as TCAS-II so that such system will be operable under visual and instrument flight rules and will be upgradable to the performance standards applicable to the collision avoidance system known as TCAS-III.

"(B) SCHEDULE.—The Administrator shall develop and implement a schedule for development and certification of the collision avoidance system known as TCAS-II which will result in completion of such certification not later than 18 months after the date of the enactment of this subsection.

"(C) MONTHLY REPORTS.—The Administrator shall transmit to Congress monthly reports on the progress being made in development and certification of the collision avoidance system known as TCAS-II.

"(2) INSTALLATION.—The Administrator shall require by regulation that, not later than 30 months after the date of certification of the collision avoidance system known as TCAS-II, such system be installed and operated on each civil aircraft which has a maximum passenger capacity of more than 30 seats and which is used to provide air transportation of passengers, including intrastate air transportation of passengers.

Regulations.

"(3) TRANSPONDERS.—Not later than 6 months after the date of the enactment of this subsection, the Administrator shall promulgate a final rule requiring the installation and use of operating transponders with automatic altitude reporting capability for aircraft operating in designated terminal airspace where radar service is provided for separation of aircraft. For such terminal airspace, other than Terminal Control Areas and Airport Radar Service Areas, the Administrator may provide for access to such airspace by nonequipped aircraft if the Administrator determines that such access will not interfere with the normal traffic flow. Such final rule shall require the installation and use of such transponders not later than 36 months after the date of the enactment of this subsection.".

Regulations.

(c) CONFORMING AMENDMENT.—That portion of table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

"Sec. 601. General safety powers and duties."

is amended by adding at the end the following:

"(f) Collision avoidance systems.".

(d) COMPLETION OF RESEARCH AND DEVELOPMENT.—

(1) GENERAL RULE.—The Administrator shall complete the research and the development on, and the certification of, the collision avoidance system known as TCAS-III as soon as possible.

49 USC app. 1421 note.

(2) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as may be necessary from the Airport and Airway Trust Fund to carry out this subsection.

SEC. 204. CIVIL PENALTIES.

(a) FOR HAZARDS TO COMMERCE.—Section 901(a)(1)(A) is amended by striking out "1114," and inserting in lieu thereof "1101 or 1114,".

49 USC app. 1471.

(b) INCREASED PENALTY FOR AIR CARRIERS.—The first sentence of section 901(a)(1) is amended by inserting after "$1,000 for each such violation," the following: "except that a person who operates aircraft for the carriage of persons or property for compensation or hire (other than an airman serving in the capacity of an airman) shall be subject to a civil penalty not to exceed $10,000 for each violation of title III, VI, or XII of this Act, or any rule, regulation, or order issued thereunder, occurring after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, and".

(c) CLARIFICATION OF DETERMINATION OF PENALTY.—The second sentence of section 901(a)(1) is amended by inserting ", or each flight with respect to which such violation is committed, if applicable," after "each day of such violation".

(d) COMPROMISE.—Section 901(a)(2) is amended by inserting ", or of section 1101, 1114, or 1115(e)(2)(B)," after "XII".

49 USC app. 1472.

(e) PENALTY FOR INTERFERENCE WITH AIRCRAFT ACCIDENT INVESTIGATIONS.—Section 902(p) is amended by striking out "shall be subject to a fine of no less than $100 nor more than $5,000, or imprisonment for not more than one year, or both" and inserting in lieu thereof "shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both".

(f) SECURED AREAS OF AIRPORTS.—Section 902 is amended—

(1) in subsection (o) by inserting "and subsection (r)" after "inclusive,"; and

(2) by adding at the end thereof the following new subsection:

"(r) SECURED AREAS OF AIRPORTS.—

"(1) VIOLATION.—It shall be unlawful for any person to knowingly and willfully enter an aircraft or an airport area that serves air carriers or foreign air carriers contrary to security requirements established pursuant to section 315 or 316 of this Act.

"(2) GENERAL PENALTY.—Upon conviction of a violation of paragraph (1), a person shall be subject to imprisonment for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

"(3) PENALTY FOR VIOLATIONS IN CONNECTION WITH FELONIES.—If any person violates paragraph (1) of this subsection with the intent to commit in the aircraft or secured area an act punishable as a felony under Federal or State law, such person shall be subject to imprisonment for a term not to exceed 10 years or a fine not to exceed $10,000, or both.".

(g) DEMONSTRATION PROGRAM.—Title IX is amended by adding at the end thereof the following new section:

49 USC app. 1475.

"SEC. 905. CIVIL PENALTY ASSESSMENT DEMONSTRATION PROGRAM.

"(a) CIVIL PENALTY.—The Administrator, or his delegate, may assess a civil penalty for a violation arising under this Act or a rule, regulation, or order issued thereunder, upon written notice and finding of violation by the Administrator.

"(b) NO REEXAMINATION OF LIABILITY OR AMOUNT.—In the case of a civil penalty assessed by the Administrator in accordance with this section, the issue of liability or amount of civil penalty shall not be reexamined in any subsequent suit for collection of such civil penalty.

"(c) CONTINUING JURISDICTION OF DISTRICT COURTS.—Notwithstanding subsection (a) of this section, the United States district courts shall have exclusive jurisdiction of any civil penalty action initiated by the Administrator (1) which involves an amount in controversy in excess of $50,000; (2) which is an in rem action or in which an in rem action based on the same violation has been brought; (3) regarding which an aircraft subject to lien has been seized by the United States; and (4) in which a suit for injunctive relief based on the violation giving rise to the civil penalty has also been brought.

"(d) LIMITATIONS.—

"(1) HEARING.—A civil penalty may be assessed under this section only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(2) VIOLATIONS.—This section only applies to civil penalties initiated by the Administrator after the date of the enactment of this section.

"(3) **Maximum amount.**—The maximum amount of a civil penalty which may be assessed under this section in any case may not exceed $50,000.

"(4) **Effective period.**—The provisions of this section shall only be in effect for the 2-year period beginning on the date of the enactment of this section.".

(h) **Conforming Amendments.**—That portion of the table of contents contained in section 1 of the Federal Aviation Act of 1958 relating to title IX of the Federal Aviation Act of 1958 is amended—

(1) by inserting

"(r) Secured areas of airports."

after

"(q) Transporting controlled substances without airman certificate."; and

(2) by adding at the end thereof the following:

"Sec. 905. Civil penalty assessment demonstration program.".

(i) **Effectiveness Reviewed.**— 49 USC app. 1475 note.

(1) **Study.**—The Administrator shall conduct a study on the effectiveness of the amendments made by this section to the Federal Aviation Act of 1958.

(2) **Report.**—Not later than 18 months after the date of enactment of this section, the Administrator shall transmit to Congress a report on the results of the study conducted under this subsection. The report shall include (A) the Administrator's views concerning the effectiveness of civil penalty levels established by the amendments made by this section and whether additional changes to the civil penalty program conducted under title IX of such Act are necessary to provide an adequate safety deterrence; and (B) the Administrator's recommendation as to the effectiveness of the civil penalty assessment demonstration program authorized by section 905 of the Federal Aviation Act of 1958 and whether it should be continued.

SEC. 205. INDEMNIFICATION OF FEDERAL AVIATION ADMINISTRATION EMPLOYEES.

Section 313 is amended by adding at the end thereof the following new subsection: 49 USC app. 1354.

"(e) **Indemnification.**—The Administrator is empowered to indemnify any officer or employee of the Federal Aviation Administration against any claim or judgment against such person if such claim or judgment arises out of an act or acts committed, as determined by the Administrator, within the scope of such person's official duties. The Administrator may issue such regulations as may be necessary to implement this subsection.".

SEC. 206. HAZARDS TO SAFE AND EFFICIENT AIR COMMERCE AND THE PRESERVATION OF NAVIGABLE AIRSPACE AND AIRPORT TRAFFIC CAPACITY.

Section 1101 is amended to read as follows: 49 USC app. 1501.

"SEC. 1101. HAZARDS TO SAFE AND EFFICIENT AIR COMMERCE AND THE PRESERVATION OF NAVIGABLE AIRSPACE AND AIRPORT TRAFFIC CAPACITY.

"(a) **Notice of Construction.**—The Secretary of Transportation (hereinafter in this section referred to as the 'Secretary') shall, by rules and regulations, or by order where necessary, require all persons to give adequate public notice, in the form and manner prescribed by the Secretary, of the construction or alteration, or of the proposed construction or alteration, of any structure where notice will promote safety in air commerce as well as the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

"(b) AERONAUTICAL STUDIES.—

"(1) REQUIREMENT.—Where the Secretary determines, according to rules and regulations, that the construction or alteration of any structure may constitute an obstruction of navigable airspace or an interference with air navigation facilities and equipment or navigable airspace, the Secretary shall conduct an aeronautical study to determine the extent of the adverse impact, if any, on the safe and efficient use of such airspace, facilities, or equipment.

"(2) FACTORS TO CONSIDER.—When conducting an aeronautical study under this subsection to determine the impact of the construction or alteration of a structure, the Secretary shall thoroughly consider, according to rules and regulations, all factors relevant to the efficient and effective use of the navigable airspace, and shall consider the following:

"(A) The impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules.

"(B) The impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules.

"(C) The impact on all existing public-use airports and aeronautical facilities.

"(D) The impact on all planned public-use airports and aeronautical facilities.

"(E) The cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures.

"(3) REPORT.—Upon completion of an aeronautical study under this subsection, the Secretary shall issue a report fully disclosing the extent of the adverse impact on the safe and efficient use of the navigable airspace which the Secretary determines will result from the construction or alteration of a structure.

Communications and telecommunications.

"(c) COORDINATION.—In the administration of laws relating to broadcast applications and the conduct of aeronautical studies relating to broadcast towers, the Federal Communications Commission and the Federal Aviation Administration shall take such action as may be necessary to efficiently coordinate the receipt, consideration of, and action upon such applications and the completion of associated aeronautical studies.".

(b) CONFORMING AMENDMENT.—That portion of table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by striking out

"Sec. 1101. Hazards to air commerce."

and inserting in lieu thereof

"Sec. 1101. Hazards to safe and efficient air commerce and the preservation of navigable airspace and airport traffic capacity.".

SEC. 207. PUBLIC AIRCRAFT DEFINED.

49 USC app. 1301.

Section 101(36) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, 'used exclusively in the service of' means, for other than the Federal Government, an aircraft which is owned and operated by a governmental entity for other than commercial purposes or which is exclusively leased by such governmental entity for not less than 90 continuous days.".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. NOISE ABATEMENT.

State and local governments.

(a) NOTICE AND HEARING REQUIREMENT.—The first sentence of section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(a)) is amended by inserting after "any air carriers using such airport" the following: "and after notice and an opportunity for a public hearing".

(b) FEDERAL SHARE.—Section 104(c)(1) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(c)(1)) is amended by inserting before the period at the end of the fourth sentence the following: "or the Federal share which would be applicable to such project if the funds made available for such project were being made available under the Airport and Airway Improvement Act of 1982 for a project at the airport, whichever percentage is greater".

(c) SOUNDPROOFING OF SCHOOLS AND HOSPITALS.—Section 104(c) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(c)) is amended by adding at the end thereof the following new paragraph:

Grants.

"(3) The Secretary is authorized under this section to make grants to operators of airports and to units of local government referred to in paragraph (1) for any project to soundproof any public building (A) which is used primarily for educational or medical purposes in the noise impact area surrounding such airport, and (B) which is determined to be adversely affected by airport noise.".

49 USC app. 2104 note.

(d) PROCEDURES FOR PREPARATION AND SUBMISSION OF NOISE COMPATIBILITY PROGRAMS.—

(1) STUDY.—The Secretary shall conduct a study of the procedures established under the Aviation Safety and Noise Abatement Act of 1979 for the preparation and submission of noise compatibility programs. The objectives of such study shall be to determine whether or not such procedures could be revised to provide a more simplified process which meet the objectives of such Act and to determine whether or not expedited and simplified procedures which meet the objectives of such Act could be developed to take into account special circumstances at certain airports.

(2) CONSULTATION REQUIREMENT.—In undertaking the study under this subsection, the Secretary shall consult airports, airport users (including air carriers), representatives of persons residing in areas surrounding airports, concerned Federal, State, and local officials, and other interested persons.

(3) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1) together with recommendations.

Grants.

(4) FUNDING DURING STUDY.—

(A) CONGRESSIONAL INTENT.—It is the intention of Congress that the authority of the Secretary to make grants under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 to airport operators and units of local government to implement noise compatibility programs that were developed prior to the promulgation of implementing regulations under such Act if the Secretary determines that such programs would further the purposes of such Act shall continue until such programs are fully implemented but not later than the last day of the 18-month period beginning on the date of the enactment of this Act, notwithstanding any other provision of law and any rule or regulation promulgated pursuant to any other provision of law.

(B) CONTINUATION.—In order to carry out the intent specified in subparagraph (A), grants may continue to be made under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 for noise compatibility programs or projects previously approved under such program during the 18-month period beginning on the date of the enactment of this Act, if—

(i) the operator of the airport involved submits updated noise exposure contours, as required by the Secretary; and

(ii) the Secretary determines that such programs or projects are compatible with the purposes of such Act.

(e) EXISTING NOISE ABATEMENT PROPOSALS.—

(1) REVIEW.—The Administrator shall conduct a study of noise abatement proposals under consideration by airport operators and local governments for the purpose of identifying those proposals which, under existing law or administrative policy, are not currently eligible for Federal assistance and determining whether or not such proposals should be made eligible for Federal assistance.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with recommendations concerning modifications in existing law and administrative policy for making additional noise abatement proposals eligible for Federal assistance.

49 USC app. 1348 note.

SEC. 302. AIR TRAFFIC CONTROLLER WORKFORCE.

(a) MINIMUM NUMBER OF AIR TRAFFIC CONTROLLERS.—The Administrator shall hire such additional persons as are necessary to make the number of persons employed in the air traffic control workforce on September 30, 1988, not less than 15,900.

(b) AIR TRAFFIC CONTROL WORKFORCE DEFINED.—For purposes of this section, the term "air traffic control workforce" means persons employed by the Federal Aviation Administration (including persons employed as traffic management coordinators and air traffic control first line supervisors) a substantial part of whose duties include separating and controlling air traffic. Such term does not include any air traffic assistant and any student at an air traffic control academy.

49 USC app. 1421 note.

SEC. 303. SAFETY RULEMAKING PROCEEDINGS.

(a) Floatation Equipment.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider requiring (1) adequate, uniform life preservers, life rafts, and floatation devices for passengers, including small children and infants, on any flight of an air carrier which the Secretary determines a part of which flight will occur over water, and (2) adequate information and instructions as to the use of such preservers, rafts, and floatation devices.

(b) Improved Crashworthiness Standards for Aircraft Seats.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider requiring all seats on board all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards for crashworthiness.

(c) Cockpit Voice Recorders and Flight Data Recorders.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider the use of cockpit voice recorders and flight data recorders on commuter aircraft and other aircraft, commensurate with the recommendations of the National Transportation Safety Board.

(d) Monthly Status Reports.—The Secretary shall transmit to Congress monthly status reports on the rulemaking proceedings being conducted under subsections (a), (b), and (c) of this section.

(e) Aircraft Design and Equipment.—

(1) Study.—The Secretary shall conduct a study pertaining to aircraft design and equipment which minimize the incidence of fire or explosion, including fuel tanks (including crash resistant inner fuel tanks and breakaway, self-closing fittings throughout the fuel system).

(2) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection, together with recommendations.

(f) Report on Modernization Recommendations.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall report to Congress on specific regulations the Secretary has adopted or intends to adopt to modernize and improve the oversight and inspection of air carrier maintenance and safety-related procedures.

SEC. 304. INFLATION ADJUSTMENT ON COLLECTION OF CERTAIN AVIATION FEES.

Section 334 of title 49, United States Code, is amended by inserting before the period at the end of the first sentence the following: ", adjusted in proportion to changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor between January 1, 1973, and the date the charge is imposed".

SEC. 305. AMENDMENTS TO THE NATIONAL DRIVER REGISTER ACT.

(a) Expansion of Coverage.—Section 206(a)(1) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended by

---

SEC. 4. INVOLUNTARY RELEASE FROM ACTIVE DUTY FOR CERTAIN RESERVE MEMBERS.

Section 1163(d) of title 10, United States Code, is amended by inserting "(other than for training)" after "active duty".

SEC. 5. OTHER TECHNICAL CORRECTIONS.

(a) Public Law 100-180.—(1) The table relating to warrant officers in section 305a(b) of title 37, United States Code (as amended by section 621(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180)), is amended by striking out "Over 13" and inserting in lieu thereof "Over 14".

(2) Section 301c(b) of title 37, United States Code (as amended by section 623(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180)), is amended in the matter preceding the tables by striking out "(b) The monthly rates for special pay under subsection (a) are as follows:".

10 USC 2437.

(3) Section 803(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is amended by striking out "Section 2437" and inserting in lieu thereof "Section 2437(a)".

10 USC 2437 note.

(4) The amendments made by this subsection shall apply as if included in Public Law 100-180 as enacted on December 4, 1987.

(b) Title 10.—(1) Section 1450(f)(3)(A) of title 10, United States Code, is amended by striking out the second comma after "required by a court order to make such an election".

(2) Section 2327 of such title is amended by inserting "App." after "(50 U.S.C." in subsections (a) and (b)(2).

(3) The item relating to section 2690 in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2690. Fuel sources for heating systems; prohibition on converting certain heating facilities.".

(4) The item relating to section 5898 in the table of sections at the beginning of chapter 549 of such title is amended to read as follows:

"5898. Action on reports of selection boards.".

Approved December 30, 1987.

LEGISLATIVE HISTORY—H.R. 2974:

HOUSE REPORTS: No. 100-231 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 28, considered and passed House.
Aug. 6, considered and passed Senate, amended.
Dec. 16, House concurred in Senate amendment with amendment.
Dec. 17, Senate concurred in House amendment.

○

striking out "highway" and inserting in lieu thereof "transportation".

23 USC 401 note.

(b) APPLICANTS FOR AIRMEN'S CERTIFICATES.—Section 206(b) of such Act is amended—

(1) by redesignating paragraphs (3) and (4), and any reference thereto, as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Any individual who has applied for or received an airman's certificate may request the chief driver licensing official of a State to transmit information regarding the individual under subsection (a) of this section to the Administrator of the Federal Aviation Administration. The Administrator of the Federal Aviation Administration may receive such information and shall make such information available to the individual for review and written comment. The Administrator shall not otherwise divulge or use such information, except to verify information required to be reported to the Administrator by an airman applying for an airman medical certificate and to evaluate whether the airman meets the minimum standards as prescribed by the Administrator to be issued an airman medical certificate. There shall be no access to information in the Register under this paragraph if such information was entered in the Register more than 3 years before the date of such request, unless such information relates to revocations or suspensions which are still in effect on the date of the request. Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), or under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

(c) CONFORMING AMENDMENTS.—Section 206(b) of such Act is further amended by adding at the end of each of paragraphs (1), (2), and (4) (as redesignated by subsection (b) of this section) the following new sentence: "Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), and under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

SEC. 306. LOW ACTIVITY LEVEL I AIR TRAFFIC CONTROL TOWER CONTRACT PROGRAM.

The Secretary shall continue in effect the low activity (VFR) Level I air traffic control tower contract program established under section 526 of the Airport and Airway Improvement Act of 1982 with respect to existing contract towers and shall extend such program to other towers as practicable.

Contracts.

SEC. 307. ELIGIBILITY OF DERMOTT, ARKANSAS, MUNICIPAL AIRPORT.

In the administration of the provisions of the Airport and Airway Improvement Act of 1982, the municipal airport of the city of Dermott, Arkansas, shall not be denied eligibility for assistance under such Act on the basis that such airport is located on leased land, if such lease is for a period of at least 99 years, and if the land so leased consists of at least 25 acres.

Regulations.
49 USC app. 1348 note.

SEC. 308. STANDARDS FOR NAVIGATIONAL AIDS.

Not later than December 31, 1988, the Secretary shall promulgate regulations to establish criteria for the installation of airport control towers and other navigational aids. For each type of facility, the regulations shall, at a minimum, consider traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

SEC. 309. LONG-TERM AIRPORT CAPACITY NEEDS.

49 USC app. 2203 note.

(a) STUDY.—The Secretary shall conduct a study for the purpose of developing an overall airport system plan through the year 2010 which will assure the long-term availability of adequate airport system capacity.

(b) REPORTS.—

(1) PRELIMINARY REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a preliminary report on the status of the plan being developed under subsection (a).

(2) FINAL REPORT.—Not later than January 1, 1990, the Secretary shall transmit to Congress a final report on the results of the study conducted under subsection (a), together with the plan developed under such subsection.

(c) FUNDING.—There shall be available to the Secretary from the Airport and Airway Trust Fund $250,000 per fiscal year for each of fiscal years 1988 and 1989 for carrying out this section. Such funds shall remain available until expended.

SEC. 310. RADIO NAVIGATION SYSTEMS.

49 USC app. 1348 note.

(a) SYNCHRONIZATION.—

(1) LORAN-C MASTER TRANSMITTERS.—Not later than September 30, 1989, the Secretary shall take such action as may be necessary to synchronize all loran-C master transmitters located in the United States and all loran-C master transmitters subject to the jurisdiction of the United States. Each such master transmitter shall be synchronized to within approximately 100 nanoseconds of universal time.

(2) OTHER LORAN-C TRANSMITTERS.—

(A) IMPACT STUDY.—The Secretary shall conduct a study of the impact on users of loran-C transmitted signals of synchronizing time of signal transmissions among all secondary loran-C transmitters in the United States in accordance with the standard set forth in the second sentence of paragraph (1).

(B) REPORT.—Not later than September 30, 1989, the Secretary shall transmit to Congress a report on the results of the study conducted under subparagraph (A).

(3) AUTHORIZATION.—There shall be available for carrying out this subsection from the Airport and Airway Trust Fund $750,000 for fiscal year 1988 and $500,000 for fiscal year 1989. Such funds shall remain available until expended.

(b) INTEROPERABILITY OF RADIO NAVIGATION SYSTEMS.—

(1) STUDY.—The Secretary shall study and evaluate methods of coordinating the time references of the loran-C transmitter system and the global positioning satellite system to within approximately 30 nanoseconds of each other for the purpose of making possible the interchange of positioning data between the 2 systems.

(2) REPORT.—Not later than September 30, 1989, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

(3) AUTHORIZATION.—There shall be available for carrying out this subsection from the Airport and Airway Trust Fund $500,000 for fiscal year 1988. Such funds shall remain available until expended.

Regulations.

(c) DEVELOPMENT OF MINIMUM STANDARDS.—Not later than September 30, 1989, the Administrator shall establish by regulation minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft for operation in airspace of the United States.

SEC. 311. REPORTING OF ACCIDENTS TO NTSB.

(a) GENERAL RULE.—Section 304(a)(6) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(a)(6)) is amended to read as follows:

Regulations.

"(6) establish by regulation requirements binding on persons reporting (A) accidents and aviation incidents subject to the Board's investigatory jurisdiction under this subsection, and (B) accidents and aviation incidents involving public aircraft other than aircraft of the Armed Forces and the Intelligence Agencies;".

49 USC app. 1903 note.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the National Transportation Safety Board shall report to the Congress its findings on public aircraft accidents and incidents.

New Jersey.

SEC. 312. ATLANTIC CITY AIRPORT.

(a) LIMITATION ON FUNDING OR TRANSFERS OF PROPERTY.—Notwithstanding any other provision of law, with regard to the Atlantic City Airport, at Pomona, New Jersey, the Federal Aviation Administration shall not convey any interest in property (pursuant to section 516 of the Airport and Airway Improvement Act of 1982) to any municipality or any other entity operating such airport, nor shall any funds authorized to be appropriated for fiscal year 1987 by such Act be available to such municipality or entity for any planning, study, design, engineering, or construction of a runway extension, new runway, new passenger terminal, or improvements to or expansion of the existing passenger terminal at such airport, until such time as—

(1) the master plan update for Atlantic City Airport and Bader Field, prepared pursuant to Federal Aviation Administration Contract FA-EA-2656, is completed and released; and

(2) the Administrator finds that a public entity has been created to operate and manage the Atlantic City Airport, which entity has the following characteristics:

Contracts.

(A) the authority to enter into contracts and other agreements, including contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States;

(B) the standing to sue and be sued in its own name;

(C) the authority to hire and dismiss officers and employees;

(D) the power to adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

Real property.

(E) the authority to acquire, in its own name, an interest in such real or personal property as is necessary or appropriate for the operation and maintenance of the airport;

(F) the power to acquire property by the exercise of the right of eminent domain;

Securities.

(G) the power to borrow money by issuing marketable obligations, or such other means as is permissible for public authorities under the laws of the State of New Jersey;

(H) adequate financial resources to carry out all activities which are ordinarily necessary and appropriate to operate and maintain an airport;

(I) a governing board which includes (but need not be limited to) voting representatives of the city of Atlantic City, the county of Atlantic, and the municipalities which are adjacent to or are directly impacted by the airport;

(J) a charter which includes (i) a requirement that members of the governing board have expertise in transportation, finance, law, public administration, aviation, or such other qualifications as would be appropriate to oversee the planning, management, and operation of an airport, and (ii) procedures which protect the research and development mission of the Federal Aviation Technical Center at Pomona, New Jersey, and the defense functions of the Air National Guard; and

(K) the authority to carry out comprehensive transportation planning to minimize the traffic congestion and facilitate access to and from the airport.

(b) SAFETY FUNDS NOT SUBJECT TO LIMITATION.—The limitation on funds set forth in subsection (a) shall not apply to any expenditure which the Administrator determines is needed for safety purposes.

(c) AVAILABILITY OF RESTRICTED FUNDS.—Notwithstanding any other provision of law, the funds restricted under subsection (a) shall become available at such time as the conditions set forth in subsection (a) are satisfied.

Real property.
State and local governments.

SEC. 313. RELEASE OF CERTAIN CONDITIONS.

(a) STAPLETON INTERNATIONAL AIRPORT, DENVER, COLORADO.—

(1) AUTHORITY TO GRANT RELEASE.—Notwithstanding section 16 of the Federal Airport Act (as in effect on the date of each conveyance referred to in this subsection) with respect to such conveyance, the Secretary is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of paragraph (2) of this subsection, to grant release—

(A) from any of the terms, conditions, reservations, and restrictions contained in each deed of conveyance under which the United States conveyed property to the city and county of Denver, Colorado, on which any portion of Stapleton International Airport is located; and

(B) from any assurance made by the sponsor of such airport for a grant under the Airport and Airway Improvement Act of 1982 for a project at such airport.

(2) CONDITIONS.—Any release granted by the Secretary under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The city and county of Denver, Colorado, shall agree that in conveying any interest in the property which the United States conveyed to the city and county by the deeds described in paragraph (1) the city and county will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by the Secretary).

(B) Any such amount so received by the city and county shall be used by the city and county for the development, construction, and improvement of (i) a new Denver air carrier airport, and (ii) a reliever airport in the event that the operation of the new air carrier airport severely restricts the operation of the nearby reliever airport. In no event shall such amount be used for operation or maintenance of such airports.

(C) The city and county shall agree not to convey any interest in the property which the United States conveyed to the city and county by the deeds described in paragraph (1) until the opening and initial operation of a primary airport to replace Stapleton International Airport, unless the Secretary determines that any such property is not essential for the operation of Stapleton International Airport.

(b) HAWAII.—

(1) AUTHORITY TO GRANT RELEASE.—Notwithstanding section 23 of the Airport and Airway Development Act of 1970 (as in effect on April 6, 1982), the Secretary is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance, dated April 6, 1982, under which the United States conveyed certain property to the State of Hawaii for airport purposes.

(2) CONDITIONS.—Any release granted by the Secretary under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The property for which a release is granted under this subsection shall not exceed 2.280 acres.

(B) The State of Hawaii shall agree that, in conveying any interest in the property which the United States conveyed to the State by a deed described in paragraph (1), the State will receive an amount for such interest which is equal to the fair market value.

(C) Any amount so received shall be used for airport purposes only.

(D) In the event land or any interest therein is received in exchange for all or part of the 2.280 acres, the deed of conveyance of such land or interest will contain language mandating that—

(i) the land or interest must be used for airport purposes only;

(ii) such land or interest in land received by the State of Hawaii may not be conveyed by the State, except by approval of the Federal Government, pursuant to the authority vested in the Secretary under section 4 of the Act of 1949 (63 Stat. 700; 50 U.S.C. App. 1622c);

(iii) such conveyance by the State of Hawaii shall be subject to receipt of fair market value; and

(iv) the proceeds from such conveyance by the State of Hawaii shall be used for airport purposes only.

(c) LAREDO INTERNATIONAL AIRPORT, LAREDO, TEXAS.—

(1) AUTHORITY TO GRANT RELEASE.—Subject to paragraph (2), in recognition of the benefits to the public, the city of Laredo, Texas, and its successors and assigns are hereby released from all terms, conditions, reservations, and restrictions contained in the instrument of disposal dated February 21, 1975, by which the United States conveyed the property on which the Laredo International Airport, Laredo, Texas, is located to such city to the extent that such terms, conditions, reservations, and restrictions apply to the portion of such property consisting of approximately 680.1586 acres of land which is designated under the 1985 master plan and land use plan for the Laredo International Airport as being available for nonaviation purposes.

(2) CONDITIONS.—The release granted by paragraph (1) shall be subject to the following conditions:

(A) All revenues derived from the property to which such release applies shall be used for development, improvement, operation, and maintenance of the Laredo International Airport.

(B) The use of property to which such release applies shall not interfere with the operation and maintenance of such airport.

(C) Property to which such release applies may only be rented or leased if the term of the rental or lease agreement is 20 years or less and if compensation which is not less than—

(i) ¼ of fair market value is received in the case of a rental or lease agreement for a term of 10 years or less; and

(ii) ½ of fair market value is received in the case of a rental or lease agreement for a term of more than 10 years.

(D) Property to which such release applies may only be transferred if compensation which is equal to or more than fair market value is received.

(E) The city of Laredo, Texas, shall provide to the Administrator—

(i) an accounting and management plan acceptable to the Administrator for managing the Laredo International Airport general fund; and

(ii) an explanation of the management by such city of such general fund in calendar years beginning after December 31, 1977, and ending before the date of the enactment of this Act.

(3) IMPLEMENTATION.—The Administrator shall take such action as may be necessary to carry out the provisions of this subsection.

SEC. 314. FLIGHT SERVICE STATION IN JUNEAU, ALASKA.

(a) DESIGNATION.—The Federal Aviation Administration flight service station located in Juneau, Alaska, shall be known and designated as the "Dave Scheytt Flight Service Station".

(b) LEGAL REFERENCE.—Any reference in a law, map, regulation, document, or other paper of the United States to the flight service station referred to in subsection (a) shall be deemed to be a reference to the "Dave Scheytt Flight Service Station".

SEC. 315. GRAND CANYON AIRPORT.

(a) STUDY.—The Secretary shall conduct a study of methods of air traffic control which might be utilized at the Grand Canyon Airport, including the feasibility of installing radar for air traffic control purposes.

(b) REPORT.—Not later than the 180th day following the date of the enactment of this Act, the Secretary shall report to Congress the results of the study conducted under subsection (a), together with recommendations.

Airport and Airway Revenue Act of 1987.

TITLE IV—EXTENSION OF AVIATION-RELATED TAXES AND AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY

26 USC 1 note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Airport and Airway Revenue Act of 1987".

SEC. 402. 3-YEAR EXTENSION OF AVIATION-RELATED TAXES.

(a) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking out "January 1, 1988" each place it appears and inserting in lieu thereof "January 1, 1991":

(1) Section 4261(f) (relating to transportation of persons by air).

(2) Section 4271(d) (relating to transportation of property by air).

(3) Section 9502(b) (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes).

(b) FUEL USED IN NONCOMMERCIAL AVIATION.—Paragraph (5) of section 4041(c) of such Code (relating to noncommercial aviation) is amended by striking out "December 31, 1987" and inserting in lieu thereof "December 31, 1990".

SEC. 403. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY.

(a) EXPENDITURES FROM TRUST FUND.—The material preceding subparagraph (A) of paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended by striking out "October 1, 1987" and inserting in lieu thereof "October 1, 1992".

(b) TRUST FUND PURPOSES.—Subparagraph (A) of section 9502(d)(1) of such Code is amended by striking out "(as such Acts were in effect on the date of the enactment of the Surface Transportation Assistance Act of 1982)" and inserting in lieu thereof "or the Airport and Airway Safety and Capacity Expansion Act of 1987 (as such Acts were in effect on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987)".

SEC. 404. EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION BY HELICOPTER.

(a) In General.—Section 4261 of the Internal Revenue Code of 1986 (relating to imposition of tax on transportation by air) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection: 26 USC 4261.

"(f) Exemption for Certain Emergency Medical Transportation.—No tax shall be imposed under this section or section 4271 on any air transportation by helicopter for the purpose of providing emergency medical services if such helicopter—

"(1) does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970 during such transportation, and

"(2) does not otherwise use services provided pursuant to the Airport and Airway Improvement Act of 1982 during such transportation."

(b) Tax Free Sales.—Subsection (l) of section 4041 of such Code (relating to exemption for certain helicopter uses) is amended to read as follows:

"(l) Exemption for Certain Helicopter Uses.—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met."

(c) Technical Amendment.—Subsection (e) of section 4261 of such Code is amended by striking out "System Improvement Act" and inserting in lieu thereof "Improvement Act".

(d) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to transportation beginning after September 30, 1988, but shall not apply to amounts paid on or before such date. 26 USC 4261 note.

(2) Subsection (b).—The amendment made by subsection (b) shall take effect on October 1, 1988. 26 USC 4041 note.

SEC. 405. REDUCTION IN AVIATION-RELATED TAXES WHERE APPROPRIATIONS ARE SIGNIFICANTLY BELOW AUTHORIZATIONS.

(a) In General.—Part III of subchapter C of chapter 33 of the Internal Revenue Code of 1986 (relating to facilities and services) is amended by adding at the end the following new section:

"SEC. 4283. REDUCTION IN AVIATION-RELATED TAXES IN CERTAIN CASES. 26 USC 4283.

"(a) Reduction in Rates.—If the funding percentage is less than 85 percent, with respect to any taxable event occurring during 1990—

"(1) subsections (a) and (b) of section 4261 (relating to tax on transportation of persons by air) shall each be applied by substituting '4 percent' for '8 percent',

"(2) subsection (a) of section 4271 (relating to tax on transportation of property by air) shall be applied by substituting '2.5 percent' for '5 percent',

"(3) paragraph (1) of section 4041(c) (relating to tax on certain fuels used in noncommercial aviation) shall be applied by substituting '7 cents' for '14 cents', and

"(4) paragraph (2) of section 4041(c) (relating to tax on gasoline used in noncommercial aviation) shall not apply.

"(b) Funding Percentage.—

"(1) In general.—For purposes of this section, the funding percentage is the percentage (determined by the Secretary) which—

"(A) the sum of—

"(i) the aggregate amounts obligated under section 505 of the Airport and Airway Improvement Act of 1982 for fiscal years 1988 and 1989, and

"(ii) the aggregate amounts appropriated under subsections (a) and (b) of section 506 of such Act for such fiscal years, is of

"(B) the sum of—

"(i) the aggregate amounts authorized to be obligated under such section 505 for such fiscal years, and

"(ii) the aggregate amounts authorized to be appropriated under subsections (a) and (b) of such section 506 for such fiscal years.

"(2) Rules for applying paragraph (1).—

"(A) Treatment of prior year amounts.—For purposes of paragraph (1), an amount shall be treated as authorized, obligated, or appropriated only for the 1st fiscal year for which it is authorized, obligated, or appropriated, as the case may be.

"(B) Treatment of sequestered amounts.—The determination under paragraph (1)(A) shall be made without regard to the sequestration of any amount described therein pursuant to an order under part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (or any successor law).

"(3) Determination of funding percentage.—

"(A) In general.—Not later than December 1, 1989, the Secretary shall determine—

"(i) the funding percentage, and

"(ii) whether the rate reductions under this section shall apply to taxable events occurring during 1990.

"(B) Determinations to be published in federal register.—As soon as practicable after making the determinations under subparagraph (A), the Secretary shall publish such determinations in the Federal Register.

"(c) Taxable Event.—For purposes of this section—

"(1) Taxable transportation by air.—In the case of the taxes imposed by sections 4261 and 4271, the taxable event shall be treated as occurring when the payment for the taxable transportation is made.

"(2) Sale or use of fuel.—In the case of the taxes imposed by section 4041(c), the taxable event shall be the sale or use on which tax is imposed."

(b) Refund of Fuel Taxes on Noncommercial Aviation Where Rate Reduction in Effect.—

(1) In general.—Section 6427 of such Code (relating to fuels not used for taxable purposes) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) Gasoline Used in Noncommercial Aviation During Period Rate Reduction in Effect.—Except as provided in subsection (k), if—

"(1) any tax is imposed by section 4081 on any gasoline, "(2) such gasoline is used during 1990 as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)), and

"(3) no tax is imposed by section 4041(c)(2) on taxable events occurring during 1990 by reason of section 4283,

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 6 cents multiplied by the number of gallons of gasoline so used."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 6427(i) of such Code is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (p)".

(B) Clause (i) of section 6427(i)(2)(A) of such Code is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (p)".

(3) CROSS REFERENCE.—Subsection (c) of section 4041 of such Code is amended by adding at the end thereof the following new paragraph:

"(6) REDUCTION IN RATES OF TAX IN CERTAIN CIRCUMSTANCES.—For reduction of rates of taxes imposed by paragraphs (1) and (2) in certain circumstances, see section 4283."

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter C of chapter 33 of such Code is amended by adding at the end the following new item:

"Sec. 4283. Reduction in aviation-related taxes in certain cases."

Approved December 30, 1987.

LEGISLATIVE HISTORY—H.R. 2310 (S. 1184):

HOUSE REPORTS: No. 100-123, Pt. 1 (Comm. on Science, Space, and Technology) and Pt. 2 (Comm. on Public Works and Transportation) and No. 100-484 (Comm. of Conference).

SENATE REPORTS: No. 100-99 accompanying S. 1184 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 133 (1987):

Oct. 1, considered and passed House.
Oct. 28, considered and passed Senate, amended, in lieu of S. 1184.
Dec. 17, Senate agreed to conference report.
Dec. 18, House agreed to conference report.

○

PUBLIC LAW 100-224—DEC. 30, 1987

TITLE 10, UNITED STATES CODE, AMENDMENTS

19-139 O - 88 (224)

Public Law 100-224
100th Congress

An Act

Dec. 30, 1987
[H.R. 2974]

To amend title 10, United States Code, to make technical corrections in provisions of law enacted by the Military Retirement Reform Act of 1986.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Wages.

SECTION 1. COST-OF-LIVING ADJUSTMENTS OF MILITARY RETIRED PAY.

(a) RULE FOR CPI-1 FORMULA FOR NEW ENTRANTS.—Subsection (b) of section 1401a of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) SPECIAL RULE FOR PARAGRAPH (3).—If in any case in which an increase in retired pay that would otherwise be made under paragraph (3) is not made by reason of law (other than any provision of this section), then (unless otherwise provided by law) when the next increase in retired pay is made under this subsection, the increase under paragraph (3) shall be carried out so as to achieve the same net increase in retired pay under that paragraph that would have been the case if that law had not been enacted.".

(b) PRO RATING OF INITIAL CPI ADJUSTMENT FOR NEW MEMBERS.—Subsection (e) of such section is amended by striking out "only by" and all that follows in that subsection and inserting in lieu thereof the following: "by the percent (adjusted to the nearest one-tenth of 1 percent) equal to the difference between—

"(1) the percent by which—

"(A) the price index for the base quarter of that year, exceeds

"(B) the price index for the calendar quarter immediately before the calendar quarter during which the member became entitled to retired pay; and

"(2) one-fourth of 1 percent for each calendar quarter from the quarter described in paragraph (1)(B) to the quarter described in paragraph (1)(A).

If in any case the percent described in paragraph (2) exceeds the percent determined under paragraph (1), such an increase shall not be made.".

SEC. 2. RESTORAL OF BENEFITS AT AGE 62 FOR NEW RETIREMENT MEMBERS.

Section 1410 of title 10, United States Code, is amended—

(1) by striking out "(a) GENERAL RULE.—" and

(2) by striking out "the amount equal to—" and all that follows and inserting in lieu thereof "the amount equal to the amount of retired pay to which the member would be entitled on that date if—

"(1) increases in the member's retired pay under section 1401a(b) of this title had been computed as provided in paragraph (2) of that section (rather than under paragraph (3) of that section); and

"(2) in the case of a member whose retired pay was subject to section 1409(b)(2) of this title, no reduction in the member's retired pay had been made under that section.".

SEC. 3. SURVIVOR BENEFIT PLAN AMENDMENTS.

(a) ADJUSTMENT AT AGE 62 IN BASE AMOUNT.—(1) Section 1451 of title 10, United States Code, is amended—

(A) by inserting after subsection (g) the following:

"(h)(1) Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the base amount applicable to each participant in the Plan shall be increased at the same time. The increase shall be by the same percent as the percent by which the retired pay of the participant is increased.

"(2) When the retired pay of a person who first became a member of a uniformed service on or after August 1, 1986, and who is a participant in the Plan is recomputed under section 1410 of this title upon the person's becoming 62 years of age, the base amount applicable to that person shall be recomputed (effective on the effective date of the recomputation of such retired pay under section 1410 of this title) so as to be the amount equal to the amount of the base amount that would be in effect on that date if increases in such base amount under paragraph (1) had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section)."; and

(B) by striking out "(h) Computation" and inserting in lieu thereof "(3) Computation".

(2) Subsection (a) of such section is amended by striking out "(as the base amount is adjusted from time to time under section 1401a of this title)" in paragraphs (1)(A), (1)(B), (2)(A), and (2)(B).

(b) ADJUSTMENT AT AGE 62 IN AMOUNT OF REDUCTION IN RETIRED PAY.—Section 1452 of such title is amended by adding at the end the following new subsection:

"(i) When the retired pay of a person who first became a member of a uniformed service on or after August 1, 1986, and who is a participant in the Plan is recomputed under section 1410 of this title upon the person's becoming 62 years of age, the amount of the reduction in such retired pay under this section shall be recomputed (effective on the effective date of the recomputation of such retired pay under section 1410 of this title) so as to be the amount equal to the amount of such reduction that would be in effect on that date if increases in such retired pay under section 1401a(b) of this title, and increases in reductions in such retired pay under subsection (h), had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).".

(c) ADJUSTMENT OF AMOUNT OF ANNUITY.—Section 1451(i) of such title is amended by striking out "on the basis of" the second place it appears and all that follows and inserting in lieu thereof "so as to be the amount equal to the amount of the annuity that would be in effect on that date if increases under subsection (h)(1) in the base amount applicable to that annuity to the time of the death of the member or former member, and increases in such annuity under subsection (g)(1), had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).".

Public Law 100-225
100th Congress

An Act

To establish the El Malpais National Monument and the El Malpais National Conservation Area in the State of New Mexico, to authorize the Masau Trail, and for other purposes.

Dec. 31, 1987
[H.R. 403]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EL MALPAIS NATIONAL MONUMENT

ESTABLISHMENT OF MONUMENT

16 USC 460uu.

SEC. 101. (a) In order to preserve, for the benefit and enjoyment of present and future generations, that area in western New Mexico containing the nationally significant Grants Lava Flow, the Las Ventanas Chacoan Archeological Site, and other significant natural and cultural resources, there is hereby established the El Malpais National Monument (hereinafter referred to as the "monument"). The monument shall consist of approximately 114,000 acres as generally depicted on the map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA-80,001-B and dated May 1987. The map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

Public information.

(b) As soon as practicable after the enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall file a legal description of the monument with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Public information.

TRANSFER

National Forest System.
16 USC 460uu-1.

SEC. 102. Lands and waters and interests therein within the boundaries of the monument, which as of the day prior to the date of enactment of this Act were administered by the Forest Service, United States Department of Agriculture, are hereby transferred to the administrative jurisdiction of the Secretary to be managed as part of the monument in accordance with this Act. The boundaries of the Cibola National Forest shall be adjusted accordingly.

MANAGEMENT

16 USC 460uu-2.

SEC. 103. The Secretary, acting through the Director of the National Park Service, shall manage the monument in accordance with the provisions of this Act, the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), and other provisions of law applicable to units of the National Park System. The Secretary shall protect, manage, and administer the monument for the purposes of preserving the scenery and the natural, historic, and cultural resources of the monument and providing for the public understanding and enjoyment of the same in such a manner as to perpetuate these qualities for future generations.

PERMITS

Animals.
Contracts.
16 USC 460uu-3.

SEC. 104. Where any lands included within the boundary of the monument on the map referred to in subsection 101(a) are legally occupied or utilized on the date of enactment of this Act for grazing purposes, pursuant to a lease, permit, or license which is—

(a) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and

(b) scheduled for termination before December 31, 1997,

the Secretary, notwithstanding any other provision of law, shall allow the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1997, subject to such limitations, conditions, or regulations as the Secretary may prescribe to insure proper range management. No grazing shall be permitted on lands within the boundaries of the monument on or after January 1, 1998.

State and local governments.
Indians.

TITLE II—MASAU TRAIL

DESIGNATION OF TRAIL

Arizona.
Federal Register, publication.
16 USC 460uu-11.

SEC. 201. In order to provide for public appreciation, education, understanding, and enjoyment of certain nationally significant sites of antiquity in New Mexico and eastern Arizona which are accessible by public road, the Secretary, acting through the Director of the National Park Service, with the concurrence of the agency having jurisdiction over such roads, is authorized to designate, by publication of a description thereof in the Federal Register, a vehicular tour route along existing public roads linking prehistoric and historic cultural sites in New Mexico and eastern Arizona. Such a route shall be known as the Masau Trail (hereinafter referred to as the "trail").

AREAS INCLUDED

16 USC 460uu-12.

SEC. 202. The trail shall include public roads linking El Malpais National Monument as established pursuant to title I of this Act, El Morro National Monument, Chaco Cultural National Historical Park, Aztec Ruins National Monument, Canyon De Chelly National Monument, Pecos National Monument, and Gila Cliff Dwellings National Monument. The Secretary may, in the manner set forth in section 201, designate additional segments of the trail from time to time as appropriate to link the foregoing sites with other cultural sites or sites of national significance when such sites are designated and protected by Federal, State, or local governments, Indian tribes, or nonprofit entities.

INFORMATION AND INTERPRETATION

SEC. 203. With respect to sites linked by segments of the trail which are administered by other Federal, State, local, tribal, or nonprofit entities, the Secretary may, pursuant to cooperative agreements with such entities, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the natural and cultural resources of the sites along the trail. The Secretary, in cooperation with State and local governments, Indian tribes, and nonprofit entities, shall prepare and distribute informational material for the public appreciation of sites along the trail.

16 USC 460uu-13.

MARKERS

SEC. 204. The trail shall be marked with appropriate markers to guide the public. With the concurrence and assistance of the State or local entity having jurisdiction over the roads designated as part of the trail, the Secretary may erect thereon and maintain signs and other informational devices displaying the Masau Trail Marker. The Secretary is authorized to accept the donation of suitable signs and other informational devices for placement at appropriate locations.

16 USC 460uu-14.

TITLE III—EL MALPAIS NATIONAL CONSERVATION AREA

ESTABLISHMENT OF AREA

SEC. 301. (a) In order to protect for the benefit and enjoyment of future generations that area in western New Mexico containing the La Ventana Natural Arch and the other unique and nationally important geological, archeological, ecological, cultural, scenic, scientific, and wilderness resources of the public lands surrounding the Grants Lava Flows, there is hereby established the El Malpais National Conservation Area (hereinafter referred to as the "conservation area"). The conservation area shall consist of approximately 262,690 acres of federally owned land as generally depicted on a map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA-80,001-B and dated May 1987. The map shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management of the Department of the Interior.

16 USC 460uu-21.

Public information.

(b) As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the conservation area designated under this section with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

Public information.

MANAGEMENT

SEC. 302. (a) The Secretary, acting through the Director of the Bureau of Land Management, shall manage the conservation area to protect the resources specified in section 301 and in accordance with this Act, the Federal Land Management and Policy Act of 1976

Animals.
16 USC 460uu-22.

and other applicable provisions of law, including those provisions relating to grazing on public lands.

(b) The Secretary shall permit hunting and trapping within the conservation area in accordance with applicable laws and regulations of the United States and the State of New Mexico; except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment.

Forests and forest products.

(c) Collection of green or dead wood for sale or other commercial purposes shall not be permitted in the conservation area.

(d) Except as otherwise provided in section 402(b), within the conservation area the grazing of livestock shall be permitted to continue, pursuant to applicable Federal law, including this Act, and subject to such reasonable regulations, policies, and practices as the Secretary deems necessary.

National Wilderness Preservation System.

TITLE IV—WILDERNESS

DESIGNATION OF WILDERNESS

16 USC 460uu-31.

16 USC 1132 note.

Public information.

SEC. 401. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 131), there are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System, the Cebolla Wilderness of approximately 60,000 acres, and the West Malpais Wilderness of approximately 38,210 acres, as each is generally depicted on the map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA-80,001-B and dated May 1987. The map shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

Public information.

(b) As soon as practicable after the date of the enactment of this Act, the Secretary shall file a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

MANAGEMENT

16 USC 460uu-32.

SEC. 402. (a) Subject to valid existing rights, each wilderness area designated under this Act shall be administered by the Secretary, through the Director of the Bureau of Land Management, in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

Animals.

(b) Within the wilderness areas designated by this Act, the grazing of livestock, where established prior to the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 108 of Public Law 96-560 (16 U.S.C. 1133 note).

TITLE V—GENERAL PROVISIONS

MANAGEMENT PLANS

National Wilderness Preservation System. 16 USC 460uu-41.

SEC. 501. (a) Within three full fiscal years following the fiscal year of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, separate general management plans for the monument and the conservation area which shall describe the appropriate uses and development of the monument and the conservation area consistent with the purposes of this Act. The plans shall include but not be limited to each of the following:

(1) implementation plans for a continuing program of interpretation and public education about the resources and values of the monument and the conservation area;

(2) proposals for public facilities to be developed for the conservation area or the monument, including a visitors center in the vicinity of Bandera Crater and a multiagency orientation center, to be located in or near Grants, New Mexico, and adjacent to Interstate 40, to accommodate visitors to western New Mexico;

(3) natural and cultural resources management plans for the monument and the conservation area, with a particular emphasis on the preservation and long-term scientific use of archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 and the National Historic Preservation Act within the monument and the conservation area. The natural and cultural resources management plans shall be prepared in close consultation with the Advisory Council on Historic Preservation, the New Mexico State Historic Preservation Office, and the local Indian people and their traditional cultural and religious authorities; and such plans shall provide for long-term scientific use of archaeological resources in the monument and the conservation area, including the wilderness areas designated by this Act; and

Indians.

(4) wildlife resources management plans for the monument and the conservation area prepared in close consultation with appropriate departments of the State of New Mexico and using previous studies of the area.

Wildlife.

(b)(1) The general management plan for the conservation area shall review and recommend the suitability or nonsuitability for preservation as wilderness of those lands comprising approximately 17,468 acres, identified as "Wilderness Study Area" (hereafter in this title referred to as the "WSA") on the map referenced in section 101.

(2) Pending submission of a recommendation and until otherwise directed by an Act of Congress, the Secretary, acting through the Director of the Bureau of Land Management, shall manage the

lands within the WSA so as to maintain their potential for inclusion within the National Wilderness Preservation System.

(c)(1) The general management plan for the monument shall review and recommend the suitability or nonsuitability for preservation as wilderness of all roadless lands within the boundaries of the monument as established by this Act except those lands within the areas identified as "potential development areas" on the map referenced in section 101.

(2) Pending the submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, through the Director of the National Park Service, shall manage all roadless lands within the boundaries of the monument so as to maintain their potential for inclusion in the National Wilderness Preservation System, except those lands within the areas identified as "potential development areas" on the map referenced in section 101.

ACQUISITIONS

Public lands.
Gifts and property.
16 USC 460uu-42.

SEC. 502. Within the monument and the conservation area, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that such lands or interests therein owned by the State of New Mexico or a political subdivision thereof may be acquired only by exchange. It is the sense of Congress that the Secretary is to complete the acquisition of non-Federal subsurface interests underlying the monument and the conservation area no later than three full fiscal years after the fiscal year of enactment of this Act.

STATE EXCHANGES

Public lands.
Gifts and property.
16 USC 460uu-43.

SEC. 503. (a) Upon the request of the State of New Mexico (hereinafter referred to as the "State") and pursuant to the provisions of this section, the Secretary shall exchange public lands or interests in lands elsewhere in the State of New Mexico, of approximately equal value and selected by the State, acting through its Commissioner of Public Lands, for any lands or interests therein owned by the State (hereinafter referred to as "State lands") located within the boundaries of the monument or the conservation area which the State wishes to exchange with the United States.

(b) Within six months after the date of enactment of this Act, the Secretary shall notify the New Mexico Commissioner of Public Lands what State lands are within the monument or the conservation area. The notice shall contain a listing of all public lands or interest therein within the boundaries of the State of New Mexico which have not been withdrawn from entry and which the Secretary, pursuant to the provisions of sections 202 and 206 of the Federal Land Policy and Management Act of 1976, has identified as appropriate for transfer to the State in exchange for State lands. Such listing shall be updated at least annually. If the New Mexico Commissioner of Public Lands gives notice to the Secretary of the State's desire to obtain public lands so listed, the Secretary shall notify the Commissioner in writing as to whether the Department of the Interior considers the State lands within the monument or conservation area to be of approximately equal value to the listed lands or interests in lands the Commissioner has indicated the State desires to obtain. It is the sense of the Congress that the exchange of lands and interests therein with the State pursuant to this section should be completed within two years after the date of enactment of this Act.

MINERAL EXCHANGES

16 USC 460uu-44.

SEC. 504. (a) The Secretary is authorized and directed to exchange the Federal mineral interests in the lands described in subsection (b) for the private mineral interests in the lands described in subsection (c), if—

(1) the owner of such private mineral interests has made available to the Secretary all information requested by the Secretary as to the respective values of the private and Federal mineral interests to be exchanged; and

(2) on the basis of information obtained pursuant to paragraph (1) and any other information available, the Secretary has determined that the mineral interests to be exchanged are of approximately equal value; and

(3) the Secretary has determined—

(A) that except insofar as otherwise provided in this section, the exchange is not inconsistent with the Federal Land Policy and Management Act of 1976; and

(B) that the exchange is in the public interest.

(b) The Federal mineral interests to be exchanged under this section underlie the lands, comprising approximately 15,008 acres, depicted as "Proposed for transfer to Santa Fe Pacific" on the map referenced in subsection (d).

(c) The private mineral interests to be exchanged pursuant to this section underlie the lands, comprising approximately 15,141 acres, depicted as "Proposed for transfer to U.S." on the map referenced in subsection (d).

(d)(1) The mineral interests identified in this section underlie those lands depicted as "Proposed for transfer to Santa Fe Pacific" and as "Proposed for transfer to U.S." on a map entitled "El Malpais Leg. Boundary, HR3684/S56", revised 5-8-87.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the mineral interest areas designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

Public information.

(e) It is the sense of the Congress that all exchanges pursuant to this section shall be completed no later than three years after the date of enactment of this Act.

ACOMA PUEBLO EXCHANGES

Indians. Public lands. 16 USC 460uu-45.

SEC. 505. (a)(1) Upon the request of the Pueblo of Acoma, the Secretary shall acquire by exchange any lands held in trust for the Pueblo of Acoma (hereinafter referred to as "trust lands") located within the boundary of the conservation area which the Pueblo wishes to exchange pursuant to this section. Such trust lands shall be exchanged either for—

(A) lands described in subsection (c) (with respect to trust lands west of New Mexico Highway 117); or

(B) public lands of approximately equal value located outside the monument and outside the conservation area but within the boundaries of the State of New Mexico which are selected by the Pueblo of Acoma, so long as such exchange is consistent with applicable law and Bureau of Land Management resource management plans developed pursuant to the Federal Land Policy and Management Act of 1976.

(2) All lands selected by and transferred to the Pueblo of Acoma at its request pursuant to this section shall thereafter be held in trust by the Secretary for the Pueblo of Acoma in the same manner as the lands for which they were exchanged.

(3) Any lands west of New Mexico Highway 117 which are acquired by the Secretary pursuant to this section shall be incorporated into the monument and managed accordingly, and section 104 and all other provisions of this Act and other law applicable to lands designated by this Act as part of the monument shall apply to such incorporated lands.

(b) For purposes of acquiring lands pursuant to subsection (a) of this section, the Secretary, consistent with applicable law and Bureau of Land Management resource management plans described in subsection (a), shall make public lands within the boundaries of the State of New Mexico available for exchange. Nothing in this Act shall be construed as authorizing or requiring revocation of any existing withdrawal or classification of public land except in a manner consistent with applicable law.

(c)(1) The Secretary shall make the lands within the areas identified as "Acoma Potential Exchange Areas" on the map referenced in section 301 available for transfer to the Pueblo of Acoma pursuant to this subsection.

(2) Upon a request of the Pueblo of Acoma submitted to the Secretary no later than one year after the date of enactment of this Act, lands within the areas described in paragraph (1) shall be transferred to the Pueblo of Acoma in exchange for trust lands of approximately equal value within that portion of the conservation area west of New Mexico Highway 117. The Secretary may require exchanges of land under this subsection to be on the basis of compact and contiguous parcels.

(3) Any lands within the areas described in paragraph (1) not proposed for exchange by a request submitted to the Secretary by the Pueblo of Acoma within the period specified in paragraph (2), and any lands in such areas not ultimately transferred pursuant to this subsection, shall be incorporated within the conservation area and managed accordingly. In addition, any lands in that portion of the areas described in paragraph (1) lying in section 1, township 7N, range 9W, New Mexico Principal Meridian, not transferred to the Pueblo of Acoma pursuant to this subsection shall be added to and incorporated within the Cebolla Wilderness and managed accordingly.

Public lands.
16 USC 460uu-46.

EXCHANGES AND ACQUISITIONS GENERALLY; WITHDRAWAL

SEC. 506. (a) All exchanges pursuant to this Act shall be made in a manner consistent with applicable provisions of law, including this

Act, and unless otherwise specified in this Act shall be on the basis of equal value; either party to an exchange may pay or accept cash in order to equalize the value of the property exchange, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchange may be made for other than equal value.

(b) For purposes of this Act, the term "public lands" shall have the same meaning as such term has when used in the Federal Land Policy and Management Act of 1976.

(c) Except as otherwise provided in section 505, any lands or interests therein within the boundaries of the monument or conservation area which after the date of enactment of this Act may be acquired by the United States shall be incorporated into the monument or conservation area, as the case may be, and managed accordingly, and all provisions of this Act and other laws applicable to the monument or the conservation area, as the case may be, shall apply to such incorporated lands.

Indians.

(d)(1) Except as otherwise provided in this Act, no federally-owned lands located within the boundaries of the monument or the conservation area shall be transferred out of Federal ownership, or be placed in trust for any Indian tribe or group, by exchange or otherwise.

Minerals and mining.

(2) Except as otherwise provided in this Act, and subject to valid existing rights, all Federal lands within the monument and the conservation area and all lands and interests therein which are hereafter acquired by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws and from location, entry and patent under the mining laws, and from operation of the mineral leasing and geothermal leasing laws and all amendments thereto.

(e) The acreages cited in this Act are approximate, and in the event of discrepancies between cited acreages and the lands depicted on referenced maps, the maps shall control.

(f) The Secretary is authorized to accept any lands contiguous to the boundaries of the Pecos National Monument (as such boundaries were established on the date of enactment of this Act) which may be proposed for donation to the United States. If acceptance of such lands proposed for donation would be in furtherance of the purposes for which the Pecos National Monument was established, the Secretary shall accept such lands, and upon such acceptance such lands shall be incorporated into such monument and managed accordingly.

16 USC 431 note.

(g)(1) Capulin Mountain National Monument is hereby redesignated as Capulin Volcano National Monument.

(2) Any reference in any record, map, or other document of the United States of America to Capulin Mountain National Monument shall hereafter be deemed to be a reference to Capulin Volcano National Monument.

(3) Section 1 of the Act of September 5, 1962 (76 Stat. 436) is hereby amended by striking the remaining portion of section 1 after "boundaries of the monument" and inserting "shall include the lands and interests in lands as generally depicted on the map entitled 'Capulin Volcano National Monument Boundary Map' which is numbered 125-80,014 and dated January 1987.".

(4) Jurisdiction over federally-owned lands within the revised boundaries of the monument is hereby transferred to the National

Park Service, without monetary consideration, for administration as part of the monument.

ACCESS

Indians.
Religion.
16 USC 460uu-47.

SEC. 507. (a) In recognition of the past use of portions of the monument and the conservation area by Indian people for traditional cultural and religious purposes, the Secretary shall assure nonexclusive access to the monument and the conservation area by Indian people for traditional cultural and religious purposes, including the harvesting of pine nuts. Such access shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996), and (with respect to areas designated as wilderness) the Wilderness Act (78 Stat. 890; 16 U.S.C. 131).

(b) In preparing the plans for the monument and the conservation area pursuant to section 501, the Secretary shall request that the Governor of the Pueblo of Acoma and the chief executive officers of other appropriate Indian tribes make recommendations on methods of—

(1) assuring access pursuant to subsection (a) of this section;

(2) enhancing the privacy of traditional cultural and religious activities in the monument and the conservation area; and

(3) protecting traditional cultural and religious sites in the monument and the conservation area.

(c) In order to implement this section and in furtherance of the American Indian Religious Freedom Act, the Secretary, upon the request of an appropriate Indian tribe, may from time to time temporarily close to general public use one or more specific portions of the monument or the conservation area in order to protect the privacy of religious activities in such areas by Indian people. Any such closure shall be made so as to affect the smallest practicable area for the minimum period necessary for such purposes. Not later than seven days after the initiation of any such closure, the Secretary shall provide written notification of such action to the Energy and Natural Resources Committee of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives.

(d) The Secretary is authorized to establish an advisory committee to advise the Secretary concerning the implementation of this section. Any such advisory committee shall include representatives of the Pueblo of Acoma, the Pueblo of Zuni, other appropriate Indian tribes and other persons or groups interested in the implementation of this section.

COOPERATION

Indians.
State and local governments.
Arizona.
16 USC 460uu-48.

SEC. 508. In order to encourage unified and cost effective interpretation of prehistoric and historic civilizations in western New Mexico, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of prehistoric and historic civilizations in New Mexico and eastern Arizona. The Secretary may, pursuant to such agreements, cooperate in the development and operation of a multiagency orientation center and programs on lands and interests in lands inside and outside of the boundaries of the monument and the conservation area generally, with the concurrence of the owner or administrator thereof, and specifically in or near Grants, New Mexico, adjacent to Interstate 40 in accordance with the plan required pursuant to section 501.

WATER RIGHTS

SEC. 509. (a) Congress expressly reserves to the United States the minimum amount of water required to carry out the purposes for which the national monument, the conservation area, and the wilderness areas are designated under this Act. The priority date of such reserved rights shall be the date of enactment of this Act.

16 USC 460uu-49.

(b) Nothing in this section shall affect any existing valid or vested water right, or applications for water rights which are pending as of the date of enactment of this Act and which are subsequently granted: *Provided*, That nothing in this subsection shall be construed to require the National Park Service to allow the drilling of ground water wells within the boundaries of the national monument.

(c) Nothing in this section shall be construed as establishing a precedent with regard to any future designations, nor shall it affect the interpretation of any other Act or any designation made pursuant thereto.

AUTHORIZATION

SEC. 510. There is authorized to be appropriated $16,500,000 for the purposes of this Act, of which $10,000,000 shall be available for land acquisition in the national monument; $1 million shall be available for development within the national monument; $4 million shall be available for land acquisition within the conservation area; $1 million shall be available for development within the conservation area; and $500,000 shall be available for planning and development of the Masau Trail.

16 USC 460uu-50.

Approved December 31, 1987.

LEGISLATIVE HISTORY—H.R. 403:

HOUSE REPORTS: No. 100-116 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-100 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
  June 1, considered and passed House.
  Dec. 17, considered and passed Senate, amended.
  Dec. 18, House concurred in Senate amendment.

○

Public Law 100-226
100th Congress

An Act

Dec. 31, 1987
[H.R. 2583]

To authorize additional appropriations for the San Francisco Bay National Wildlife Refuge.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 5 of the Act entitled "An Act to provide for the establishment of the San Francisco Bay National Wildlife Refuge", approved June 30, 1972 (86 Stat. 399), is amended to read as follows:

"SEC. 5. There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall take effect on October 1, 1987.

SEC. 3. QUILLAYUTE NEEDLES AND FLATTERY ROCKS NATIONAL WILDLIFE REFUGES.

16 USC 668dd note.

(a) Notwithstanding any other provision of Public Law 99-635, land and waters in the Quillayute Needles National Wildlife Refuge and Flattery Rocks National Wildlife Refuge established as preserves for native birds and animals by Executive orders dated October 23, 1907, as amended, which are within the boundaries of Olympic National Park, shall be administered by the United States Fish and Wildlife Service for refuge purposes under laws and regulations applicable to the national wildlife refuge system, including administration in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). Nothing in this Act shall affect, amend or modify the application of the provisions of the Wilderness Act (16 U.S.C. 1131-1139) to the Quillayute Needles National Wildlife Refuge or Flattery Rocks National Wildlife Refuge.

Law enforcement and crime.

(b) Within ninety days of the enactment of this Act, the United States Fish and Wildlife Service shall, by memorandum of understanding or other means, seek law enforcement assistance from the National Park Service for purposes of enhancing the protection of the ecological resources of the Quillayute Needles and Flattery Rocks National Wildlife Refuges.

SEC. 4. COOPERATIVE LAW ENFORCEMENT AGREEMENTS.

Subsection 4(f) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(f)), is amended by adding after the last sentence of that subsection the following: "The Director of the United States Fish and Wildlife Service is authorized to utilize by agreement, with or without reimbursement, the personnel and services of any other Federal or State agency for purposes of enhancing the enforcement of this Act.".

Approved December 31, 1987.

LEGISLATIVE HISTORY—H.R. 2583:

HOUSE REPORTS: No. 100-326 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Nov. 9, considered and passed House.
Dec. 19, considered and passed Senate.

○

PUBLIC LAW 100-227—DEC. 31, 1987

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1987

19-139 O - 88 (227)

Public Law 100-227
100th Congress

An Act

Dec. 31, 1987
[H.R. 2945]

To amend title 38, United States Code, to provide a 4.2-percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors and an increase in the number of vocational-training evaluations of veteran-pensioners; and to amend the Veterans' Job Training Act to extend the deadline for veterans to apply for participation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Compensation Cost-of-Living Adjustment Act of 1987.
38 USC 101 note.

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1987".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 is amended—

(1) by striking out "$69" in subsection (a) and inserting in lieu thereof "$71";

(2) by striking out "$128" in subsection (b) and inserting in lieu thereof "$133";

(3) by striking out "$194" in subsection (c) and inserting in lieu thereof "$202";

(4) by striking out "$278" in subsection (d) and inserting in lieu thereof "$289";

(5) by striking out "$394" in subsection (e) and inserting in lieu thereof "$410";

(6) by striking out "$496" in subsection (f) and inserting in lieu thereof "$516";

(7) by striking out "$626" in subsection (g) and inserting in lieu thereof "$652";

(8) by striking out "$724" in subsection (h) and inserting in lieu thereof "$754";

(9) by striking out "$815" in subsection (i) and inserting in lieu thereof "$849";

(10) by striking out "$1,355" in subsection (j) and inserting in lieu thereof "$1,411";

(11) by striking out "$1,684" and "$2,360" in subsection (k) and inserting in lieu thereof "$1,754" and "$2,459", respectively;

(12) by striking out "$1,684" in subsection (l) and inserting in lieu thereof "$1,754";

(13) by striking out "$1,856" in subsection (m) and inserting in lieu thereof "$1,933";

(14) by striking out "$2,111" in subsection (n) and inserting in lieu thereof "$2,199";

(15) by striking out "$2,360" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,459";

(16) by striking out "$1,013" and "$1,509" in subsection (r) and inserting in lieu thereof "$1,055" and "$1,572", respectively; and

(17) by striking out "$1,516" in subsection (s) and inserting in lieu thereof "$1,579".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

38 USC 314 note.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$82" in clause (A) and inserting in lieu thereof "$85";

(2) by striking out "$138" and "$44" in clause (B) and inserting in lieu thereof "$143" and "$45", respectively;

(3) by striking out "$57" and "$44" in clause (C) and inserting in lieu thereof "$59", and "$45", respectively;

(4) by striking out "$67" in clause (D) and inserting in lieu thereof "$69";

(5) by striking out "$149" in clause (E) and inserting in lieu thereof "$155"; and

(6) by striking out "$126" in clause (F) and inserting in lieu thereof "$131".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$365" and inserting in lieu thereof "$380".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$518	W-4	$743
E-2	534	O-1	656
E-3	548	O-2	677
E-4	583	O-3	725
E-5	598	O-4	766
E-6	611	O-5	845
E-7	641	O-6	952
E-8	677	O-7	1,029
E-9	[1]707	O-8	1,128
W-1	656	O-9	1,210
W-2	682	O-10	[2]1,327
W-3	702		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $763.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,422.";

(2) by striking out "$58" in subsection (b) and inserting in lieu thereof "$60";

(3) by striking out "$149" in subsection (c) and inserting in lieu thereof "$155"; and

(4) by striking out "$73" in subsection (d) and inserting in lieu thereof "$76".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413(a) is amended—

(1) by striking out "$251" in clause (1) and inserting in lieu thereof "$261";

(2) by striking out "$361" in clause (2) and inserting in lieu thereof "$376";

(3) by striking out "$467" in clause (3) and inserting in lieu thereof "$486"; and

(4) by striking out "$467" and "$94" in clause (4) and inserting in lieu thereof "$486" and "$97", respectively.

SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 is amended—

(1) by striking out "$149" in subsection (a) and inserting in lieu thereof "$155";

(2) by striking out "$251" in subsection (b) and inserting in lieu thereof "$261"; and

(3) by striking out "$128" in subsection (c) and inserting in lieu thereof "$133".

SEC. 107. EFFECTIVE DATE FOR RATE INCREASES.

38 USC 314 note.

The amendments made by this title shall take effect as of December 1, 1987.

TITLE II—VETERANS' EMPLOYMENT TRAINING EXTENSIONS

SEC. 201. EXTENSION OF DEADLINE FOR VETERANS' JOB TRAINING ACT APPLICATIONS.

Section 17(a)(1) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note) is amended by striking out "December 31, 1987" and inserting in lieu thereof "June 30, 1988".

SEC. 202. INCREASE IN LIMIT ON VOCATIONAL-TRAINING EVALUATIONS OF VETERANS RECEIVING PENSIONS.

Section 524(a)(3) is amended by striking out "2,500" and inserting in lieu thereof "3,500".

Approved December 31, 1987.

LEGISLATIVE HISTORY—H.R. 2945:

HOUSE REPORTS: No. 100-236 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 28, considered and passed House.
Dec. 17, considered and passed Senate, amended.
Dec. 18, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
Dec. 31, Presidential statement.

○

PUBLIC LAW 100-228—DEC. 31, 1987

SEMINOLE INDIAN LAND CLAIMS SETTLEMENT ACT OF 1987

Public Law 100-228
100th Congress

An Act

Dec. 31, 1987
[S. 1684]

To settle Seminole Indian land claims within the State of Florida, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Seminole Indian Land Claims Settlement Act of 1987.
Contracts.
25 USC 1772 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Seminole Indian Land Claims Settlement Act of 1987".

FINDINGS AND POLICY

Water.
25 USC 1772.

SEC. 2. Congress finds and declares that—

(1) there is pending before the United States District Court for the southern district of Florida a lawsuit by the Seminole Tribe which involves certain lands within the State and there are also claims by the tribe to other areas of Florida by virtue of an 1839 Executive order of the President and by right of non-extinguishment of aboriginal possession which has been asserted but not filed in court;

(2) the pendency of this lawsuit and these claims may result in economic hardships for residents of the State by clouding the titles to lands in the State, including lands not now involved in the lawsuit;

Flood control.

(3) the pendency of this lawsuit and these claims also have clouded the easement rights of the South Florida Water Management District in lands necessary for use as a water flowage and storage area, which is part of a federally authorized project for flood control and water management in central and southern Florida, and which is being used to provide and regulate a water supply for the residents of south Florida;

(4) the State, the district, and the tribe have executed agreements for the purposes of resolving tribal land claims and settling the lawsuit—

(A) which include conveyance of land and payment of consideration to the tribe; and

(B) which require implementing legislation by the Congress of the United States and the Legislature of the State of Florida;

(5) Congress shares with the parties to such agreements a desire to settle these Indian claims in the State of Florida without additional cost to the United States;

(6) there is considerable uncertainty as to the nature and extent of the water rights of the tribe, and that continued controversy over this should be settled by agreement; and

(7) the State, the district, and the tribe have entered into a compact which, if approved by Congress and the Florida Legisla-

ture, creates specifically defined water rights in lieu of the undefined water rights claimed by the tribe.

DEFINITIONS

SEC. 3. For purposes of this Act— 25 USC 1772a.

(1) The term "tribe" means the Seminole Tribe of Indians of Florida or Seminole Tribe of Florida, a tribe of American Indians recognized by the United States and organized under section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. 476) and recognized by the State of Florida pursuant to chapter 285, Florida Statutes, and its successors.

(2) The term "State" means the State of Florida and its agencies, political subdivisions, constitutional officers, officials of its agencies and subdivisions and their successors.

(3) The term "district" means the South Florida Water Management District, the agency of the State of Florida created by chapter 25270, laws of Florida (1949) to operate pursuant to chapter 373 Florida Statutes, and its successors.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "lands or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(6) The term "Settlement Agreement" means the instrument—

(A) executed by the Seminole Tribe, the State of Florida, and the South Florida Water Management District; and

(B) which will be presented for approval by all three parties to the United States District Court for the southern district of Florida for the purpose of terminating the lawsuit entitled Seminole Tribe of Indians of Florida, v. State of Florida, et al., (Docket No. 78-6116-CIV), and for the extinguishment of rights to all potential or unsettled claims which the tribe may have to lands or natural resources in the State and the purchase of certain tribal interests in real property.

(7) The term "settlement funds" means those funds which the State of Florida and the South Florida Water Management District have agreed to pay to the tribe under the Settlement Agreement.

(8) The term "compact" means the Compact incorporated in the Settlement Agreement between the tribe, the State, and the district, which specifically defines the nature and extent of Seminole water rights and the manner of their use within the confines of the area of the district.

FINDINGS BY THE SECRETARY

SEC. 4. (a) Section 5 shall not take effect until 180 days after the effective date of this Act, or the date the last of the events described in subsection (b) have occurred and the Secretary so finds, whichever date occurs later. Effective date. 25 USC 1772b.

(b) The events referred to in subsection (a) are—

(1) the State and district pay settlement funds pursuant to the terms of the Settlement Agreement for the case captioned

Seminole Tribe of Indians of Florida v. State of Florida et al., or equivalent consideration by land exchange to the tribe; and

(2) the State enacts appropriate legislation to carry out the commitments under the Settlement Agreement including the compact between the State, the district and the tribe, and the State and the district have given the waiver specified in paragraph 5c of such agreement.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGINAL TITLE INVOLVING FLORIDA INDIANS

Congress.
25 USC 1772c.

SEC. 5. (a)(1) Effective on the date of enactment of this Act, the Congress does hereby approve the Settlement Agreement, including the compact, and any exhibits attached thereto.

Federal Register, publication.

(2) Subject to the provisions of section 4, the Secretary shall publish findings required by section 4 and the Settlement Agreement in the Federal Register, and upon such publication—

(A) the transfers, waivers, releases, relinquishments and other commitments made by the tribe in the Settlement Agreement with the State and the district, including the compact provided for in the Settlement Agreement, shall be in full force and effect on the terms and conditions stated in such settlement, and

(B) the transfers, waivers, releases, relinquishments and other commitments validated by subparagraph (A) and the transfers and extinguishments approved and validated by paragraphs (1) and (2) of subsection (b) shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (25 U.S.C. 177, ch. 33, sec. 4, 1 Stat. 137).

(b)(1)(A) Subject to subparagraph (B), all claims to lands within the State based upon aboriginal title by the tribe or any predecessor or successor in interest, are hereby extinguished. Any transfer of lands or natural resources located anywhere within the State, including transfers pursuant to a statute or treaty with any State or the United States, by, from, or on behalf of the tribe or any predecessor or successor in interest, shall be deemed to be in full force and effect, as provided in subsection (a)(2).

(B) Nothing in this paragraph shall be construed as extinguishing any aboriginal right, title, interest, or claim to lands or natural resources solely to the extent of the rights or interests defined as "excepted interests" in paragraph 4a of the Settlement Agreement between the tribe, State and the district.

(2)(A) By virtue of the approval of a transfer of lands or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, the State or subdivision thereof, or any other person or entity, by the tribe or any predecessor or successor in interest, arising subsequent to the transfer and based upon any interest in or right involving such lands or natural resources, including claims for trespass damages or claims for use and occupancy, shall be extinguished as of the date of the transfer.

(B) The United States shall not be liable directly or indirectly for any claim or cause of action arising from the approval of the Settlement Agreement and compact or exhibits attached thereto.

(3) Nothing in this Act shall be construed as extinguishing any right, title, interest, or claim to lands or natural resources in the State based on use and occupancy or acquired under Federal or State law by any individual Indian which is not derived from or through the tribe, its predecessor or predecessors in interest, or some other American Indian tribe.

(4) Any Indian, Indian nation, or tribe of Indians, other than the Seminole Tribe as defined in section 3(1), or any predecessor or successor in interest, or any member thereof, whose transfer of lands or natural resources is approved or whose aboriginal title or claims is extinguished by paragraph (1) or (2) of this subsection may, within a period of one year after publication of the Secretary's finding pursuant to subsection (a) of this section, bring an action against the State and the United States in the United States District Court for the southern district of Florida. Such action shall be in lieu of a suit against any other person, agency, or political subdivision on a cause of action which may have existed in the absence of this subsection.

(c) Neither subsection (a) of this section nor section 7 of this Act—

(1) enacts present or future laws of the State as Federal law,

(2) grants consent to any future changes in the Settlement Agreement or compact that could impose any obligation or liability on the United States, or

(3) commits the United States to finance any project or activity not otherwise authorized by Federal law.

SPECIAL PROVISIONS FOR SEMINOLE TRIBE

25 USC 1772d.

SEC. 6. (a) Notwithstanding any clouds on title, the Secretary is authorized and directed, as soon as practicable after the date of enactment of this Act, to accept the transfer to the United States, to be held in trust and as a reservation for the use and benefit of the Seminole Tribe of Florida, the approximate 15 sections of land being described as follows:

Beginning at the southwest corner of section 31, township 48 south, Range 35 east; thence easterly along the south border of sections 31, 32 and 33, township 48 south, Range 35 east, to the westernmost boundary of the levee 28 works in section 33, township 48 south, Range 35 east; thence continuing north along the westernmost boundary of the levee 28 works to the point at which the westernmost boundary of the levee 28 works intersects the southernmost boundary of the levee 4 works in section 9, township 48 south, Range 35 east; thence continuing westerly along the southernmost boundary of the levee 4 works to the point at which the southernmost boundary of the levee 4 works intersects the dividing line between township 48 south, Range 35 east and township 48 south, Range 34 east at the Broward County and Hendry County line; and thence continuing south along said line to the point of beginning; said lands situate, lying and being in Broward County, Florida.

(b) Before the expiration of the 3-year period beginning on the date of enactment of this Act, the Secretary shall—

(1) conduct a cadastral survey of those portions of the Seminole Federal Reservations in Florida not previously surveyed by

the Department of the Interior, including all lands taken into trust as reservations under the authority of this Act;

Federal Register, publication.

(2) publish the correct legal descriptions of the Seminole Reservations in the Federal Register within 180 days after the survey is completed.

(c) If, pursuant to paragraph 6 of the Settlement Agreement, there is a subsequent agreement between the tribe, the State, and the district providing that lands exchanged with the tribe or acquired by the tribe may be taken into Federal trust as a reservation for the tribe, the Secretary shall accept the transfer of such lands to the United States, to be held in trust for the use and benefit of the tribe pursuant to the terms and conditions of the subsequent agreement unless—

(1) the total amount of land previously taken in trust under this subsection exceeds the amount of land transferred to the State and Water District by the tribe under the Settlement Agreement;

(2) the Secretary determines in writing that either the size, location, or condition of the land, or the terms and conditions under which it is transferred would place an unreasonable burden on the United States as trustee;

(3) the land is not in Florida; or

(4) the land is not agricultural in nature.

(d)(1) Notwithstanding the acquisition of any land under subsection (a) or (c) of this section by the United States in trust for the tribe, the assumption of jurisdiction in favor of the State contained in section 285.16, Florida Statutes, pursuant to section 7 of the Act of August 15, 1953, (67 Stat. 588; Public Law 280), shall continue in full force and effect on such lands unless the United States accepts a retrocession by the State of such civil or criminal jurisdiction in whole or in part under section 403 of the Act of April 11, 1968 (82 Stat. 79; 25 U.S.C. 1323). The laws of Florida relating to alcoholic beverages, gambling, sale of cigarettes, and their successor laws, shall have the same force and effect within said transferred lands as they have elsewhere within the State. The State, with respect to the transferred lands, shall also have jurisdiction over offenses committed by or against Indians under said laws to the same extent the State has jurisdiction over said offenses committed elsewhere within the State.

Alcohol and alcoholic beverages. Tobacco and tobacco products. Law enforcement and crime.

(2) Nothing in this subsection shall be construed as permitting the exercise of the above jurisdiction by the State regarding matters to which section 1162(b) of title 18, United States Code, and section 1360(b) of title 28, United States Code, apply.

(3) The scope of tribal sovereignty over transferred lands, with the specific exceptions of law relating to cigarettes, gambling and alcohol described in this subsection, shall be as required by applicable law with regard to existing tribal lands held in reservation or Federal trust status. Such transfer shall not confer upon the tribe, or upon the lands within the reservation, any additional water rights. Tribal water rights shall be deemed to be defined in the compact.

Water.

WATER RIGHTS COMPACT

25 USC 1772e.

SEC. 7. The compact defining the scope of Seminole water rights and their utilization by the tribe shall have the force and effect of Federal law for the purposes of enforcement of the rights and obligations of the tribe.

JUDICIAL REVIEW

SEC. 8. (a) Notwithstanding any other provision of law, any action to contest the constitutionality of this Act shall be barred unless the complaint is filed within 180 days after the date of enactment of this Act. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the southern district of Florida. 25 USC 1772f.

(b) Notwithstanding any present immunity from suit enjoyed by any of the parties, jurisdiction regarding any controversy arising under the Settlement Agreement or compact or private agreement between the tribe and any third party entered into under authority of the compact is hereby vested in the United States District Court for the southern district of Florida. Such jurisdiction shall be exclusive except that the court shall not have jurisdiction to award money damages against the State, the district or the tribe. Proceedings in the district court under this section shall be expedited consistent with sound judicial discretion.

REVOCATION OF SETTLEMENT

SEC. 9. In the event the Settlement Agreement or any part thereof is ever invalidated— 25 USC 1772g.

(1) the transfers, waivers, releases, relinquishments and any other commitments made by the State, the tribe, or the district in the Settlement Agreement shall no longer be of any force or effect;

(2) section 5 shall be inapplicable as if such section was never enacted with respect to the lands, interests in lands, or natural resources of the tribe and its members; and

(3) the approvals of prior transfers and the extinguishment of claims and aboriginal title of the tribe otherwise effected by section 5 shall be void ab initio.

EFFECTIVE DATE

SEC. 10. This Act shall take effect upon the date of its enactment. 25 USC 1772 note.

Approved December 31, 1987.

LEGISLATIVE HISTORY—S. 1684 (H.R. 3290):

HOUSE REPORTS: No. 100-488 accompanying H.R. 3290 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-258 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 17, considered and passed Senate.
Dec. 18, considered and passed House.

○

Public Law 100-229
100th Congress

Joint Resolution

Jan. 2, 1988
[H.J. Res. 436]

Providing for the convening of the second session of the One Hundredth Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second regular session of the One Hundredth Congress shall begin at 12 o'clock meridian on Monday, January 25, 1988.

SEC. 2. That prior to the convening of the second regular session of the One Hundredth Congress on January 25, 1988, as provided in section 1 of this resolution, Congress shall reassemble at 12 o'clock meridian on the second day after its Members are notified in accordance with section 3 of this resolution.

SEC. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Approved January 2, 1988.

LEGISLATIVE HISTORY—H.J. Res. 436:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 21, considered and passed House and Senate.

○

Public Law 100-230
100th Congress

An Act

To permit certain private contributions for construction of the Korean War Veterans Memorial to be invested temporarily in Government securities until such contributed amounts are required for disbursement for the memorial.

Jan. 5, 1988
[H.R. 1454]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY INVESTMENT IN GOVERNMENT SECURITIES OF AMOUNTS CONTRIBUTED FOR THE KOREAN WAR VETERANS MEMORIAL.

(a) IN GENERAL.—Section 3(a) of the Act entitled "An Act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war", approved October 28, 1986 (40 U.S.C. 1003 note), is amended by adding at the end the following new paragraphs:

"(2) There is established in the Treasury a fund which shall be available to the American Battle Monuments Commission for expenses of establishing the memorial. The fund shall consist of (A) amounts deposited, and interest and proceeds credited, under paragraph (3), and (B) obligations obtained under paragraph (4).

"(3) The Chairman of the Commission shall deposit in the fund such amounts from private contributions as may be accepted under paragraph (1). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

"(4) The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the fund.

"(5) If, upon payment of all expenses of establishment of the memorial as provided by law, there remains a balance in the fund, the Chairman of the Commission shall deposit the amount of the balance in the general fund of the Treasury as a miscellaneous receipt.".

(b) TECHNICAL AMENDMENTS.—Section 3 of such Act is amended—

(1) by striking out "SEC. 3. (a)" and inserting in lieu thereof "SEC. 3. (a)(1)";

(2) in subsection (a)(1), as so redesignated by paragraph (1) of this subsection, by striking out the last sentence; and

(3) by striking out subsection (c).

SEC. 2. CORRECTION OF SUPERSEDED CROSS REFERENCE.

The second sentence of section 1 of the Act entitled "An Act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war", approved October 28, 1986 (40 U.S.C. 1003 note), is amended by striking out "the provisions of" and all that follows through the end of the sentence and inserting in lieu thereof "the Act entitled 'An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes', approved November 14, 1986 (40 U.S.C. 1001 et seq.).".

SEC. 3. CLARIFICATION OF RELATED PROVISION.

The first sentence of section 3(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1003(a)) is amended by striking out "Act of Congress" and inserting in lieu thereof "law".

Approved January 5, 1988.

LEGISLATIVE HISTORY—H.R. 1454:

HOUSE REPORTS: No. 100-405 (Comm. on House Administration).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Oct. 27, considered and passed House.
Dec. 21, considered and passed Senate.

○

Public Law 100-231
100th Congress

An Act

To extend the authorization of the Renewable Resources Extension Act of 1978, and for other purposes.

Jan. 5, 1988
[H.R. 2401]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Renewable Resources Extension Act Amendments of 1987.
16 USC 1600 note.

This Act may be cited as the "Renewable Resources Extension Act Amendments of 1987".

SEC. 2. EXTENSION.

The Renewable Resources Extension Act of 1978 (16 U.S.C. 1600 note) is amended—

(1) in section 6 (16 U.S.C. 1675) by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated to implement this Act $15,000,000 for the fiscal year ending September 30, 1988, and $15,000,000 for each of the next twelve fiscal years."; and

(2) in section 8 (16 U.S.C. 1671 note) by striking out "1988" and inserting in lieu thereof "2000".

SEC. 3. PROGRAM DEVELOPMENT AND EVALUATION.

Section 5 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1674) is amended—

(1) in subsection (a) by striking out "Congress" and inserting in lieu thereof the following: "the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate"; and

(2) by adding at the end thereof the following new subsection:

"(d) To assist Congress and the public in evaluating the Renewable Resources Extension Program, the program shall include a review of activities undertaken in response to the preceding five-year plan and an evaluation of the progress made toward accomplishing the goals and objectives set forth in such preceding plan. Such review and evaluation shall be displayed in the program, for the Nation as a whole, and for each State.".

Approved January 5, 1988.

LEGISLATIVE HISTORY—H.R. 2401:

HOUSE REPORTS: No. 100-239 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 133 (1987):
July 27, considered and passed House.
Dec. 19, considered and passed Senate, amended.
Dec. 21, House concurred in Senate amendments.

○

19-139 O - 88 (231)

Public Law 100-232
100th Congress

An Act

Jan. 5, 1988
[H.R. 3435]

To provide that certain charitable donations, and payments for blood contributed, shall be excluded from income for purposes of the Food Stamp Program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Charitable Assistance and Food Bank Act of 1987.
7 USC 2011 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Charitable Assistance and Food Bank Act of 1987".

SEC. 2. FOOD STAMP PROGRAM.

(a) Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in clause (8) by inserting "cash donations based on need that are received from one or more private nonprofit charitable organizations, but not in excess of $300 in the aggregate in a quarter," after "or credits,".

7 USC 2014 note.

(b)(1) Effective Date.—Except as provided in paragraph (2), the amendment made by this section shall become effective upon the date of enactment of this Act.

(2) Application of Amendment.—The amendment made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 to any household for any month beginning before the date of enactment of this Act.

7 USC 612c note.

SEC. 3. FOOD BANK DEMONSTRATION PROJECT.

(a) The Secretary of Agriculture shall carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935, as amended (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

(b) Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the project shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

Effective date.

(d) This section shall be effective for the period beginning on the date of enactment of this Act and ending on December 31, 1990.

(e) The Secretary shall submit annual progress reports to Congress beginning on July 1, 1988, and a final report on July 1, 1990, regarding each demonstration project carried out under this section. Such reports shall include analyses and evaluations of the provision and redistribution of agricultural commodities and food products under the demonstration projects. In addition, the Secretary shall include in the final report any recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks and the feasibility of expanding such method of provisions and redistribution of agricultural commodities and food products to other community food banks.

Reports.

Approved January 5, 1988.

LEGISLATIVE HISTORY—H.R. 3435:

HOUSE REPORTS: No. 100-478, Pt. 1 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 14, considered and passed House.
Dec. 19, considered and passed Senate, amended.
Dec. 21, House concurred in Senate amendment.

○

PUBLIC LAW 100-233—JAN. 6, 1988

AGRICULTURAL CREDIT ACT OF 1987

Public Law 100-233
100th Congress

An Act

Jan. 6, 1988
[H.R. 3030]

To provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Agricultural Credit Act of 1987.
Banks and banking.
Rural areas.
Securities.
12 USC 2001 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Agricultural Credit Act of 1987".

(b) Table of Contents.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. References to the Farm Credit Act of 1971.

TITLE I—ASSISTANCE TO FARM CREDIT SYSTEM BORROWERS

Sec. 101. Protection of borrower stock.
Sec. 102. Restructuring distressed loans.
Sec. 103. Disclosure by banks and associations.
Sec. 104. Access to documents and information.
Sec. 105. Notice of action on application for loans or restructuring.
Sec. 106. Reconsideration of actions.
Sec. 107. Protection of borrowers who meet all loan obligations.
Sec. 108. Right of first refusal.
Sec. 109. Differential interest rates.
Sec. 110. Application of uninsured accounts.

TITLE II—ASSISTANCE TO FARM CREDIT SYSTEM

Sec. 201. Assistance to Farm Credit System.

"TITLE VI—ASSISTANCE TO FARM CREDIT SYSTEM

"Subtitle A—Assistance Board

"Sec. 6.0. Establishment of Board.
"Sec. 6.1. Purposes.
"Sec. 6.2. Board of Directors.
"Sec. 6.3. Corporate powers.
"Sec. 6.4. Certification of eligibility to issue preferred stock.
"Sec. 6.5. Assistance.
"Sec. 6.6. Special powers.
"Sec. 6.7. Administration.
"Sec. 6.8. Limitation of powers.
"Sec. 6.9. Succession.
"Sec. 6.10. Effect of regulations; audits.
"Sec. 6.11. Exemption from taxation.
"Sec. 6.12. Termination.
"Sec. 6.13. Transitional provisions.

"Subtitle B—Financial Assistance Corporation

"Sec. 6.20. Establishment of Corporation.
"Sec. 6.21. Purpose.
"Sec. 6.22. Board of Directors.
"Sec. 6.23. Stock.
"Sec. 6.24. Corporate powers.
"Sec. 6.25. Accounts.
"Sec. 6.26. Debt obligations.

"Sec. 6.27. Preferred stock.
"Sec. 6.28. Payments.
"Sec. 6.29. One-time stock purchase.
"Sec. 6.30. Exemption from taxation.
"Sec. 6.31. Termination.

Sec. 202. Revolving fund.
Sec. 203. Unsafe or unsound practices.
Sec. 204. Federal Farm Credit Banks Funding Corporation.
Sec. 205. Regulatory accounting procedures.
Sec. 206. Financial report.
Sec. 207. Conforming amendments.

TITLE III—CAPITALIZATION OF SYSTEM INSTITUTIONS

Sec. 301. Capitalization of System institutions.
Sec. 302. Insurance of obligations of Farm Credit System.

"PART E—FARM CREDIT SYSTEM INSURANCE CORPORATION

"Sec. 5.51. Definitions.
"Sec. 5.52. Establishment of Farm Credit System Insurance Corporation.
"Sec. 5.53. Board of Directors.
"Sec. 5.54. Commencement of insurance.
"Sec. 5.55. Premiums.
"Sec. 5.56. Certification of premiums.
"Sec. 5.57. Overpayment and underpayment of premiums; remedies.
"Sec. 5.58. General corporate powers.
"Sec. 5.59. Conduct of corporate affairs; examination of insured System banks.
"Sec. 5.60. Insurance Fund.
"Sec. 5.61. Powers of Corporation with respect to troubled insured System banks.
"Sec. 5.62. Investment of funds.
"Sec. 5.63. Exemption from taxation.
"Sec. 5.64. Reports.
"Sec. 5.65. Prohibitions.

Sec. 303. Joint and several liability of banks.
Sec. 304. Enhancement of capital adequacy of banks.
Sec. 305. Federal intermediate credit bank assessment power.
Sec. 306. Conservators and receivers.

TITLE IV—RESTRUCTURING THE FARM CREDIT SYSTEM

Subtitle A—Creation of Farm Credit Banks

Sec. 401. Farm Credit Banks and associations charters.

"TITLE I—FARM CREDIT BANKS

"Sec. 1.3. Establishment, charters, titles, branches.
"Sec. 1.4. Board of directors.
"Sec. 1.5. General corporate powers.
"Sec. 1.6. Farm Credit Bank capitalization.
"Sec. 1.7. Lending authority.
"Sec. 1.8. Interest rates and other charges.
"Sec. 1.9. Eligibility.
"Sec. 1.10. Security; terms.
"Sec. 1.11. Purposes for extensions of credit.
"Sec. 1.12. Related services.
"Sec. 1.13. Loans through associations or agents.
"Sec. 1.14. Liens on stock.
"Sec. 1.15. Taxation.

"TITLE II—FARM CREDIT ASSOCIATIONS

"Subtitle A—Production Credit Associations

"Sec. 2.0. Organization and charters.
"Sec. 2.1. Board of directors.
"Sec. 2.2. General corporate powers.
"Sec. 2.3. Production credit association capitalization.
"Sec. 2.4. Short- and intermediate-term loans; participation; other financial assistance; terms; conditions; interest; security.

"Sec. 2.5. Other services.
"Sec. 2.6. Taxation.

"Subtitle B—Federal Land Bank Associations

"Sec. 2.10. Organizations; articles; charters; powers of the Farm Credit Administration.
"Sec. 2.11. Board of directors.
"Sec. 2.12. General corporate powers.
"Sec. 2.13. Federal land bank association capitalization.
"Sec. 2.14. Liquidation.
"Sec. 2.15. Agreements for sharing gains or losses.
"Sec. 2.16. Liens on stock.
"Sec. 2.17. Taxation.

Subtitle B—Merger of System Institutions

Sec. 410. Mandatory merger.
Sec. 411. Merger of production credit associations and Federal land bank associations.
Sec. 412. Consolidation of Farm Credit System districts.
Sec. 413. Voluntary merger of the banks for cooperatives.
Sec. 414. Bank for cooperatives board of directors.
Sec. 415. Organization and operation of the merged bank for cooperatives.

"PART B—UNITED AND NATIONAL BANKS FOR COOPERATIVES

"Sec. 3.20. Charter, powers, and operation.
"Sec. 3.21. Board of directors provisions.
"Sec. 3.22. Credit delivery office.
"Sec. 3.23. Consolidation of functions.
"Sec. 3.24. Exchange of ownership interests.
"Sec. 3.25. Capitalization.
"Sec. 3.26. Patronage pools.
"Sec. 3.27. Transactions to accomplish the merger.
"Sec. 3.28. Lending limits.

Sec. 416. Merger of System institutions.

"TITLE VII—MERGERS OF SYSTEM INSTITUTIONS

"Subtitle A—Merger of Banks Within a District

"Sec. 7.0. Power to merge.
"Sec. 7.1. Board of Directors for the district.
"Sec. 7.2. Powers of merged banks.
"Sec. 7.3. Capital stock.
"Sec. 7.4. Earnings, reserves, and distributions.
"Sec. 7.5. Reports by merged banks for cooperatives.

"Subtitle B—Mergers, Transfers of Assets, and Powers of Associations Within a District

"Chapter 1—Transfers by Federal Land Banks to Federal Land Bank Associations

"Sec. 7.6. Transfer of lending authority.

"Chapter 2—Merger of Like and Unlike Associations

"Sec. 7.7. Mergers of unlike associations.
"Sec. 7.8. Merger of associations.
"Sec. 7.9. Reconsideration.

"Chapter 3—Termination and Dissolution of Institutions

"Sec. 7.10. Termination of System institution status.
"Sec. 7.11. Approval of disclosure information and issuance of charters.
"Sec. 7.12. Merger of similar banks.
"Sec. 7.13. Merger of similar associations.

Sec. 414. Nondiscrimination.
Sec. 415. Conforming amendments.

Subtitle C—Other Restructuring Provisions

Sec. 420. Communications with stockholders.
Sec. 421. Eligibility to borrower from a bank for cooperatives.

Sec. 422. Sales of insurance by System institutions.
Sec. 423. Civil money penalties.
Sec. 424. Limitation on FCA authority to require disclosure of information.
Sec. 425. Removal of certain sunset provisions; prohibition against use of signed ballots.
Sec. 426. Federal land bank loan security.
Sec. 427. Affirmative action.
Sec. 428. Encouragement of conservation practices.
Sec. 429. Uniform financial reporting instructions.
Sec. 430. Compensation for directors.
Sec. 431. Farm Credit Administration Board.
Sec. 432. Farm Credit Administration organization.
Sec. 433. Reassignment of associations to adjoining districts.
Sec. 434. Conforming amendment.

TITLE V—STATE MEDIATION PROGRAMS

Subtitle A—Matching Grants for State Mediation Programs

Sec. 501. Qualifying States.
Sec. 502. Matching grants to States.
Sec. 503. Participation of Federal agencies.
Sec. 504. Regulations.
Sec. 505. Report.
Sec. 506. Authorization of appropriations.

Subtitle B—Waiver of Mediation Rights

Sec. 511. Waiver of mediation rights by Farm Credit System borrowers.
Sec. 512. Waiver of mediation rights by FmHA borrowers.

TITLE VI—FARMERS HOME ADMINISTRATION LOANS

Sec. 601. Amendment of Consolidated Farm and Rural Development Act.
Sec. 602. Definitions.
Sec. 603. Security for FmHA real estate loans.
Sec. 604. Additional collateral.
Sec. 605. Notice of loan service programs.
Sec. 606. Planting and production history guidelines.
Sec. 607. County committees.
Sec. 608. Administrative appeals.
Sec. 609. Borrowers' right to information.
Sec. 610. Disposition and leasing of farmland.
Sec. 611. Income release.
Sec. 612. Conservation easements.
Sec. 613. Interest rate reduction program; demonstration project for purchase of System land.
Sec. 614. Homestead protection.
Sec. 615. Debt restructuring and loan servicing.
Sec. 616. Transfer of inventory lands.
Sec. 617. Target participation rates.
Sec. 618. Expedite clearing of title to inventory property.
Sec. 619. Payment of losses on guaranteed loans.
Sec. 620. Lease of certain acquired property.
Sec. 621. Study and report to Congress before issuance of certain final regulations.
Sec. 622. Continuation of limited resource farmers' initiative.
Sec. 623. Farm ownership outreach program to socially disadvantaged individuals.
Sec. 624. Regulations.
Sec. 625. Sense of Congress regarding guaranteed loan program.
Sec. 626. Sense of Congress regarding National Rural Crisis Response Center.

TITLE VII—AGRICULTURAL MORTGAGE SECONDARY MARKETS

Subtitle A—The Federal Agricultural Mortgage Corporation

Sec. 701. Statement of purpose.
Sec. 702. Agricultural mortgage secondary market.

"TITLE VIII—AGRICULTURAL MORTGAGE SECONDARY MARKET

"Sec. 8.0. Definitions.
"Sec. 8.1. Federal Agricultural Mortgage Corporation.
"Sec. 8.2. Board of directors.
"Sec. 8.3. Powers and duties of Corporation and Board.
"Sec. 8.4. Stock issuance.

"Sec. 8.5. Certification of agricultural mortgage marketing facilities.
"Sec. 8.6. Guarantee of qualified loans.
"Sec. 8.7. Reserves and subordinated participation interests of certified facilities.
"Sec. 8.8. Standards for qualified loans.
"Sec. 8.9. Exemption from restructuring and borrowers rights provisions for pooled loans.
"Sec. 8.10. Funding for guarantee; reserves of Corporation.
"Sec. 8.11. Supervision, examination, and report of condition.
"Sec. 8.12. Securities in credit enhanced pools.
"Sec. 8.13. Authority to issue obligations to cover guarantee losses of Corporation.
"Sec. 8.14. Federal jurisdiction.
Sec. 703. GAO audit of Federal Agricultural Mortgage Corporation.
Sec. 704. GAO studies.
Sec. 705. Conforming amendments.

Subtitle B—Farmers Home Administration Loans

Sec. 711. Improvement of secondary market operations for loans guaranteed by the Farmers Home Administration.

TITLE VIII—MISCELLANEOUS

Sec. 801. Ownership requirement under the conservation reserve program.
Sec. 802. Repeal of preapproval and related authorities.
Sec. 803. Sale of rural development notes.
Sec. 804. Other conforming amendments.
Sec. 805. Technical amendments.

TITLE IX—REGULATIONS

Sec. 901. Effective dates.

SEC. 2. REFERENCES TO THE FARM CREDIT ACT OF 1971.

Except as otherwise specifically provided, whenever in this Act (other than in title VI) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

TITLE I—ASSISTANCE TO FARM CREDIT SYSTEM BORROWERS

SEC. 101. PROTECTION OF BORROWER STOCK.

Part A of title IV (12 U.S.C. 2151 et seq.) is amended by adding at the end thereof the following new section:

12 USC 2162.

"SEC. 4.9A. PROTECTION OF BORROWER STOCK.

"(a) Retirement of Stock.—Notwithstanding any other section of this Act, each institution of the Farm Credit System, when retiring eligible borrower stock in accordance with this Act, shall retire such stock at par value. Any such institution whose capital stock is impaired (as determined in accordance with generally accepted accounting principles) shall coordinate such retirement of stock under this section with the activities of the Assistance Board and the Financial Assistance Corporation.

"(b) Certain Powers Not Affected.—This section does not affect the authority of any institution of the Farm Credit System—

"(1) to retire or cancel borrower stock at par value for application against a loan in default;

"(2) to cancel borrower stock at par value under section 4.14B; or

"(3) to apply, against any outstanding indebtedness to a System association arising out of or in connection with a liquidation referred to in subsection (d)(2), the par value of borrower stock frozen in such liquidation.

"(c) INABILITY TO RETIRE AT PAR VALUE.—If an institution is unable to retire eligible borrower stock at par value due to the freezing of such stock during a liquidation of the institution, the receiver of the institution shall retire such stock at par value as would have been retired in the ordinary course of business of the institution and the Financial Assistance Corporation, on request of the Assistance Board, shall provide the receiver with sufficient funds to enable the receiver to carry out this subsection.

"(d) DEFINITIONS.—For purposes of this section:

"(1) BORROWER STOCK.—The term 'borrower stock' means voting and nonvoting stock, equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other similar equities that are subject to retirement under a revolving cycle issued by any System institution and held by any person other than any System institution.

"(2) ELIGIBLE BORROWER STOCK.—The term 'eligible borrower stock' means borrower stock that—

"(A) is outstanding on the date of the enactment of this section;

"(B) is required to be purchased, and is purchased, as a condition of obtaining a loan made after the date of the enactment of this section, but prior to the earlier of—

"(i) in the case of each bank and association, the date of approval, by the stockholders of such bank or association, of the capitalization requirements of the institution in accordance with section 4.9B; or

"(ii) the date that is 9 months after the date of the enactment of this section;

"(C) was, after January 1, 1983, but before the date of the enactment of this section, frozen by an institution that was placed in liquidation; or

"(D) was retired at less than par value by an institution that was placed in liquidation after January 1, 1983, but before the date of the enactment of this section.

"(3) INSTITUTION.—The term 'institution' means a bank or association chartered under this Act.

"(4) PAR VALUE.—The term 'par value' means—

"(A) in the case of stock, par value;

"(B) in the case of participation certificates and other equities and interests not described in subparagraph (C), face or equivalent value; or

"(C) in the case of participation certificates and allocated equities subject to retirement under a revolving cycle but that a System institution elects to retire out of order for application against a loan in default or otherwise as provided in this Act, par or face value discounted, at a rate determined by the institution, to reflect the present value of the equity or interest as of the date of such retirement.".

SEC. 102. RESTRUCTURING DISTRESSED LOANS.

(a) IN GENERAL.—Part C of title IV is amended by inserting after section 4.14 (12 U.S.C. 2202) the following new sections:

12 USC 2202a.

"SEC. 4.14A. RESTRUCTURING DISTRESSED LOANS.

"(a) DEFINITIONS.—As used in this part (other than in sections 4.17 and 4.18):

"(1) APPLICATION FOR RESTRUCTURING.—The term 'application for restructuring' means a written request—

"(A) from a borrower for the restructuring of a distressed loan in accordance with a preliminary restructuring plan proposed by the borrower as a part of the application;

"(B) submitted on the appropriate forms prescribed by the qualified lender; and

"(C) accompanied by sufficient financial information and repayment projections, where appropriate, as required by the qualified lender to support a sound credit decision.

"(2) COST OF FORECLOSURE.—The term 'cost of foreclosure' includes—

"(A) the difference between the outstanding balance due on a loan made by a qualified lender and the liquidation value of the loan, taking into consideration the borrower's repayment capacity and the liquidation value of the collateral used to secure the loan;

"(B) the estimated cost of maintaining a loan as a nonperforming asset;

"(C) the estimated cost of administrative and legal actions necessary to foreclose a loan and dispose of property acquired as the result of the foreclosure, including attorneys' fees and court costs;

"(D) the estimated cost of changes in the value of collateral used to secure a loan during the period beginning on the date of the initiation of an action to foreclose or liquidate the loan and ending on the date of the disposition of the collateral; and

"(E) all other costs incurred as the result of the foreclosure or liquidation of a loan.

"(3) DISTRESSED LOAN.—The term 'distressed loan' means a loan that the borrower does not have the financial capacity to pay according to its terms and that exhibits one or more of the following characteristics:

"(A) The borrower is demonstrating adverse financial and repayment trends.

"(B) The loan is delinquent or past due under the terms of the loan contract.

"(C) One or both of the factors listed in subparagraphs (A) and (B), together with inadequate collateralization, present a high probability of loss to the lender.

"(4) FORECLOSURE PROCEEDING.—The term 'foreclosure proceeding' means—

"(A) a foreclosure or similar legal proceeding to enforce a lien on property, whether real or personal, that secures a nonaccrual or distressed loan; or

"(B) the seizing of and realizing on nonreal property collateral, other than collateral subject to a statutory lien arising under title I or II, to effect collection of a nonaccrual or distressed loan.

"(5) LOAN.—The term 'loan' means a loan made to a farmer, rancher, or producer or harvester of aquatic products, for any agricultural or aquatic purpose and other credit needs of the borrower, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products.

"(6) QUALIFIED LENDER.—The term 'qualified lender' means—

"(A) a System institution that makes loans (as defined in paragraph (5)) except a bank for cooperatives; and

"(B) each bank, institution, corporation, company, union, and association described in section 2.3(a)(2) but only with respect to loans discounted or pledged under section 2.3(a).

"(7) RESTRUCTURE AND RESTRUCTURING.—The terms 'restructure' and 'restructuring' include rescheduling, reamortization, renewal, deferral of principal or interest, monetary concessions, and the taking of any other action to modify the terms of, or forbear on, a loan in any way that will make it probable that the operations of the borrower will become financially viable.

"(b) NOTICE.—

"(1) IN GENERAL.—On a determination by a qualified lender that a loan made by the lender is or has become a distressed loan, the lender shall provide written notice to the borrower that the loan may be suitable for restructuring, and include with such notice—

"(A) a copy of the policy of the lender established under subsection (g) that governs the treatment of distressed loans; and

"(B) all materials necessary to enable the borrower to submit an application for restructuring on the loan.

"(2) NOTICE BEFORE FORECLOSURE.—Not later than 45 days before any qualified lender begins foreclosure proceedings with respect to a loan outstanding to any borrower, the lender shall notify the borrower that the loan may be suitable for restructuring and that the lender will review any such suitable loan for restructuring, and shall include with such notice a copy of the policy and the materials described in paragraph (1).

"(3) LIMITATION ON FORECLOSURE.—No qualified lender may foreclose or continue any foreclosure proceeding with respect to any distressed loan before the lender has completed any pending consideration of the loan for restructuring under this section.

"(c) MEETINGS.—On determination by a qualified lender that a loan made by the lender is or has become a distressed loan, the lender shall provide a reasonable opportunity for the borrower thereof to personally meet with a representative of the lender—

"(1) to review the status of the loan, the financial condition of the borrower, and the suitability of the loan for restructuring; and

"(2) with respect to a loan that is in nonaccrual status, to develop a plan for restructuring the loan if the loan is suitable for restructuring.

"(d) CONSIDERATION OF APPLICATIONS.—

"(1) IN GENERAL.—When a qualified lender receives an application for restructuring from a borrower, the qualified lender shall determine whether or not to restructure the loan, taking into consideration—

"(A) whether the cost to the lender of restructuring the loan is equal to or less than the cost of foreclosure;

"(B) whether the borrower is applying all income over and above necessary and reasonable living and operating expenses to the payment of primary obligations;

"(C) whether the borrower has the financial capacity and the management skills to protect the collateral from diversion, dissipation, or deterioration;

"(D) whether the borrower is capable of working out existing financial difficulties, reestablishing a viable operation, and repaying the loan on a rescheduled basis; and

"(E) in the case of a distressed loan that is not delinquent, whether restructuring consistent with sound lending practices may be taken to reasonably ensure that the loan will not become a loan that it is necessary to place in nonaccrual status.

"(2) APPLICATIONS NOT REQUIRED FOR RESTRUCTURING PLANS.—This section shall not prevent a qualified lender from proposing a restructuring plan for an individual borrower in the absence of an application for restructuring from the borrower.

"(e) RESTRUCTURING.—

"(1) IN GENERAL.—If a qualified lender determines that the potential cost to a qualified lender of restructuring the loan in accordance with a proposed restructuring plan is less than or equal to the potential cost of foreclosure, the qualified lender shall restructure the loan in accordance with the plan.

"(2) COMPUTATION OF COST OF RESTRUCTURING.—In determining whether the potential cost to the qualified lender of restructuring a distressed loan is less than or equal to the potential cost of foreclosure, a qualified lender shall consider all relevant factors, including—

"(A) the present value of interest income and principal forgone by the lender in carrying out the restructuring plan;

"(B) reasonable and necessary administrative expenses involved in working with the borrower to finalize and implement the restructuring plan;

"(C) whether the borrower has presented a preliminary restructuring plan and cash-flow analysis taking into account income from all sources to be applied to the debt and all assets to be pledged, showing a reasonable probability that orderly debt retirement will occur as a result of the proposed restructuring; and

"(D) whether the borrower has furnished or is willing to furnish complete and current financial statements in a form acceptable to the institution.

"(f) LEAST COST ALTERNATIVE.—If two or more restructuring alternatives are available to a qualified lender under this section with respect to a distressed loan, the lender shall restructure the loan in conformity with the alternative that results in the least cost to the lender.

"(g) RESTRUCTURING POLICY.—

"(1) ESTABLISHMENT.—Each farm credit district board of directors shall develop a policy within 60 days after the date of the enactment of this section, that is consistent with this section, to govern the restructuring of distressed loans. Such policy shall constitute the restructuring policy of each qualified lender within the district.

"(2) CONTENTS OF POLICY.—The policy established under paragraph (1) shall include an explanation of—

"(A) the procedure for submitting an application for restructuring; and

"(B) the right of borrowers with distressed loans to seek review by a credit review committee in accordance with section 4.14 of a denial of an application for restructuring.

"(3) SUBMISSION OF POLICY TO FCA.—Each district board shall submit the policy of the district governing the treatment of distressed loans under this section to the Farm Credit Administration. Notwithstanding the duty imposed by the preceding sentence, the other duties imposed by this section shall take effect on the date of the enactment of this section.

"(h) REPORTS.—During the 5-year period beginning on the date of the enactment of this section, each qualified lender shall submit semiannual reports to the Farm Credit Administration containing—

"(1) the results of the review of distressed loans of the lender; and

"(2) the financial effect of loan restructurings and liquidations on the lender.

"(i) COMPLIANCE.—The Farm Credit Administration may issue a directive requiring compliance with any provision of this section to any qualified lender that fails to comply with such provision.

"(j) PERMITTED FORECLOSURES.—This section shall not be construed to prevent any qualified lender from enforcing any contractual provision that allows the lender to foreclose a loan, or from taking such other lawful action as the lender deems appropriate, if the lender has reasonable grounds to believe that the loan collateral will be destroyed, dissipated, consumed, concealed, or permanently removed from the State in which the collateral is located.

"(k) APPLICATION OF SECTION.—The time limitation prescribed in subsection (b)(2), and the requirements of subsection (c), shall not apply to a loan that became a distressed loan before the date of the enactment of this section if the borrower and lender of the loan are in the process of negotiating loan restructuring with respect to the loan.

"(l) ASSISTANCE IN RESTRUCTURING.—Each Federal intermediate credit bank, on request of any production credit association, may assist the association in restructuring loans under this section.

"SEC. 4.14B. EFFECT OF RESTRUCTURING ON BORROWER STOCK.

12 USC 2202b.

"(a) FEDERAL LAND BANK.—If a Federal land bank forgives and writes off, under section 4.14A, any of the principal outstanding on a loan made to any borrower, the Federal land bank association of which the borrower is a member and stockholder shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such stock, and the Federal land bank shall retire an equal amount of stock owned by the Federal land bank association.

"(b) PRODUCTION CREDIT ASSOCIATION.—If a production credit association forgives and writes off, under section 4.14A, any of the principal outstanding on a loan made to any borrower, the association shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such stock.

"(c) Retention of Stock.—Notwithstanding subsections (a) and (b), the borrower shall be entitled to retain at least one share of stock to maintain the borrower's membership and voting interest in the association.

12 USC 2202c.

"SEC. 4.14C. REVIEW OF RESTRUCTURING DENIALS.

"(a) Requirements for Restructuring by System Institutions.—

"(1) Existing nonaccrual loans.—Within 9 months after a qualified lender is certified under section 6.4, such lender shall review each loan that has not been previously restructured and that is in nonaccrual status on the date the lender is certified, and determine whether to restructure the loan.

"(2) New nonaccrual loans.—Within 6 months after a loan made by a certified lender is placed in nonaccrual status, the lender shall determine whether to restructure the loan.

"(b) Special Asset Groups.—

"(1) Establishment.—Within 30 days after a qualified lender in a district is certified to issue preferred stock under section 6.27, the district board of such district shall establish a special asset group that shall review each determination by the lender not to restructure a loan.

"(2) Restructuring plan.—If a special asset group determines under paragraph (1) that a loan under review should be restructured, the group shall prescribe a restructuring plan for the loan that the qualified lender shall implement.

"(c) National Special Asset Council.—

"(1) Establishment.—A National Special Asset Council shall be established by the Assistance Board to—

"(A) monitor compliance with the restructuring requirements of this section by qualified lenders certified to issue preferred stock under section 6.27, and by special asset groups established under subsection (b); and

"(B) review a sample of determinations made by each special asset group that a loan will not be restructured.

"(2) Review of determination.—The National Special Asset Council shall review a sufficient number of determinations made by each special asset group to foreclose on any loan to assure the Council that such group is complying with this section. With regard to each determination reviewed, the Council shall make an independent judgment on the merits of the decision to foreclose rather than restructure the loan.

"(3) Noncompliance.—If the National Special Asset Council determines that any special asset group is not in substantial compliance with this section, the Council shall notify the group of the determination, and may take such other action as the Council considers necessary to ensure that such group complies with this section.

"(d) Report.—With respect to determinations by a special asset group that a loan will not be restructured, the special asset group shall submit to the National Special Asset Council a report evaluating the loan and the basis for the determination that the loan should not be restructured.

"(e) Restructuring Factors.—In determining whether a loan is to be restructured, the National Special Asset Council, each special asset group, and each qualified lender certified under section 6.4

shall take into consideration the factors specified in section 4.14A(d)(1).".

State and local governments.
12 USC 2202a note.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the banks and associations (except banks for cooperatives) operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) should administer distressed loans to farmers with the objective of using the loan guarantee programs of the Farmers Home Administration and other loan restructuring measures, including participation in interest rate buy-down programs that are Federally or State funded, and other Federal and State sponsored financial assistance programs that offer relief to financially distressed farmers, as alternatives to foreclosure, considering the availability and appropriateness of such programs on a case-by-case basis.

SEC. 103. DISCLOSURE BY BANKS AND ASSOCIATIONS.

Section 4.13 (12 U.S.C. 2199) is amended to read as follows:

"SEC. 4.13. DISCLOSURE.

"In accordance with regulations of the Farm Credit Administration, qualified lenders shall provide to borrowers, for all loans that are not subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.), meaningful and timely disclosure not later than the time of the loan closing, of—

"(1) the current rate of interest on the loan;

"(2) in the case of an adjustable or variable rate loan, the amount and frequency by which the interest rate can be increased during the term of the loan or, if there are no such limitations, a statement to that effect, and the factors (including the cost of funds, operating expenses, and provision for loan losses) that will be taken into account by the qualified lender in determining adjustments to the interest rate;

"(3) the effect, as shown by a representative example or examples, of any loan origination charges or purchases of stock or participation certificates on the effective rate of interest;

"(4) any change in the interest rate applicable to the borrower's loan;

"(5) except with respect to stock guaranteed under section 4.9A, a statement indicating that stock that is purchased is at risk; and

"(6) a statement indicating the various types of loan options available to borrowers, with an explanation of the terms and borrowers' rights that apply to each type of loan.".

SEC. 104. ACCESS TO DOCUMENTS AND INFORMATION.

Section 4.13A (12 U.S.C. 2200) is amended—

(1) by striking out "System institutions" and inserting in lieu thereof "qualified lenders"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof: "and copies of each appraisal of the borrower's assets made or used by the qualified lender.".

SEC. 105. NOTICE OF ACTION ON APPLICATION FOR LOANS OR RESTRUCTURING.

Section 4.13B (12 U.S.C. 2201) is amended to read as follows:

"SEC. 4.13B. NOTICE OF ACTION ON APPLICATION.

"(a) LOAN APPLICATIONS.—Each qualified lender to which a person has applied for a loan shall provide the person with prompt written notice of—

"(1) the action on the application;

"(2) if the loan applied for is reduced or denied, the reasons for such action; and

"(3) the applicant's right to review under section 4.14.

"(b) DISTRESSED LOANS.—Each qualified lender that has a distressed loan outstanding that is subject to restructuring requirements under this Act shall provide, in accordance with regulations prescribed by the Farm Credit Administration, the borrower with prompt written notice of—

"(1) any action taken with respect to restructuring the loan under section 4.14A;

"(2) if restructuring is denied, the reasons for such action; and

"(3) the borrower's right to review under section 4.14.".

SEC. 106. RECONSIDERATION OF ACTIONS.

Section 4.14 (12 U.S.C. 2202) is amended to read as follows:

"SEC. 4.14. RECONSIDERATION OF ACTIONS.

"(a) CREDIT REVIEW COMMITTEES.—

"(1) IN GENERAL.—The board of directors of each qualified lender shall establish one or more credit review committees, which shall include farmer board representation.

"(2) MEMBERSHIP.—In no case shall a loan officer involved in the initial decision on a loan serve on the credit review committee when the committee reviews such loan.

"(b) REVIEW OF DECISIONS.—

"(1) DENIALS OR REDUCTIONS.—Any applicant for a loan from a qualified lender that has received a written notice issued under section 4.13B of a decision to deny or reduce the loan applied for may submit a written request, not later than 30 days after receiving a notice denying or reducing the amount of the loan application, to obtain a review of the decision by a credit review committee.

"(2) DENIALS OF RESTRUCTURING.—A borrower of a loan from a qualified lender that has received notice, under section 4.13B, of a decision to deny loan restructuring with respect to a loan made to the borrower, if the borrower so requests in writing within 7 days after receiving such notice, may obtain a review of such decision in person before the credit review committee.

"(c) PERSONAL APPEARANCE.—An applicant for a loan or for restructuring, who is entitled to and has requested a review under this section, may appear in person before the credit review committee, and may be accompanied by counsel or by any other representative of such person's choice, to seek a reversal of the decision on the application under review.

"(d) INDEPENDENT APPRAISAL.—

"(1) IN GENERAL.—An appeal filed with a credit review committee under this section may include, as a part of the request for a review of the decision filed under subsection (b)(1), a request for an independent appraisal, by an accredited appraiser, of any interests in property securing the loan (other than the stock or participation certificates of the qualified lender held by the borrower).

"(2) ARRANGEMENT AND COST.—Within 30 days after a request for an appraisal under paragraph (1), the credit review committee shall present the borrower with a list of three appraisers approved by the appropriate qualified lender from which the borrower shall select an appraiser to conduct the appraisal the cost of which shall be borne by the borrower, and shall consider the results of such appraisal in any final determination with respect to the loan.

"(3) COPY TO BORROWER.—A copy of any appraisal made under this subsection shall be provided to the borrower.

"(4) ADDITIONAL COLLATERAL.—An independent appraisal shall be permitted if additional collateral for a loan is demanded by the qualified lender when determining whether to restructure the loan.

"(e) NOTIFICATION OF APPLICANT.—Promptly after a review by the credit review committee, the committee shall notify the applicant or borrower, as the case may be, in writing of the decision of the committee and the reasons for the decision.".

SEC. 107. PROTECTION OF BORROWERS WHO MEET ALL LOAN OBLIGATIONS.

Part C of title IV is amended by inserting after the sections added by section 102(a) of this Act the following new section:

"SEC. 4.14D. PROTECTION OF BORROWERS WHO MEET ALL LOAN OBLIGATIONS.

12 USC 2202d.

"(a) FORECLOSURE PROHIBITED.—A qualified lender may not foreclose on any loan because of the failure of the borrower thereof to post additional collateral, if the borrower has made all accrued payments of principal, interest, and penalties with respect to the loan.

"(b) PROHIBITION AGAINST REQUIRED PRINCIPAL REDUCTION.—A qualified lender may not require any borrower to reduce the outstanding principal balance of any loan made to the borrower by any amount that exceeds the regularly scheduled principal installment payment (when due and payable), unless—

"(1) the borrower sells or otherwise disposes of part or all of the collateral; or

"(2) the parties agree otherwise in a written agreement entered into by the parties.

"(c) NONENFORCEMENT.—After a borrower has made all accrued payments of principal, interest, and penalties with respect to a loan made by a qualified lender, the lender shall not enforce acceleration of the borrower's repayment schedule due to the borrower having not timely made one or more principal or interest payments.

"(d) PLACING LOANS IN NONACCRUAL STATUS.—

"(1) NOTIFICATION.—If a qualified lender places any loan in nonaccrual status, the lender shall document such change of status and promptly notify the borrower thereof in writing of such action and the reasons therefor.

"(2) REVIEW OF DENIAL.—If the borrower was not delinquent in any principal or interest payment under the loan at the time of such action and the borrower's request to have the loan placed back into accrual status is denied, the borrower may obtain a review of such denial before the appropriate credit review committee under section 4.14.

"(3) APPLICATION.—This subsection shall only apply if a loan being placed in nonaccrual status results in an adverse action being taken against the borrower.".

SEC. 108. RIGHT OF FIRST REFUSAL.

Section 4.36 (12 U.S.C. 2219a) is amended to read as follows:

"SEC. 4.36. RIGHT OF FIRST REFUSAL.

"(a) GENERAL RULE.—Agricultural real estate that is acquired by an institution of the System as a result of a loan foreclosure or a voluntary conveyance by a borrower (hereinafter in this section referred to as the 'previous owner') who, as determined by the institution, does not have the financial resources to avoid foreclosure (hereinafter in this section referred to as 'acquired real estate') shall be subject to the right of first refusal of the previous owner to repurchase or lease the property, as provided in this section.

"(b) APPLICATION OF RIGHT OF FIRST REFUSAL TO SALE OF PROPERTY.—

"(1) ELECTION TO SELL AND NOTIFICATION.—Within 15 days after an institution of the System first elects to sell acquired real estate, or any portion of such real estate, the institution shall notify the previous owner by certified mail of the owner's right—

"(A) to purchase the property at the appraised fair market value of the property, as established by an accredited appraiser; or

"(B) to offer to purchase the property at a price less than the appraised value.

"(2) ELIGIBILITY TO PURCHASE.—To be eligible to purchase the property under paragraph (1), the previous owner must, within 15 days after receiving the notice required by such paragraph, submit an offer to purchase the property.

"(3) MANDATORY SALE.—An institution of the System receiving an offer from the previous owner to purchase the property at the appraised value shall, within 30 days after the receipt of such offer, accept such offer and sell the property to the previous owner.

"(4) PERMISSIVE SALE.—An institution of the System receiving an offer from the previous owner to purchase the property at a price less than the appraised value may accept such offer and sell the property to the previous owner. Notice shall be provided to the previous owner of the acceptance or rejection of such offer within 15 days after the receipt of such offer.

"(5) REJECTION OF OFFER OF PREVIOUS OWNER.—

"(A) DUTIES OF INSTITUTION.—An institution of the System that rejects an offer from the previous owner to purchase the property at a price less than the appraised value may not sell the property to any other person—

"(i) at a price equal to, or less than, that offered by the previous owner; or

"(ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to purchase the property at such price or under such terms and conditions.

"(B) NOTICE.—Notice of the opportunity in subparagraph (A) shall be provided to the previous owner by certified mail, and the previous owner shall have 15 days in which to submit an offer to purchase the property at such price or under such terms and conditions.

"(c) APPLICATION OF RIGHT OF FIRST REFUSAL TO LEASING OF PROPERTY.—

"(1) ELECTION TO LEASE AND NOTIFICATION.—Within 15 days after an institution of the System first elects to lease acquired real estate, or any portion of such real estate, the institution shall notify the previous owner by certified mail of the owner's right—

"(A) to lease the property at a rate equivalent to the appraised rental value of the property, as established by an accredited appraiser; or

"(B) to offer to lease the property at a rate that is less than the appraised rental value of the property.

"(2) ELIGIBILITY TO LEASE.—To be eligible to lease the property under paragraph (1), the previous owner must, within 15 days after receiving the notice required by such paragraph, submit an offer to lease the property.

"(3) MANDATORY LEASE.—An institution of the System receiving an offer from the previous owner to lease the property at a rate equivalent to the appraised rental value of the property shall, within 15 days after the receipt of such offer, accept such offer and lease the property to the previous owner unless the institution determines that the previous owner—

"(A) does not have the resources available to conduct a successful farming or ranching operation; or

"(B) cannot meet all of the payments, terms, and conditions of such lease.

"(4) PERMISSIVE LEASE.—An institution of the System receiving an offer from the previous owner to lease the property at a rate that is less than the appraised rental value of the property may accept such offer and lease the property to the previous owner.

"(5) NOTICE TO PREVIOUS OWNER.—An institution of the System receiving an offer from the previous owner to lease the property at a rate less than the appraised rental value of the property shall notify the previous owner of its acceptance or rejection of the offer within 15 days after the receipt of such offer.

"(6) REJECTION OF OFFER OF PREVIOUS OWNER.—

"(A) DUTIES OF INSTITUTION.—An institution of the System rejecting an offer from the previous owner to lease the property at a rate less than the appraised rental value of the property may not lease the property to any other person—

"(i) at a rate equal to or less than that offered by the previous owner; or

"(ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to lease the property at such rate or under such terms and conditions.

"(B) NOTICE.—Notice of the opportunity described in subparagraph (A) shall be given to the previous owner by certified mail, and the previous owner shall have 15 days after the receipt of such notice in which to agree to lease the property at such rate or under such terms and conditions.

"(d) Public Offerings.—

"(1) Notification of previous owner.—If an institution of the System elects to sell or lease acquired property or a portion thereof through a public auction, competitive bidding process, or other similar public offering, the institution shall notify the previous owner, by certified mail, of the availability of the property. Such notice shall contain the minimum amount, if any, required to qualify a bid as acceptable to the institution and any terms and conditions to which such sale or lease will be subject.

"(2) Priority.—If two or more qualified bids in the same amount are received by the institution under paragraph (1), such bids are the highest received, and one of the qualified bids is offered by the previous owner, the institution shall accept the offer by the previous owner.

"(3) Nondiscrimination.—No institution of the System may discriminate against a previous owner in any public auction, competitive bidding process, or other similar public offering of property acquired by the institution from such person.

"(e) Term or Condition.—For the purposes of this section, financing by a System institution shall not be considered to be a term or condition of a sale of acquired real estate.

"(f) Financing.—Notwithstanding any other provision of this section, a System institution shall not be required to provide financing to the previous owner in connection with the sale of acquired real estate.

"(g) Mailing of Notice.—Notwithstanding any other provision of this section, each certified mail notice requirement in this section shall be fully satisfied by mailing one certified mail notice to the last known address of the former borrower.

"(h) State Laws.—The rights provided in this section shall not diminish any such right of first refusal under the law of the State in which the property is located.

"(i) Applicability.—This section shall not apply to a bank for cooperatives.".

SEC. 109. DIFFERENTIAL INTEREST RATES.

12 USC 2199.

Section 4.13 (12 U.S.C. 2201) (as amended by section 103(a) of this Act) is further amended—

(1) by striking out "In" and inserting in lieu thereof "(a) In General.—In"; and

(2) by adding at the end thereof the following new subsection:

"(b) Differential Interest Rates.—A qualified lender offering more than one rate of interest to borrowers shall, at the request of a borrower of a loan—

"(1) provide a review of the loan to determine if the proper interest rate has been established;

"(2) explain to the borrower in writing the basis for the interest rate charged; and

"(3) explain to the borrower in writing how the credit status of the borrower may be improved to receive a lower interest rate on the loan.".

SEC. 110. APPLICATION OF UNINSURED ACCOUNTS.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.37. APPLICATION OF UNINSURED ACCOUNTS.

12 USC 2219b.

"(a) In General.—Money of a borrower held by a Farm Credit System institution in an uninsured voluntary or involuntary account as authorized under regulations issued by the Farm Credit Administration (as in effect immediately before the date of the enactment of this section), including all such other accounts known as 'advanced payment accounts' or 'future prepayment accounts' shall, in the event the institution is placed in liquidation, be immediately applied as payment against the indebtedness of any outstanding loans of such borrower.

"(b) Regulations.—The Farm Credit Administration shall promulgate regulations—

"(1) that define the term 'uninsured voluntary or involuntary account'; and

"(2) to otherwise effectively carry out this section.".

TITLE II—ASSISTANCE TO FARM CREDIT SYSTEM

SEC. 201. ASSISTANCE TO FARM CREDIT SYSTEM.

The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VI—ASSISTANCE TO FARM CREDIT SYSTEM

"Subtitle A—Assistance Board

"SEC. 6.0. ESTABLISHMENT OF BOARD.

12 USC 2278a.

"(a) Charters.—On the date which is 15 days after the date of the enactment of this title, the Farm Credit Administration shall revoke the charter of the Farm Credit System Capital Corporation (hereinafter referred to in this title as the 'Capital Corporation') and shall charter the Farm Credit System Assistance Board (hereinafter referred to in this Act as the 'Assistance Board') that, subject to this subtitle, shall be a Federally chartered instrumentality of the United States.

Contracts.

"(b) Use of Capital Corporation Staff.—During the 90-day period beginning on the date of the revocation of the charter of the Capital Corporation, the Assistance Board may temporarily employ, by contract or otherwise under reasonable and necessary terms and conditions, such staff of the Capital Corporation as is necessary to facilitate and effectuate an orderly transition to, and commencement of, the Assistance Board, and the termination of the affairs of the Capital Corporation.

"SEC. 6.1. PURPOSES.

12 USC 2278a-1.

"The purposes of the Assistance Board shall be to carry out a program to provide assistance to, and protect the stock of borrowers of, the institutions of the Farm Credit System, and to assist in restoring System institutions to economic viability and permitting such institutions to continue to provide credit to farmers, ranchers, and the cooperatives of such, at reasonable and competitive rates.

12 USC 2278a-2.

"SEC. 6.2. BOARD OF DIRECTORS.

"(a) MEMBERSHIP.—The Board of Directors of the Assistance Board (hereinafter referred to in this subtitle as the 'Board of Directors') shall consist of three members—

"(1) one of which shall be the Secretary of the Treasury;

"(2) one of which shall be the Secretary of Agriculture; and

President of U.S.

"(3) one of which shall be an agricultural producer experienced in financial matters, and appointed by the President, by and with the advice and consent of the Senate.

"(b) CHAIRMAN.—The Board of Directors shall elect annually a Chairman from among the members of the Board.

"(c) TERMS OF OFFICE, SUCCESSION, AND VACANCIES.—

"(1) TERMS OF OFFICE AND SUCCESSION.—The term of each member of the Board of Directors shall expire when the Assistance Board is terminated.

"(2) VACANCIES.—Vacancies on the Board of Directors shall be filled in the same manner as the vacant position was previously filled.

"(d) COMPENSATION OF BOARD MEMBERS.—Members of the Board of Directors—

"(1) appointed under paragraphs (1) and (2) of subsection (a) shall receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States; and

"(2) appointed under paragraph (3) of subsection (a) shall receive compensation for the time devoted to meetings and other activities at a daily rate not to exceed the daily rate of compensation prescribed for Level III of the Executive Schedule under section 5314 of title 5, United States Code, and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States.

"(e) RULES AND RECORDS.—The Board of Directors of the Assistance Board shall adopt such rules as it may deem appropriate for the transaction of the business of the Assistance Board, and shall keep permanent and accurate records and minutes of its acts and proceedings.

"(f) QUORUM REQUIRED.—A quorum shall consist of two members of the Board of Directors. All decisions of the Board shall require an affirmative vote of at least a majority of the members voting.

"(g) CHIEF EXECUTIVE OFFICER.—A chief executive officer of the Assistance Board shall be selected by the Board of Directors of the Assistance Board and shall serve at the pleasure of the Board.

"SEC. 6.3. CORPORATE POWERS.

12 USC 2278a-3.

"(a) In General.—The Assistance Board shall be a body corporate that shall have the power to—

"(1) operate under the direction of its Board of Directors;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for one or more vice presidents, a secretary, a treasurer, and such other officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) hire, promote, compensate, and discharge officers and employees of the Assistance Board, without regard to title 5, United States Code, except that no such officer or employee shall receive an annual rate of basic pay in excess of the rate prescribed for Level III of the Executive Schedule under section 5314 of title 5, United States Code;

"(5) prescribe by its Board of Directors its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

"(A) its officers, employees, and agents are selected;

"(B) its property is acquired, held, and transferred;

"(C) its general operations are to be conducted; and

"(D) the privileges granted by law are exercised and enjoyed;

"(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this title;

Contracts.

"(7) enter into contracts and make advance, progress, or other payments with respect to such contracts;

"(8) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

"(9) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its operations;

"(10) obtain insurance against loss;

Contracts.

"(11) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this title;

"(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) and pay fees therefor and receive interest thereon as may be agreed; and

"(13) exercise other powers as set forth in this title, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this title.

"(b) Power to Remove; Jurisdiction.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Assistance Board is a party shall be deemed to arise under the laws of the United States, and the United States District Court for the District of Columbia shall have original jurisdiction over such. The Assistance Board may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

12 USC 2278a-4.

"SEC. 6.4. CERTIFICATION OF ELIGIBILITY TO ISSUE PREFERRED STOCK.

"(a) Book Value Less Than Par Value of Stock and Equities.—If the book value of the stock, participation certificates, and other similar equities of a System institution, based on generally accepted accounting principles, is less than the par value of the stock or the face value of the certificates or equities—

"(1) the Farm Credit Administration shall notify the Assistance Board of such impairment;

"(2) the Assistance Board shall monitor the financial condition, business plans, and operations of the institution; and

"(3) the institution may request the Assistance Board to grant certification to issue preferred stock under section 6.27(a).

"(b) Book Value Less Than 75 Percent of Par Value of Stock and Equities.—If the book value of the stock, participation certificates, and other similar equities of a System institution, based on generally accepted accounting principles, is less than 75 percent of the par value of the stock or the face value of the certificates or equities, the institution shall request the Assistance Board to grant certification to issue preferred stock under section 6.27(a).

"(c) Mandatory Determination of Eligibility.—

"(1) In general.—The Assistance Board shall determine whether to certify a System institution as eligible to issue preferred stock under section 6.27, if—

"(A) the institution requests such certification;

"(B) the book value of the stock, participation certificates, and other similar equities of the institution, based on generally accepted accounting principles, has declined to 75 percent of the par value of the stock or the face value of the certificates or equities; and

"(C) the institution agrees to meet the terms and conditions specified by the Assistance Board pursuant to section 6.6.

"(2) Effective date of certification.—If the determination of the Assistance Board is to certify the institution under paragraph (1), such certification shall be effective at the time of such determination.

"(c) Implementation.—As soon as practicable after the date of the enactment of this title, the Assistance Board shall take such actions as are necessary to carry out this section.

"(d) Definition.—Except where otherwise provided in this Act, the term 'other similar equities' includes allocated equities.

12 USC 2278a-5.

"SEC. 6.5. ASSISTANCE.

"(a) In General.—The Assistance Board shall assist an institution that has been certified under section 6.4 by—

"(1) authorizing the institution to issue preferred stock under the appropriate provision of section 6.27, in amounts necessary to maintain the book value of stock, participation certificates, and other similar equities of the institution, at the level provided for in subsection (c);

"(2) in the case of high-cost debt for which the institution is primarily liable, authorizing the institution to issue preferred stock under the appropriate provision of section 6.27, in an amount equal to the premium that would be required by the holder of the debt for the institution to retire the debt at the then current market value;

"(3) on a request by the institution, authorizing the issuance of preferred stock under the appropriate provision of section 6.27 to facilitate the merger of the requesting institution with one or more other System institutions; or

"(4) providing assistance by such other methods as the Assistance Board determines appropriate.

"(b) DEFINITION OF HIGH-COST DEBT.—For purposes of subsection (a)(2), the term 'high-cost debt' means securities or similar obligations issued before January 1, 1986, that mature on or after December 31, 1987, and bear a rate of interest in excess of the then current market rate for similar securities or obligations.

"(c) MINIMUM EQUITY VALUE.—The Assistance Board shall authorize a certified institution to issue amounts of preferred stock under the appropriate provision of section 6.27 sufficient to—

"(1) maintain the value of stock, participation certificates and other similar equities at no less than 75 percent of the par value of the stock or the face value of the certificates or equities, as determined under generally accepted accounting principles; and

"(2) strengthen the institution to a point where it is economically viable, and capable of delivering credit at reasonable and competitive rates.

"(d) LIMITATION.—No assistance shall be provided in connection with a merger until the stockholders and the institutions involved have approved the merger and the Farm Credit Administration has given final approval to the merger plan.

"SEC. 6.6. SPECIAL POWERS. 12 USC 2278a-6.

"(a) IN GENERAL.—In the case of a System institution that requests certification under section 6.4, the Assistance Board may—

"(1) require the institution to obtain approval from the Assistance Board before implementing business, operating, and investment plans and policies;

"(2) if one or more of the conditions described in section 4.12(b) are met, as determined by the Farm Credit Administration, direct the Farm Credit Administration Board to appoint a conservator for the institution, in accordance with such section, and to instruct the conservator to evaluate the operations of the institution and report to the Farm Credit Administration Board and the Assistance Board on the possibility of restoring the institution to sound financial condition;

"(3) request that the Farm Credit Administration Board or the Farm Credit Administration, as appropriate—

"(A) approve or require a merger or consolidation of the institution to the extent authorized under this Act;

"(B) initiate action to appoint a receiver under section 4.12(b); or

"(C) exercise any enforcement power authorized under this Act;

"(4) require the institution to obtain approval from the Assistance Board before setting the terms and conditions of any debt issuances of the institution;

"(5) require the institution to obtain approval from the Assistance Board before setting the policy on credit standards to be used, and the policy on rates of interest to be charged on loans, by the institution, including requiring that—

"(A) the institution set interest rates at levels necessary to ensure that the cost of money to the institution reflects the marginal cost to the institution of borrowing an additional amount of money at the time a new loan is made; and

"(B) loans primarily secured by real estate mortgages not exceed 85 percent of the appraised agricultural value of the real estate security, or 75 percent of the then current market value of the real estate security, whichever is greater;

"(6) require the institution to obtain approval from the Assistance Board for the design of management information and accounting systems at the institution, and of the continued use by the institution of regulatory accounting practices in accordance with sections 4.8(b) and 5.19(b);

"(7) require that the plans and policies of the institution resulting from the merger of System banks reduce the overhead costs of such institution, to the maximum extent practicable, with respect to the delivery of services to, and performance of duties for, System associations in the district;

"(8) require the institution to obtain approval from the Assistance Board of—

"(A) the hiring policies of the institution;

"(B) the compensation and retirement benefits of the chief executive officer, other managers, and directors of the institution notwithstanding the authority of the Farm Credit Administration to approve such matters under sections 5.5 and 5.17(a)(15);

"(C) any change in the management of the institution; and

"(D) policy decisions regarding continued employment and promotion of the officials referred to in subparagraph (B);

"(9) may suspend for any period of time, or terminate, any certification granted to an institution under section 6.4 if the Farm Credit Administration notifies the Assistance Board that the institution has substantially deviated from the institution's business plan or has failed to comply with a term or condition governing the use of any financial assistance provided to the institution under this title; and

"(10) take such other action as the Assistance Board determines may be necessary to establish prudent operating practices at the institution and to return the institution to a sound financial condition.

"(b) SUSPENSION OF ASSISTANCE.—

"(1) NOTIFICATION.—The Assistance Board shall promptly notify the Farm Credit Administration of any action taken by the Assistance Board under subsection (a)(8).

"(2) ENFORCEMENT.—The Farm Credit Administration may use any of its enforcement powers, with respect to any institution to which the Assistance Board has provided assistance or has certified the institution to issue preferred stock under the appropriate provision of section 6.27, to obtain the compliance of the institution with the terms or conditions governing the use of financial assistance provided under this title.

"(c) UNDATED LETTERS OF RESIGNATION.—The Assistance Board shall not, for any reason, request or require any member of the board of directors of any System institution to submit to the Assistance Board an undated letter of resignation. Immediately after the date of the enactment of this title, the Assistance Board shall destroy all such letters over which it has control.

"(d) Reports.—During the 5-year period beginning on the date of the enactment of this title, the Assistance Board, in coordination with the Financial Assistance Corporation, shall report annually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the extent to which System institutions translate the savings in the cost of the operations of such institutions due to the Federal assistance provided to the System under this title into lower interest rates charged to System borrowers or enhanced financial solvency of such institutions.

"SEC. 6.7. ADMINISTRATION.

12 USC 2278a-7.

"(a) Expenses.—The Financial Assistance Corporation shall pay the necessary and reasonable administrative expenses of the Assistance Board from funds in the Assistance Fund established in section 6.25.

"(b) Interim Funding.—Before the availability of funding from the Assistance Fund, the Assistance Board may use the revolving fund established under section 4.0. Such amounts used shall be repaid to the revolving fund out of the Assistance Fund within the same fiscal year that such funds were received by the Assistance Board.

"(c) Assistance Operations.—The Farm Credit Administration shall provide such personnel and facilities to the Assistance Board as the Farm Credit Administration considers are necessary to avoid unnecessary duplication and waste.

Classified information.

"(d) Access to FCA Documents.—The Assistance Board shall have access to all reports of examination and supervisory documents of the Farm Credit Administration, and relevant supporting material for the purpose of carrying out the special powers of the Assistance Board under section 6.6, under terms and conditions that are acceptable to the Farm Credit Administration Board, as are necessary and appropriate to protect the confidentiality of the documents and materials.

"SEC. 6.8. LIMITATION OF POWERS.

12 USC 2278a-8.

"(a) Purposes.—The powers of the Assistance Board under this title shall be exercised only for the purposes specified in this title and shall not be exercised in a manner that would result in the Assistance Board supplanting the Farm Credit System lending institutions as the primary providers of credit and other financial services to farmers, ranchers, and the cooperatives of such.

"(b) Prohibition.—The powers of the Assistance Board under this title shall not include the management, administration, or disposition of any loans or other assets owned by other System institutions, or the providing of technical assistance or other related services to other System institutions in connection with the administration of loans owned by such other institutions.

"SEC. 6.9. SUCCESSION.

12 USC 2278a-9. Contracts.

"(a) Liabilities.—On the issuance by the Farm Credit Administration of the charter for the Assistance Board under this subtitle, the Assistance Board shall succeed to the assets of and assume all debts, obligations, contracts, and other liabilities of the Capital Corporation, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the Capital Corporation.

"(b) CONTRACTS.—The existing contractual obligations, security instruments, and title instruments of the Capital Corporation shall, by operation of law and without any further action by the Farm Credit Administration, the Capital Corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Assistance Board chartered under this subtitle.

"(c) ADJUSTMENT OF ASSESSMENTS.—Not later than 15 days after the issuance of the charter of the Assistance Board, the Board shall retire all debt and equity obligations issued to any System institution under section 4.28G(a)(14) or 4.28H (as in effect immediately before the date of the enactment of this title) at the book value of such obligations (determined as of such date of enactment) and shall pay such amounts to the holders of such debt and equity obligations.

Contracts.

"(d) SURPLUS FUNDS.—To the extent that, on the extinguishing of liabilities assumed by the Assistance Board under this section, and on full performance or other final disposition of contract obligations of the Assistance Board, there remain surplus funds attributable to such obligations or contracts, the Assistance Board shall distribute such surplus funds among the System institutions that contributed funds to the Capital Corporation on the basis of the relative amount of funds so contributed by each institution.

"(e) PRESERVATION AGREEMENTS.—

"(1) TRANSFER OF OBLIGATIONS.—Notwithstanding any other provision of this Act or the terms and conditions of the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement—

"(A) at the time the receiving bank receives funds from the Financial Assistance Corporation in an equal and equivalent amount in accordance with this subsection, any amounts received by, or that remain accrued to, any System bank in accordance with the activation of any such agreement for the calendar quarter ending on September 30, 1986, shall be—

"(i) repaid to the contributing bank by the bank that received such payments; or

"(ii) cancelled;

"(B) on the date the Financial Assistance Corporation is chartered, the accounts payable of each contributing bank under such agreements for the calendar quarter ending on September 30, 1986, shall, by operation of law and without any further action by such contributing bank, any other bank, or any court, become and be converted into accounts payable of the Financial Assistance Corporation to each receiving bank under such agreement for such calendar quarter in the same amounts as previously carried on the books of each such receiving bank; and

"(C) on the date the Financial Assistance Corporation is chartered, the accounts receivable of each receiving bank under such agreements for the calendar quarter ending September 30, 1986, shall, by operation of law and without any further action by such receiving bank or any other bank, or any court, become and be converted into accounts receivable to such receiving bank from the Financial Assistance Corporation, in the same amount as previously carried on the books of such receiving bank and such receivables shall, for all financial reporting purposes, be accounted for as an asset on the books of such receiving bank in accordance with generally accepted accounting practices.

"(2)(A) Not later than 30 days after the first issuance of obligations by the Financial Assistance Corporation in accordance with section 6.26, the Corporation shall pay to each receiving bank such sums as are necessary to permit each receiving bank to repay, in accordance with paragraph (1), the amounts each such receiving bank received under any such agreement.

"(B) The accruals shall be paid by the Corporation to each receiving bank for the actual net loan charge-offs recorded on the books of each such bank before January 1, 1993, not previously paid by the contributing banks.

"(3) Debt obligations.—

"(A) Issuance.—For the purpose of obtaining funds to carry out this subsection, the Financial Assistance Corporation shall issue debt obligations under section 6.26. Such obligations shall be subject to the terms and conditions of such section, except as provided for in this paragraph.

"(B) Payment of interest.—During each year of the 15-year period of such obligation issued pursuant to subparagraph (A), the banks operating under this Act shall pay to the Financial Assistance Corporation, at such times as the Corporation shall determine, an amount equal to the entire amount of interest due on such obligation. Each bank shall pay a proportion of such interest equal to—

"(i) the average accruing loan volume of the bank during the year preceding the year of such payment; divided by

"(ii) the average accruing loan volume of all of the banks of the System for the same period.

"(C) Payment of principal.—After the end of the 15-year period beginning on the date of the issuance of any obligation issued to carry out this subsection, the banks operating under this Act shall pay to the Financial Assistance Corporation, on demand, an amount equal to the outstanding principal of such obligation. Each bank shall pay a proportion of such principal equal to—

"(i) the average accruing loan volume of the bank for the preceding 15 years; divided by

"(ii) the average accruing loan volume of all banks of the System for the same period.

"(D) Until each obligation issued in accordance with this subsection reaches maturity, for all financial reporting purposes, such obligation shall be considered to be the sole obligation of the Financial Assistance Corporation and shall not be considered a liability of any System bank.

"(4) Funds not considered financial assistance.—The funds made available to each bank, whether through the issuance of stock or otherwise, by the Financial Assistance Corporation to meet obligations under any agreement referred to in paragraph (1) or to meet any obligations of the contributing banks under any such agreement, as required by this subsection, shall not be considered financial assistance under this Act.

"(5) SUSPENSION OF PRESERVATION AGREEMENTS.—During the 5-year period beginning on the date of enactment of this subsection and thereafter whenever funds from the Farm Credit System Insurance Fund are available for use in assisting System institutions to meet their obligations on their debt instruments, the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement shall be suspended, in exchange for the benefits flowing to the signatories to such agreements under the Agricultural Credit Act of 1987.".

12 USC 2278a-10.

"SEC. 6.10. EFFECT OF REGULATIONS; AUDITS.

"(a) ISSUANCE.—The Assistance Board may issue such regulations, policies, procedures, guidelines, or statements as the Board considers necessary or appropriate to carry out this title, all of which shall be promulgated and enforced without regard to subchapter II of chapter 5 of title 5, United States Code.

"(b) REGULATION BY FARM CREDIT ADMINISTRATION.—The Assistance Board shall not be subject to regulation by the Farm Credit Administration.

"(c) AUDITS.—The Assistance Board shall not require an audit or examination of a System institution that would be duplicative of an audit or examination that is conducted under other provisions of law.

12 USC 2278a-11.
State and local governments.

"SEC. 6.11. EXEMPTION FROM TAXATION.

"The Assistance Board, the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by the Assistance Board to the same extent, according to its value, as other similar property held by other persons is taxed.

12 USC 2278a-12.

"SEC. 6.12. TERMINATION.

"The Assistance Board and the authority provided by this subtitle shall terminate on December 31, 1992.

12 USC 2278a-13.

"SEC. 6.13. TRANSITIONAL PROVISIONS.

"(a) EXERCISE OF POWERS.—The powers of the Assistance Board under this title shall be exercised by the Farm Credit Administration Board until the issuance of the charter of the Assistance Board, or such later date not to exceed 30 days thereafter, as may be requested by the Assistance Board.

"(b) LIMITATION ON ASSISTANCE.—Any assistance provided to System institutions by the Farm Credit Administration in accordance with this section shall be provided from, and shall not exceed, the amounts contained in the revolving fund established under section 4.0.

"(c) ISSUANCE OF STOCK.—Each institution that receives assistance from the Farm Credit Administration during the interim period specified in subsection (a), in consideration thereof, shall issue preferred stock to the Financial Assistance Corporation in an amount equal to the amount of such assistance. Payments by the Financial Assistance Corporation under subsection (d) shall be considered to be payments to each such institution for such stock.

"(d) REPAYMENT.—The Financial Assistance Corporation shall pay to the Farm Credit Administration the full amount of all financial assistance provided by the Farm Credit Administration in accordance with this section, from the proceeds from the sale of the first issue of obligations by the Financial Assistance Corporation in accordance with section 6.26.

"Subtitle B—Financial Assistance Corporation

"SEC. 6.20. ESTABLISHMENT OF CORPORATION.

12 USC 2278b.

"Not later than 5 days after the date of the enactment of this title, the Farm Credit Administration shall charter the Farm Credit System Financial Assistance Corporation (hereinafter referred to in this Act as the 'Financial Assistance Corporation') which shall be—

"(1) an institution of the Farm Credit System; and

"(2) a Federally chartered instrumentality of the United States.

"SEC. 6.21. PURPOSE.

12 USC 2278b-1.

"The purpose of the Financial Assistance Corporation shall be to carry out a program to provide capital to institutions of the Farm Credit System that are experiencing financial difficulty.

"SEC. 6.22. BOARD OF DIRECTORS.

12 USC 2278b-2.

"(a) BOARD OF DIRECTORS.—

"(1) COMPOSITION.—The Board of Directors of the Financial Assistance Corporation (hereinafter referred to in this Act as the 'Board of Directors') shall consist of the Board of Directors of the Federal Farm Credit Banks Funding Corporation.

"(2) CHAIRMAN.—The Board of Directors shall elect annually a Chairman from among the members of the Board.

"(3) COMPENSATION.—The members of the Board of Directors shall receive compensation for the time devoted to meetings and other activities of the Board and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Board of Directors in amounts not exceeding levels set by the Farm Credit Administration Board.

"(b) RULES AND RECORDS.—The Board of Directors shall adopt such rules as it may deem appropriate for the transaction of its business and shall keep permanent and accurate records and minutes of its acts and proceedings.

"(c) QUORUM REQUIRED.—No business may be conducted at a meeting of the Board of Directors unless a quorum of the members of the Board is present, and a vote to approve an action requires a majority vote of the members voting.

"(d) CHIEF EXECUTIVE OFFICER.—A chief executive officer of the Financial Assistance Corporation shall be selected by the Board of Directors and shall serve at the pleasure of the Board.

"SEC. 6.23. STOCK.

12 USC 2278b-3.

"The Financial Assistance Corporation shall issue stock with a par value of $5 to System institutions, as provided for in this subtitle, and such stock shall not be transferable.

12 USC 2278b-4.

"SEC. 6.24. CORPORATE POWERS.

"(a) In General.—The Financial Assistance Corporation shall have the power to—

"(1) operate under the direction of its Board of Directors;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for such officers, employees, and agents, including joint employees with the Funding Corporation, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) adopt a salary scale for officers and employees of the Financial Assistance Corporation, in accordance with the directives of the Board of Directors;

"(5) prescribe by its Board of Directors bylaws, that are not inconsistent with law, and that shall provide for the manner in which—

"(A) its officers, employees, and agents are selected;

"(B) its property is acquired, held, and transferred;

"(C) its general business is conducted; and

"(D) the privileges granted by law are exercised and enjoyed;

Contracts.

"(6) enter into contracts and make advance, progress, or other payments with respect to such contracts;

"(7) sue and be sued in its corporate name and complain and defend in courts of competent jurisdiction;

"(8) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its business;

"(9) obtain insurance against loss;

Contracts.

"(10) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subtitle;

"(11) borrow from any commercial bank on its own individual responsibility and on such terms and conditions as it may determine with the approval of the Farm Credit Administration;

"(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) and pay fees therefor and receive interest thereon as may be agreed; and

"(13) exercise such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with its charter and this subtitle.

"(b) Power to Remove, and Jurisdiction.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Financial Assistance Corporation is a party shall be deemed to arise under the laws of the United States, and the United States District Court for the District of Columbia shall have original jurisdiction over such. The Financial Assistance Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

"SEC. 6.25. ACCOUNTS.

12 USC 2278b-5.

"(a) **Farm Credit Assistance Fund.**—

"(1) **Establishment.**—The Financial Assistance Corporation shall establish an account called the Farm Credit Assistance Fund (referred to in this Act as the 'Assistance Fund') which shall be available to the Financial Assistance Corporation as a revolving fund to carry out this subtitle. The moneys of such Assistance Fund shall be invested in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof.

"(2) **Funding.**—The Assistance Fund shall be funded through the issuance of debt obligations and payments, as provided in section 6.26, and payments, as provided in section 6.28.

"(b) **Financial Assistance Corporation Trust Fund.**—The Financial Assistance Corporation shall establish an account called the Financial Assistance Corporation Trust Fund (hereinafter referred to in this Act as the 'Trust Fund') that shall consist of securities of the United States Treasury purchased by the Financial Assistance Corporation with the funds received from the purchase of stock by System institutions from the Financial Assistance Corporation under section 6.29.

"SEC. 6.26. DEBT OBLIGATIONS.

12 USC 2278b-6.

"(a) **Issuance.**—During the period beginning 61 days after the date of the enactment of this title and ending September 30, 1992, the Financial Assistance Corporation, subject to the approval of the Assistance Board, may issue uncollateralized bonds, notes, debentures, and similar obligations, guaranteed as to the timely payment of principal and interest by the Secretary of the Treasury as set forth in subsection (d), with semiannual interest coupon payments and a maturity period of 15 years—

"(1) in an aggregate amount not to exceed $2,800,000,000; and

"(2) beginning January 1, 1989, in an additional amount, not to exceed $1,200,000,000, if—

"(A) debt obligations have been issued by the Corporation to the full extent authorized under paragraph (1);

"(B) the Assistance Board determines that such additional funds are needed to carry out this title; and

"(C) at least 90 days before the issuance of any debt obligations under this paragraph, the Assistance Board submits a report to Congress that sets forth the determination of the Assistance Board that such additional debt obligations should be issued, and that contains a detailed evaluation supporting the determination.

Reports.

"(b) **Conditions.**—The debt obligations shall be in such forms and denominations, bear such rates of interest, be subject to such conditions, be issued in such manner, and be sold at such prices as may be prescribed by the Financial Assistance Corporation.

"(c) **Interest Payments.**—

"(1) **Payment of interest during first 5-year period.**—During each year of the first 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay, without recourse to System institutions, other than that described in paragraph (5), all of the interest due on such obligation.

"(2) **Payment of interest during second 5-year period.**—

"(A) IN GENERAL.—During each year of the second 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay all of the interest due on such obligation.

"(B) PAYMENT BY SYSTEM INSTITUTIONS TO FINANCIAL ASSISTANCE CORPORATION.—During each year of the second 5-year period, System institutions shall pay to the Financial Assistance Corporation 50 percent of the interest due on the obligations, except that System institutions shall pay an additional 10 percent of the interest expense for each 1 percent that the unallocated retained earnings of the System (as determined under generally accepted accounting principles) exceed 5 percent of net assets (total assets less allowance for loan losses) based on a year-end financial statement for the preceding year.

"(C) ALLOCATION.—During each year of the second 5-year period, each System institution shall pay to the Financial Assistance Corporation a proportion of the interest due from System institutions under this paragraph equal to—

"(i) the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year); divided by

"(ii) the total performing loan volume of the System for the preceding year.

"(D) SPECIAL RULE.—For purposes of determining the average loan volume of Federal intermediate credit banks, loan volume shall consist of loans made by such banks with the exception of loans made to production credit associations.

"(3) PAYMENTS BY TREASURY.—The Secretary of the Treasury, in accordance with section 6.28, shall pay to the Financial Assistance Corporation, in a timely manner, the balance of each interest payment not made by the System institutions.

"(4) PAYMENT OF INTEREST AFTER FIRST 10-YEAR PERIOD.—During each year of the third 5-year period of the 15-year period beginning on the date of the issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay all of the interest due on such obligation. During each year of such 5-year period, System institutions shall pay the entire amount of interest due on the obligation allocated in the same manner as under paragraph (2)(C). Such payments shall be made to the Financial Assistance Corporation at such times as the Financial Assistance Corporation shall determine.

"(5) REPAYMENT BY SYSTEM INSTITUTIONS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the institutions of the Farm Credit System shall, on a fair and equitable basis, repay to the Secretary of the Treasury the total amount of any annual interest charges on debt obligations issued under subsection (a) that such institutions have not previously paid, and such institutions shall not be required to pay any additional interest charges on such payments.

"(B) TIME OF PAYMENT.—The institutions of the Farm Credit System shall begin making interest payments when the Farm Credit Administration, in consultation with the Secretary of the Treasury, determines that such institutions possess the financial viability to make such payments, except that such institutions shall not be required to begin making such payments until the obligations issued under subsection (d)(1)(C) have been fully repaid.

"(C) TERMS OF PAYMENTS.—

"(i) IN GENERAL.—The institutions of the Farm Credit System shall make interest payments at such levels, and on such dates, as the Farm Credit Administration determines appropriate, except that the Farm Credit Administration shall not set payment levels or dates that would jeopardize the financial viability of any such institution.

"(ii) LIMITATIONS.—The institutions of the Farm Credit System shall not be required to make such repayments in a manner that—

"(I) impairs the stock of such institution; or

"(II) jeopardizes the minimum capital requirements of the institution.

"(iii) UNCOLLATERALIZED OBLIGATION.—Obligations to make repayments under this paragraph shall not be required to be collateralized.

"(d) REFINANCING AND PAYMENT OF PRINCIPAL.—

"(1) IN GENERAL.—

"(A) TIME OF REPAYMENT.—On maturity of an obligation issued under subsection (a), the obligation shall be repaid by the Financial Assistance Corporation.

"(B) PAYMENTS BY INSTITUTIONS.—Except as provided in subparagraph (C), in order to enable the Financial Assistance Corporation to repay the obligation referred to in subparagraph (A), each institution that issued preferred stock under section 6.27(a) with respect to such obligation (or the successor thereto) shall pay to the Financial Assistance Corporation, before the maturity date of such obligation, an amount equal to the par value of such stock outstanding for such institution.

"(C) SYSTEMWIDE REPAYMENT.—In order to enable the Financial Assistance Corporation to repay the obligations referred to in section 410(c) of the Agricultural Credit Act of 1987, each System institution shall pay to the Financial Assistance Corporation a proportion of such principal equal to—

"(i) the average performing loan volume of the bank for the preceding 15 years; divided by

"(ii) the average performing loan volume of all of the System banks for the same period.

"(D) SPECIAL RULE.—For purposes of determining the average loan volume of Federal intermediate credit banks, loan volume shall consist of loans made by such banks with the exception of loans made to production credit associations.

"(E) FUNDS FOR PAYMENTS.—Payments under subparagraph (B) shall be made by each such institution from the funds of the institution or from funds raised by the institution through the issuance of debt obligations, which may be issued without a collateral requirement and without any guarantee by the Secretary of the Treasury.

"(2) REFINANCED OBLIGATIONS.—The refinanced obligations issued under paragraph (1) shall be solely the obligations of the institutions refinancing such, and sections 4.3 and 4.4 shall not apply to such obligations.

"(3) DEFAULTS.—

"(A) INTEREST.—

"(i) PAYMENT BY CORPORATION.—If a System institution defaults on the payment of interest due under this subsection during the first 15 years after an obligation is issued under subsection (a), the Financial Assistance Corporation shall pay the amount of the interest due by the System institution out of the Trust Fund, and shall recover the amount of the interest due from the defaulting System institution, and such amount shall be paid to the Trust Fund.

"(ii) PAYMENT BY INSURANCE FUND.—If the Financial Assistance Corporation has not recovered the full amount of interest due from a defaulting institution by the end of the 12-month period beginning on the date of default, such uncollected interest shall be paid to the Trust Fund from the Insurance Fund established under section 5.60, to the full extent of funds available in the Insurance Fund as of the date the Financial Assistance Corporation notified the Farm Credit System Insurance Corporation of amounts due under this section.

"(iii) PAYMENT BY REMAINING INSTITUTIONS.—To the extent that the payment from the Insurance Fund is insufficient to reimburse the Trust Fund, the remaining balance shall be added to the amount of interest due from remaining System institutions, under this subsection, and each remaining System institution, subject to the special rule provided in subsection (c)(2)(D), shall pay to the Trust Fund a proportion of the uncollected interest equal to—

"(I) the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year); divided by

"(II) the total performing loan volume of the System.

"(B) PRINCIPAL.—

"(i) EVALUATION.—Not later than 90 days before the maturity of any obligation issued under subsection (a), the Farm Credit Administration shall complete an evaluation of the general financial condition of each System institution that issued preferred stock under section 6.27(a) with respect to such obligation to determine whether such System institution will be able to redeem such stock at par value on the maturity of the obligation, and remain a viable institution capable of providing credit to eligible borrowers at equitable and competitive interest rates.

"(ii) AVAILABILITY OF EVALUATION.—A copy of the evaluation required under clause (i) shall be furnished to the Secretary of the Treasury and the appropriate committees of Congress.

"(iii) REDEMPTION BY INSTITUTION; PURCHASE BY SECRETARY OF THE TREASURY.—If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, on the basis of the evaluation required under clause (i), that the redemption of such stock at par value would impair the other stock or equities of such institution or render such institution incapable of meeting its capital adequacy standards, the institution shall be prohibited from redeeming the preferred stock it issued under section 6.27 with respect to the maturing obligation. If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, on the basis of the evaluation required under clause (i), that such institution will be able to redeem, in a timely manner and at par value, the preferred stock it issued under section 6.27 with respect to the maturing obligation, and remain a viable and competitive institution, such institution shall have the option of redeeming or not redeeming such stock. If such institution elects not to redeem such stock, the Financial Assistance Corporation shall withdraw funds from the Trust Fund in an amount equal to the par value of the preferred stock issued by such institution under section 6.27 so as to enable the Financial Assistance Corporation to pay the principal of the maturing obligation. Simultaneously with such withdrawal of funds from the Trust Fund, the Financial Assistance Corporation shall transfer to the Insurance Fund an equal amount, at par value, of preferred stock of such institution. To the extent that the Trust Fund is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation, the Insurance Fund shall be used by the Farm Credit System Insurance Corporation to purchase, at par value, the preferred stock issued by such institution under section 6.27(a) to enable the Financial Assistance Corporation to pay the principal of the maturing obligation. To the extent that the Insurance Fund is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation, the Secretary of the Treasury shall purchase, at par value, the remaining quantity of the preferred stock issued by such institution to enable the Financial Assistance Corporation to make such full payment. For that purpose, the Secretary of the Treasury may use, as a public debt transaction, the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which such securities may be issued under such chapter are extended to include such purchases of stock. Any preferred stock transferred to, or purchased by, the Farm Credit System Insurance Corporation under this clause shall be retired by the issuing institution at such times and under such terms and conditions as are agreed to between the Insurance Corporation and such institution.

"(C) RECOURSE BY OTHER SYSTEM INSTITUTIONS.—A defaulting institution shall be liable to the remaining System institutions for the amount of any interest paid by the remaining institutions under this paragraph.

"(4) **Payment by united states.**—

"(A) **Inability to pay.**—Notwithstanding any other provision of this Act, if the Financial Assistance Corporation is unable to pay the principal or interest of any obligation issued under subsection (a), the Secretary of the Treasury shall pay to the Financial Assistance Corporation the amount due which shall be used by the Financial Assistance Corporation to pay the obligation.

"(B) **Recovery.**—

"(i) **Interest payments.**—In each instance in which the Secretary of the Treasury is required to make a payment under subparagraph (A) to the Financial Assistance Corporation as a result of a default made by a System institution on interest due from such System institution under subsection (c), the Secretary of the Treasury shall recover the amount of the payments the Secretary made, with respect to each defaulting institution, from such defaulting institution. If the Secretary has not recovered the full amount due from the defaulting institution by the end of the 12-month period beginning on the date of payment by the Secretary, the uncollected amount shall be paid to the Secretary from the Insurance Fund established under section 5.60.

"(ii) **Principal payments.**—In each instance in which the Secretary of the Treasury is required under paragraph (3)(B)(iii) to purchase preferred stock issued by a System institution under section 6.27(a), the Farm Credit System Insurance Corporation shall use funds deposited in the Insurance Fund to repurchase, at par value, from the Secretary of the Treasury such stock required to be purchased under paragraph (3)(B)(iii) as funds become available for such repurchase.

"(iii) **Priority.**—Notwithstanding any other provision of this Act except for section 5.60, during any year in which payments are due to the Secretary of the Treasury from the Insurance Fund under clause (i), or preferred stock held by the Secretary is due to be repurchased by the Insurance Fund under clause (ii), the funds in such Fund, and all funds deposited in such Fund during such year, shall be used first for the purposes specified in clauses (i) and (ii).

12 USC 2278b-7.

"SEC. 6.27. PREFERRED STOCK.

"(a) **Issuance.**—

"(1) **In general.**—Each System institution that is certified under section 6.4 (a) or (b) may issue a special class of preferred stock only in an amount, and subject to such terms and conditions, as authorized by the Assistance Board.

"(2) **Dividends.**—

"(A) **In general.**—Except as provided in subparagraph (B), dividends shall not be payable on stock issued under this section.

"(B) **Exception.**—Stock issued under this section shall be issued under such terms and conditions as to enable the Secretary of the Treasury, with respect to any of such stock the Secretary purchases under section 6.26(d)(3)(B)(iii), and the Reserve Account Board, with respect to any of such stock that the Board purchases or otherwise acquires under section 6.26(d)(3)(B)(iii) or section 6.26(d)(4)(B)(ii), to establish for such stock a stated dividend rate equal to the current market yield on outstanding, marketable obligations of the United States with maturities of 30 years, plus a premium to reflect the cost of capital for institutions in financial distress.

"(3) VOTING RIGHTS.—A holder of stock issued under this subsection shall have no voting rights with respect to the stock.

"(b) PURCHASE.—The Financial Assistance Corporation shall purchase shares of stock issued by certified System institutions under subsections (a) and (b) to the extent that the issuance of such stock is approved by the Assistance Board.

"SEC. 6.28. PAYMENTS.

12 USC 2278b-8.

"(a) IN GENERAL.—Beginning in fiscal year 1989, the Secretary of the Treasury shall reimburse the Financial Assistance Corporation for any amounts such Corporation pays in interest charges under section 6.26(c) during fiscal year 1988, and thereafter the Secretary shall pay the Financial Assistance Corporation any amounts due from the Secretary to such Corporation under section 6.26(c).

"(b) REPAYMENT OF INTEREST PAID BY SECRETARY OF TREASURY.—

"(1) IN GENERAL.—Any amounts paid into the Assistance Fund by the Secretary of the Treasury pursuant to subsection (a) exceeding $2,000,000,000 shall be repaid by System institutions in accordance with a schedule to be established by the Farm Credit Administration Board.

"(2) ALLOCATION.—Until such repayment is completed, each System institution shall pay a proportionate share of the amount due under this paragraph to—

"(A) the amount of the performing loan volume of the institution, determined in accordance with subsection (c)(1)(D) (based on the average loan volume for the preceding year); divided by

"(B) the total performing loan volume of the System for the preceding year.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Treasury such sums on an annual basis as may be necessary to carry out this subtitle.

"SEC. 6.29. ONE-TIME STOCK PURCHASE.

12 USC 2278b-9.

"(a) AMOUNT OF STOCK PURCHASE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for the purpose of obtaining funds for the Trust Fund, each System institution shall purchase from the Financial Assistance Corporation stock issued in accordance with section 6.23 in an amount equal to the amount by which the unallocated retained earnings of the institution (after taking into account any funds received by the institution under section 6.9(c)) exceeds—

"(A) in the case of a System bank, 5 percent of assets; or

"(B) in the case of a production credit association or a Federal land bank association, 13 percent of assets.

"(2) REALLOCATION.—The district board of a district, subject to the unanimous consent of the bank and associations in the district that would be affected by the reallocation, may reallocate the amount of stock required to be purchased by banks and associations in the district under paragraph (1) to equitably reflect the ability of the banks and associations to pay, except that—

"(A) the total amount of stock purchased by banks and associations in the district under this paragraph shall equal the total amount of stock required to be purchased by the banks and associations under paragraph (1); and

"(B) the board may not impair the stock of an association in carrying out this paragraph; and

"(C) a district board's authority to reallocate stock purchases under this paragraph shall be limited to reallocation among like associations of the amount of stock required to be purchased by such associations; reallocation of the amount of stock required to be purchased by production credit associations among such associations and the district Federal intermediate credit bank; and reallocation of the amount of stock required to be purchased by Federal land bank associations among such associations and the district Federal land bank. Other reallocations than those enumerated above shall not be permitted.

"(b) COMPUTATIONS.—For purposes of subsection (a), the unallocated retained earnings and assets of a System institution shall be computed in accordance with generally accepted accounting principles on the basis of the financial statement of the institution on December 31, 1986.

"(c) NOTICE.—Within 15 days after the retirement of the obligations of the Capital Corporation under section 6.9—

"(1) the Financial Assistance Corporation shall notify each System institution of the amount of stock such institution is required to purchase under subsection (a); or

"(2) in the case of a district in which the district board has reallocated the stock purchase requirement in accordance with subsection (a)(2), the district board shall notify each System institution in the district of the amount of stock such institution is required to purchase under subsection (a).

"(d) INSTITUTION REQUIREMENTS AFTER NOTICE.—Within 15 days after a System institution is notified of the amounts due under subsection (c), the institution shall purchase from the Financial Assistance Corporation the amount of stock required to be purchased by the institution under this section. No further stock purchases, obligations, or assessments shall be required beyond that provided in section 6.26 and this section.

"(e) JURISDICTION OVER ACTIONS.—Notwithstanding any other provision of law, the United States district court for the District of Columbia shall have exclusive jurisdiction over any action brought under or arising out of this section. No suit or proceeding shall be maintained for the recovery of any amount of stock alleged to have been erroneously or illegally purchased, and no suit or proceeding shall be maintained to enjoin or otherwise prevent or impede the giving of notice or the purchase of stock required under this section, unless the amount of stock required to be purchased under this section has been purchased and paid for in full.

12 USC 2278b-10.
State and local governments.

"SEC. 6.30. EXEMPTION FROM TAXATION.

"(a) ASSETS.—The Financial Assistance Corporation, and the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by the Financial Assistance Corporation to the same extent, according to its value, as other similar property held by other persons is taxed.

"(b) OBLIGATIONS.—The notes, bonds, debentures, and other obligations issued by the Financial Assistance Corporation shall be accorded the same tax treatment as System-wide obligations.

"SEC. 6.31. TERMINATION.

12 USC 2278b-11.

"(a) FINANCIAL ASSISTANCE CORPORATION.—The Financial Assistance Corporation and the authority provided to such Corporation by this subtitle shall terminate on the maturity and full payment of all debt obligations issued under section 6.26(a).

"(b) ACCOUNTS.—Simultaneously with the termination of the Financial Assistance Corporation as provided in subsection (a), any funds in the accounts established under section 6.25 shall be transferred to the Insurance Fund established under section 5.60.".

SEC. 202. REVOLVING FUND.

Section 4.0 (12 U.S.C. 2151) is amended to read as follows:

"SEC. 4.0. REVOLVING FUND.

"(a) REVOLVING FUND.—The revolving fund established by this section (in effect immediately before the date of the enactment of the Agricultural Credit Act of 1987) shall be available to the Farm Credit Administration during the period, and for the purposes provided for, in sections 6.7(b) and 6.13.

"(b) FARM CREDIT INSURANCE FUND.—On the date the first premium is due and payable under section 5.56(c), any funds remaining in the revolving fund shall be transferred to the Farm Credit Insurance Fund in accordance with the terms and conditions established by the Farm Credit Administration.".

SEC. 203. UNSAFE OR UNSOUND PRACTICES.

Paragraph (4) of section 5.35 (12 U.S.C. 2271(4)) is amended to read as follows:

"(4) the term 'unsafe or unsound practice' shall—

"(A) have the meaning given to it by the Farm Credit Administration by regulation, rule, or order; and

"(B) during the period beginning on the date of the enactment of this paragraph and ending December 31, 1992, mean any noncompliance by a System institution, as determined by the Farm Credit Administration in consultation with the Assistance Board, with any term or condition imposed on the institution by the Assistance Board under section 6.6.".

SEC. 204. FEDERAL FARM CREDIT BANKS FUNDING CORPORATION.

(a) IN GENERAL.—Section 4.9 (12 U.S.C. 2160) is amended to read as follows:

"SEC. 4.9. FEDERAL FARM CREDIT BANKS FUNDING CORPORATION.

"(a) ESTABLISHMENT.—There is hereby established the Federal Farm Credit Banks Funding Corporation (hereinafter in this section referred to as the 'Corporation'), which shall be an institution of the Farm Credit System.

"(b) DUTIES.—The Corporation—

"(1) shall issue, market, and handle the obligations of the banks of the Farm Credit System, and interbank or intersystem flow of funds as may from time to time be required;

"(2) acting for the banks of the Farm Credit System, subject to approval of the Farm Credit Administration, shall determine the amount, maturities, rates of interest, terms, and conditions of participation by the several banks in each issue of joint, consolidated, or System-wide obligations; and

"(3) shall exercise such other powers as were provided to the Funding Corporation in accordance with its charter issued under section 4.25, in effect immediately before the date of the enactment of the Agricultural Credit Act of 1987.

"(c) OFFICERS AND COMMITTEES.—

"(1) DESIGNATION.—The board of directors may designate such officers and committees for such terms and such purposes as may be agreed on by the board.

"(2) ISSUANCE OF OBLIGATIONS.—When appropriate to the board's functions under this section, a committee of the board of directors of the Corporation, or representatives thereof, may act on behalf of the board in connection with the issuance of joint, consolidated, and System-wide obligations.

"(d) BOARD OF DIRECTORS.—

"(1) COMPOSITION.—The board of directors shall be composed of nine voting members and one nonvoting member, as follows:

"(A) Four voting members shall be current or former directors of the System banks elected by the shareholders of the Corporation.

"(B) Three voting members shall be chief executive officers or presidents of System banks elected by the shareholders of the Corporation.

"(C) Two voting members shall be appointed by the members elected under subparagraphs (A) and (B) after the elected members have received recommendations for such appointments from, and consulted with, the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System. The appointed members shall be selected from United States citizens—

"(i) who are not borrowers from, shareholders in, or employees or agents of any System institution, who are not affiliated with the Farm Credit Administration, and who are not actively engaged with a bank or investment organization that is a member of the Corporation's selling group for System-wide securities; and

"(ii) who are experienced or knowledgeable in corporate and public finance, agricultural economics, and financial reporting and disclosure.

"(D) The president of the Corporation shall serve as a nonvoting member of the board.

In selecting candidates under subparagraphs (A) and (B), due consideration shall be given to choosing individuals knowledgeable in agricultural economics, public and corporate finance, and financial reporting and disclosure.

"(2) NONVOTING REPRESENTATIVES.—

"(A) ASSISTANCE BOARD.—During the period in which the Assistance Board is in existence, the board of directors of the Assistance Board shall designate one of its directors to serve as a nonvoting representative to the board of directors of the Corporation.

"(B) INSURANCE CORPORATION.—After such period, the board of directors of the Farm Credit System Insurance

Corporation may designate one of its directors to serve as a nonvoting representative to the board of directors of the Federal Farm Credit Banks Funding Corporation.

"(C) MEETINGS.—The persons so designated by the Assistance Board and by the Farm Credit System Insurance Corporation may attend and participate in all deliberations of the board of directors of the Federal Farm Credit Banks Funding Corporation.

"(e) TRANSITIONAL AUTHORITY.—Until a quorum of the board of directors of the Corporation is elected or appointed, the finance committee established under section 4.5 in effect before the date of the enactment of this section, and the fiscal agency established under section 4.9 in effect before such date of enactment, shall continue to operate as if this section had not been enacted.".

(b) CONFORMING REPEALER.—Section 4.5 (12 U.S.C. 2156) is repealed.

SEC. 205. REGULATORY ACCOUNTING PROCEDURES.

(a) DATES FOR PURCHASE AND SALE OF OBLIGATIONS.—Section 4.8(b) (12 U.S.C. 2159(b)) is amended by striking out "1988" each place it appears and inserting in lieu thereof "1992".

(b) ANNUAL REPORTS.—Section 5.19(b) (12 U.S.C. 2253(b)) is amended— 12 USC 2254.

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraphs:

"(2) In accordance with the regulations of the Farm Credit Administration, for the period ending December 31, 1992, System institutions are authorized to use the authorities contained in this section except as otherwise provided in section 6.6.

"(3) Any preferred stock issued under section 6.27 shall be subordinated to, and impaired before, other stock or equities of the institution.".

SEC. 206. FINANCIAL REPORT.

12 USC 2278b note.

During the period beginning September 30, 2001, and ending December 31, 2001, the Farm Credit Administration shall review and evaluate the financial condition of the Farm Credit System and report to the Secretary of the Treasury and the appropriate committees of Congress on—

(1) the general financial condition of each System institution;

(2) the total outstanding principal of debt obligations issued under section 6.26 of the Farm Credit Act of 1971 (as added by section 201 of this Act); and

(3) the ability of each System institution to retire, at par value, preferred stock issued by the institution in accordance with section 6.27 of the Farm Credit Act of 1971 (as added by section 201 of this Act).

SEC. 207. CONFORMING AMENDMENTS.

(a) REPEAL.—The following provisions are hereby repealed:

(1) Section 4.1 (12 U.S.C. 2152).

(2) Section 5.17(a)(8) (12 U.S.C. 2252(a)(8)).

(3) Part D1 of title IV (12 U.S.C. 2216 et seq.).

(b) EFFECTIVE DATE.—The repeals made by subsection (a) shall take effect 15 days after the date of the enactment of this Act. 12 USC 2152 note.

(c) Definition of Bank.—Section 4.4 (12 U.S.C. 2155) is amended by striking out subsection (c) and by redesignating subsection (d) as subsection (c).

(d) Redesignation.—Section 5.35(3) (12 U.S.C. 2271(3)) is amended by striking out "Capital Corporation" and inserting in lieu thereof "Financial Assistance Corporation.".

TITLE III—CAPITALIZATION OF SYSTEM INSTITUTIONS

12 USC 2154 note.

SEC. 301. CAPITALIZATION OF SYSTEM INSTITUTIONS.

(a) Minimum Capital Adequacy Standards.—

(1) In general.—

Regulations.

(A) Establishment.—Within 120 days after the date of the enactment of this Act, the Farm Credit Administration shall issue regulations under section 4.3(a) of the Farm Credit Act of 1971 (12 U.S.C. 2154(c)) that establish minimum permanent capital adequacy standards for Farm Credit System institutions.

(B) Basis for establishment.—The standards established under subparagraph (A) shall be based on the financial statements of the institution prepared in accordance with generally accepted accounting principles.

(C) Ratio of capital to assets.—The standards established under subparagraph (A) shall specify fixed percentages representing the ratio of permanent capital of the institution to the assets of the institution, taking into consideration relative risk factors as determined by the Farm Credit Administration.

(D) Phase-in period.—The standards established under subparagraph (A) shall be phased in during the 5-year period beginning on the date of the enactment of this Act.

(2) Emergency power not available.—The Farm Credit Administration shall not invoke the emergency provisions of section 5.17(b)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2251(b)(2)) with respect to the issuance of the proposed regulations required under paragraph (1)(A).

(3) Prohibitions during transition period.—During the 5-year period specified in paragraph (1)(C), the Farm Credit Administration shall not initiate any receivership, conservatorship, liquidation, or enforcement action against any System institution certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971 (as added by section 201 of this Act), solely because of the failure of such institution to meet minimum permanent capital adequacy standards unless such action is recommended or concurred in by the Farm Credit System Assistance Board established under section 6.0 of such Act (as added by section 201 of this Act).

(4) Permanent capital.—For purposes of this subsection, the term "permanent capital" has the same meaning given that term in section 4.3A(a)(1) of the Farm Credit Act of 1971.

(b) Capitalization Bylaws.—Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.3 the following new section:

"SEC. 4.3A. CAPITALIZATION OF SYSTEM INSTITUTIONS.

12 USC 2154a.

"(a) DEFINITIONS.—As used in this section:

"(1) PERMANENT CAPITAL.—The term 'permanent capital' means current year retained earnings, allocated and unallocated earnings, all surplus (less allowances for losses), and stock issued by a System institution, except stock that—

"(A) may be retired by the holder thereof on repayment of the holder's loan, or otherwise at the option or request of the holder; or

"(B) is protected under section 4.9B or is otherwise not at risk.

"(2) STOCK.—The term 'stock' means voting and nonvoting stock (including preferred stock), equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other forms and types of equities.

"(b) ADOPTION OF BYLAWS.—Subject to approval by shareholders under subsection (c)(2), each bank and association shall adopt bylaws, developed by its board of directors, that provide for the capitalization of the institution in accordance with subsection (c)(1).

"(c) REQUIREMENTS OF BYLAWS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, the bylaws adopted under subsection (b)—

"(A) shall provide for such classes, par value, and amounts of the stock of the institution, the manner in which such stock shall be issued, transferred, and retired, and the payment of dividends and patronage refunds, as determined appropriate by the Board of Directors, subject to this section;

"(B) may provide for the charging of loan origination fees as determined appropriate by the Board of Directors;

"(C) shall enable the institution to meet the capital adequacy standards established under the regulations issued under section 4.3(a);

"(D) shall provide for the issuance of voting stock, which may only be held by—

"(i) borrowers who are farmers, ranchers, or producers, or harvesters of aquatic products, and cooperative associations eligible to borrow from System institutions under this Act;

"(ii) in the case of a Central Bank for Cooperatives, other banks for cooperatives; and

"(iii) in the case of banks other than banks for cooperatives, System associations;

"(E) shall require that—

"(i) as a condition of borrowing from or through the institution, any borrower who is entitled to hold voting stock or participation certificates shall, at the time a loan is made, acquire voting stock or participation certificates in an amount not less than $1,000 or 2 percent of the amount of the loan, whichever is less; and

"(ii) within 2 years after the loan of a borrower is repaid in full, any voting stock held by the borrower be converted to nonvoting stock;

"(F) may provide that persons who are not borrowers from the institution may hold nonvoting stock of the institution;

"(G) shall require that any holder of stock issued before the adoption of bylaws under this section exchange a portion of such stock for new voting stock;

"(H) do not need to provide for maximum or minimum standards of borrower stock ownership based on a percentage of the loan of the borrower;

"(I) shall permit the retirement of stock at the discretion of the institution if the institution meets the capital adequacy standards established under standards issued under section 4.3(a); and

"(J) shall permit stock to be transferable.

"(2) EFFECTIVE DATE.—The bylaws adopted by the board of directors of a System institution under subsection (b) shall take effect only on approval of a majority of the stockholders of such institution present and voting, or voting by written proxy, at a duly authorized stockholders' meeting.

"(d) REDUCTION OF CAPITAL.—

"(1) GENERAL RULE.—Except as provided in paragraph (2) and in section 4.9A, the board of directors of a System institution may not reduce the permanent capital of the institution through the payment of patronage refunds or dividends, or the retirement of stock or allocated equities if, after or due to such action, the permanent capital of the institution would thereafter fail to meet the minimum capital adequacy standards established under section 4.3(a).

Taxes.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to the payment of noncash patronage refunds by any institution exempt from Federal income tax if the entire refund paid qualifies as permanent capital. Notwithstanding paragraph (1), any System institution subject to Federal income tax may pay patronage refunds partially in cash as long as the cash portion of the refund is the minimum amount required to qualify the refund as a deductible patronage distribution for Federal income tax purposes and the remaining portion of the refund paid qualifies as permanent capital.

"(e) COMPLIANCE.—The Farm Credit Administration may issue a directive that requires compliance with subsection (d), to the board of directors of any System institution that fails to comply therewith.

"(f) CONSTRUCTION.—This section shall not be construed to affect the provisions of this Act that confer on System institutions a lien on borrower stock or other equities and the privilege to retire or cancel such stock or other equities for application against the indebtedness on a defaulted or restructured loan.

"(g) CONTROLLING AUTHORITY.—To the extent that any provision of this section is inconsistent with any other provision of this Act (other than section 4.9A), the provision of this section shall control.".

SEC. 302. INSURANCE OF OBLIGATIONS OF FARM CREDIT SYSTEM.

Title V (12 U.S.C. 2221 et seq.) is amended by adding at the end thereof the following new part:

"PART E—FARM CREDIT SYSTEM INSURANCE CORPORATION

"SEC. 5.51. DEFINITIONS. 12 USC 2277a.

"As used in this part:

"(1) BOARD OF DIRECTORS.—The term 'Board of Directors' means the Board of Directors of the Corporation.

"(2) CORPORATION.—The term 'Corporation' means the Farm Credit System Insurance Corporation established in section 5.52.

"(3) INSURED OBLIGATION.—The term 'insured obligation' means any note, bond, debenture, or other obligation issued under subsection (c) or (d) of section 4.2—

"(A) on or before the date of the enactment of this part, on behalf of any System bank; and

"(B) after such date, on behalf of any insured System bank.

"(4) INSURED SYSTEM BANK.—The term 'insured System bank' means any System bank whose participation in notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 4.2 is insured under this part.

"(5) RECEIVER.—The term 'receiver' means a receiver or conservator appointed by the Farm Credit Administration to liquidate a System institution.

"(6) STATE.—The term 'State' means any of the 50 States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands.

"SEC. 5.52. ESTABLISHMENT OF FARM CREDIT SYSTEM INSURANCE CORPORATION. 12 USC 2277a-1.

"There is hereby established the Farm Credit System Insurance Corporation which shall insure, in accordance with this part, the timely payment of principal and interest on notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 4.2 on behalf of one or more System banks all of which are entitled to the benefits of insurance under this part.

"SEC. 5.53. BOARD OF DIRECTORS. 12 USC 2277a-2.

"(a) ESTABLISHMENT.—The Corporation shall be managed by a Board of Directors that shall consist of the members of the Farm Credit Administration Board.

"(b) CHAIRMAN.—The Board of Directors shall be chaired by any Board member other than the Chairman of the Farm Credit Administration Board.

"SEC. 5.54. COMMENCEMENT OF INSURANCE. 12 USC 2277a-3.

"Effective beginning on January 1, 1989, or 12 months after the date of the enactment of this part, whichever is later, each System bank shall be an insured System bank and shall be subject to this part. Each System bank that is authorized to commence or resume operations under a title of this Act shall be an insured System bank from the time of such authorization. A bank resulting from the merger or consolidation of insured System banks shall be an insured System bank.

12 USC 2277a-4.

"SEC. 5.55. PREMIUMS.

"(a) AMOUNT IN FUND NOT EXCEEDING SECURE BASE AMOUNT.—Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year shall be equal to the sum of—

"(1) the annual average principal outstanding for such year on loans made by the bank that are in accrual status, multiplied by 0.0015; and

"(2) the annual average principal outstanding for such year on loans made by the bank that are in nonaccrual status, multiplied by 0.0025.

"(b) AMOUNT IN FUND EXCEEDING SECURE BASE AMOUNT.—At any time the aggregate of amounts in the Insurance Fund exceeds the secure base amount, the Corporation shall reduce the annual premium due from each insured System bank for the following calendar year by a percentage determined by the Corporation so that the aggregate of the premiums payable by all System banks is sufficient to ensure that the aggregate of amounts in the Insurance Fund after such premiums are paid is not less than the secure base amount at such time.

"(c) SECURE BASE AMOUNT.—For purposes of this part, the term 'secure base amount' means, with respect to any point in time, 2 percent of the aggregate outstanding insured obligations of all insured System banks at such time, or such other percentage of the aggregate amount as the Corporation in its sole discretion determines is actuarially sound to maintain in the Insurance Fund taking into account the risk of insuring outstanding insured obligations.

"(d) DETERMINATION OF PRINCIPAL OUTSTANDING.—For the purpose of subsection (a), the principal outstanding on all loans made by a Federal intermediate credit bank shall be determined based on all loans made—

"(1) by the production credit associations in the district in which such bank is located;

"(2) by any bank, company, institution, corporation, union, or association described in section 2.3(a)(2), that is able to make such loans because such entity is receiving, or has received, funds provided through the Federal intermediate credit bank; and

"(3) by such Federal intermediate credit bank (other than loans made to any party described in paragraph (1) or (2)).

12 USC 2277a-5.

"SEC. 5.56. CERTIFICATION OF PREMIUMS.

"(a) FILING CERTIFIED STATEMENT.—Annually, on a date to be determined in the sole discretion of the Board of Directors, each insured System bank that became insured before the beginning of such year shall file with the Corporation a certified statement showing the annual average principal outstanding on loans made by the bank that are in accrual status, the annual average principal outstanding on loans that are in nonaccrual status, and the amount of the premium due the Corporation from the bank for such year.

"(b) CONTENTS AND FORM OF STATEMENT.—The certified statement required to be filed with the Corporation under subsection (a) shall be in such form and set forth such supporting information as the Board of Directors shall prescribe, and shall be certified by the president of the bank or any other officer designated by its board of directors that to the best of the person's knowledge and belief the statement is true, correct, complete, and has been prepared in accordance with this part and all regulations issued thereunder.

"(c) Initial Premium Payment.—Each System bank shall pay to the Corporation the amount of the initial premium it is required to certify under subsection (a) as soon as practicable after January 1, 1990, based on the application of section 5.55 to the accruing loan volume of the bank for calendar year 1989.

"(d) Subsequent Premium Payments.—The premium payments required from insured System banks under subsection (a) shall be made not less frequently than annually in such manner and at such time or times as the Board of Directors shall prescribe, except that the amount of the premium shall be established not later than 60 days after filing the certified statement setting forth the amount of the premium.

"(e) Regulations.—The Board of Directors shall prescribe all rules and regulations necessary for the enforcement of this section. The Board of Directors may limit the retroactive effect, if any, of any of its rules or regulations.

"SEC. 5.57. OVERPAYMENT AND UNDERPAYMENT OF PREMIUMS; REMEDIES.

12 USC 2277a-6.

"(a) Overpayments.—The Corporation may refund to any insured System bank any premium payment made by the bank exceeding the amount due the Corporation.

"(b) Underpayments.—

"(1) Recovery.—The Corporation, in a suit brought at law or in equity in any court of competent jurisdiction, may recover from any insured System bank the amount of any unpaid premium lawfully payable by the bank to the Corporation, whether or not the bank has made any report of condition required under section 5.55 or filed any certified statement under section 5.56, and whether or not suit has been brought to compel the bank to make any such report or file any such statement.

"(2) Limitation.—Any action or proceeding for the recovery of any premium due the Corporation under paragraph (1), or for the recovery of any amount paid to the Corporation exceeding the amount due the Corporation, shall be brought within 5 years after the right accrued for which the claim is made. If an insured System bank has made or filed with the Corporation a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of a premium, the claim shall not be deemed to have accrued until the Corporation discovers that the certified statement is false or fraudulent.

"(c) Failure to File Statement or Pay Premium.—

"(1) Forfeiture of rights.—If any insured System bank fails to file any certified statement required to be filed by such bank under section 5.56 or fails to pay any premium required to be paid by such bank under any provision of this part, and if the bank does not correct such failure within 30 days after the Corporation gives written notice to an officer of the bank, citing this subsection and stating that the bank has failed to so file or pay as required by law, all the rights, privileges, and franchises of the bank granted to it under this Act shall be thereby forfeited.

"(2) ENFORCEMENT.—The Corporation may bring an action to enforce this subsection against any such bank in any court of competent jurisdiction for the judicial district in which the bank is located.

"(3) LIABILITY OF DIRECTORS.—Every director who participated in or assented to a failure (described in paragraph (1)) shall be held personally liable for all consequential damages.

"(d) EFFECT ON OTHER REMEDIES.—The remedies provided in subsections (b) and (c) shall not be construed as limiting any other remedies against any insured System bank, but shall be in addition thereto.

12 USC 2277a-7.

"SEC. 5.58. GENERAL CORPORATE POWERS.

"On the date of the enactment of this part, the Corporation shall become a body corporate and as such shall have the following powers:

"(1) SEAL.—The Corporation may adopt and use a corporate seal.

"(2) SUCCESSION.—The Corporation may have succession until dissolved by an Act of Congress.

"(3) CONTRACTS.—The Corporation may make contracts.

"(4) LEGAL ACTIONS.—

"(A) IN GENERAL.—The Corporation may sue and be sued, complain and defend, in any court of law or equity, State or Federal.

"(B) JURISDICTION.—All suits of a civil nature at common law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy, and the Corporation, without bond or security, may remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal then in effect.

"(C) ATTACHMENT AND EXECUTION.—No attachment or execution may be issued against the Corporation or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court.

"(D) AGENT FOR SERVICE OF PROCESS.—The Board of Directors shall designate an agent on whom service of process may be made in any State or jurisdiction in which any insured System bank is located.

"(5) OFFICERS AND EMPLOYEES.—

"(A) IN GENERAL.—The Corporation may appoint by its Board of Directors such officers and employees as are not otherwise provided for in this part, to define their duties, fix their compensation, and require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees.

"(B) EMPLOYEES OF THE UNITED STATES.—Nothing in this or any other Act shall be construed to prevent the appointment and compensation, as an officer or employee of the Corporation, of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.

"(6) BYLAWS.—The Corporation may prescribe, by its Board of Directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

"(7) INCIDENTAL POWERS.—The Corporation may exercise by its Board of Directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this part, and such incidental powers as shall be necessary to carry out the powers so granted.

"(8) INFORMATION.—The Corporation may, when necessary, make examinations of, and require information and reports from, System institutions, as provided in this part.

Reports.

"(9) RECEIVER.—The Corporation may act as receiver.

"(10) RULES AND REGULATIONS.—The Corporation may prescribe by its Board of Directors such rules and regulations as it considers necessary to carry out this part (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).

"SEC. 5.59. CONDUCT OF CORPORATE AFFAIRS; EXAMINATION OF INSURED SYSTEM BANKS.

12 USC 2277a-8.

"(a) CONDUCT OF CORPORATE AFFAIRS.—

"(1) FAIR ADMINISTRATION.—The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination.

"(2) OBLIGATIONS AND EXPENSES.—The Board of Directors shall determine and prescribe the manner in which the obligations of the Corporation may be incurred and the expenses of the Corporation may be allowed and paid.

"(3) USE OF MAILS.—The Corporation may use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

"(4) USE OF INFORMATION.—The Corporation, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out this part.

"(b) EXAMINATION OF INSURED SYSTEM BANKS.—

"(1) APPOINTMENT OF EXAMINERS.—The Board of Directors may appoint examiners who may, on behalf of the Corporation, examine any insured System bank, any production credit association, and any System institution in receivership, if in the judgment of the Board of Directors an examination of the institution is necessary.

"(2) POWERS AND REPORT.—Each examiner may make a thorough examination of all affairs of the institution, and shall make a full and detailed report of the condition of the institution to the Corporation.

"(3) APPOINTMENT OF CLAIM AGENTS.—The Board of Directors, in like manner, shall appoint claim agents who may investigate and examine all claims for insured obligations.

"(c) OATH, AFFIRMATIONS, AND TESTIMONY.—In connection with examinations under this section, the Corporation or its designated representatives may administer oaths and affirmations, and may examine, take, and preserve testimony under oath, as to any matter with respect to the affairs of any such institution.

"(d) COOPERATION WITH FCA EXAMINERS.—The examiners appointed by the Board of Directors shall cooperate to the maximum extent possible with examiners of the Farm Credit Administration to minimize duplication of effort and minimize costs.

12 USC 2277a-9.

"SEC. 5.60. INSURANCE FUND.

"(a) ESTABLISHMENT.—There is hereby established a Farm Credit Insurance Fund (hereinafter referred to in this section as the 'Insurance Fund') for insuring the timely payment of principal and interest on insured obligations. The assets in the Fund shall be held by the Corporation for the uses and purposes of the Corporation.

"(b) AMOUNTS IN FUND.—

Effective date.

"(1) REVOLVING FUND.—All amounts in the revolving fund established by section 4.0 (in effect immediately before the date of the enactment of this part) shall be transferred into the Farm Credit Insurance Fund on January 1, 1989, or 12 months after the date of the enactment of this part, whichever is later, except that the obligations to, and rights of, any person in such revolving fund arising out of any event or transaction before the date of the enactment of this part shall remain unimpaired.

"(2) DEPOSIT OF PREMIUMS.—Beginning 5 years after the date of the enactment of this part, the Corporation shall deposit in the Insurance Fund all premium payments received by the Corporation under this part.

"(c) USES OF FUND.—

"(1) MANDATORY USE.—Beginning 5 years after the date of the enactment of this part, the Corporation shall expend amounts in the Insurance Fund to the extent necessary to insure the timely payment of interest and principal on insured obligations.

"(2) OTHER MANDATORY USES.—Beginning 5 years after the date of enactment of this part, the Corporation shall use amounts in the Insurance Fund to—

"(A) satisfy System institution defaults through the purchase of preferred stock or other payments as provided for in section 6.26(d)(3); and

"(B) ensure the retirement of borrower stock at par value and participation certificates or other similar equities at face value as provided for under section 4.9A(c)(2).

"(3) PERMISSIVE USES.—The Corporation may expend amounts in the Insurance Fund to carry out section 5.61 and to cover the operating costs of the Corporation.

"(4) CORPORATE PAYMENT OR REFUNDS.—The Corporation shall make all payments and refunds required to be made by the Corporation under this part from amounts in the Insurance Fund.

12 USC 2277a-10.

"SEC. 5.61. POWERS OF CORPORATION WITH RESPECT TO TROUBLED INSURED SYSTEM BANKS.

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—The Corporation, in its sole discretion and on such terms and conditions as the Board of Directors may prescribe, may make loans to, purchase the assets or securities of, assume the liabilities of, or make contributions to, any insured System bank if such action is taken—

"(A) to prevent the placing of the bank in receivership;

"(B) to restore the bank to normal operation; or

"(C) to reduce the risk to the Corporation posed by the bank when severe financial conditions threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources.

"(2) ENUMERATED POWERS.—

"(A) FACILITATION OF MERGERS OR CONSOLIDATION.—To facilitate a merger or consolidation of a qualifying insured System bank, the sale of assets of such insured System bank to another insured System bank, the assumption of such insured System bank's liabilities by such other insured System bank, or the acquisition of the stock of such insured System bank by such other insured System bank, the Corporation, in its sole discretion and on such terms and conditions as the Board of Directors may prescribe, may—

"(i) purchase any such assets or assume any such liabilities;

"(ii) make loans or contributions to, or purchase debt securities of, such other insured System bank;

"(iii) guarantee such other insured System bank against loss by reason of such other insured System bank's merging or consolidating with, or assuming the liabilities and purchasing the assets of, such insured System bank; or

"(iv) take any combination of the actions referred to in the preceding clauses.

"(B) QUALIFYING INSURED SYSTEM BANK.—For purposes of subparagraph (A), the term 'qualifying insured System bank' means any insured System bank that—

"(i) is in receivership;

"(ii) is, in the judgment of the Board of Directors, in danger of being placed in receivership; or

"(iii) is, in the sole discretion of the Corporation, an insured System bank that, when severe financial conditions exist that threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources, requires assistance under subparagraph (A) to lessen the risk to the Corporation posed by such insured System bank under such threat of instability.

"(3) LIMITATION.—

"(A) COST OF LIQUIDATION.—Assistance shall not be provided to an insured System bank under this subsection if the amount of such assistance exceeds an amount determined by the Corporation to be the cost of liquidating the bank (including paying the insured obligations issued on behalf of the bank). This subparagraph shall not apply to the provision of assistance to a bank if the Corporation determines that the continued operation of the bank is essential to provide adequate agricultural credit services in the area of operations of the bank.

"(B) PURCHASE OF STOCK.—The Corporation may not use its authority under this subsection to purchase any stock of an insured System bank. The preceding sentence shall not be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect the financial interests of the Corporation.

"(4) SUBORDINATION.—Any assistance provided under this subsection may be in subordination to the rights of owners of obligations and other creditors.

"(5) REPORTS.—The Corporation, in its annual report to Congress, shall report the total amount saved, or it estimates to be saved, by the Corporation exercising the authority provided to the Corporation in this subsection.

"(b) AUTHORITY TO PLEDGE OR SELL ASSETS.—The Corporation, in its discretion, may make loans on the security of, or may purchase, and liquidate or sell, any part of the assets of, any insured System bank that is placed in receivership because of the inability of the bank to pay principal or interest on any of its notes, bonds, debentures, or other obligations in a timely manner.

"(c) SUBROGATION.—

"(1) IN GENERAL.—On the payment to an owner of an insured obligation issued on behalf of an insured System bank in receivership, the Corporation shall be subrogated to all rights of the owner against the bank to the extent of the payment.

Claims.

"(2) RECEIPT OF DIVIDENDS.—Subrogation under paragraph (1) shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of the bank as would have been payable to the owner on a claim for the insured obligation.

"(d) RIGHT TO ASSETS.—Any agreement that shall diminish or defeat the right, title, or interest of the Corporation in any asset acquired by such Corporation under this section, either as security for a loan or by purchase, shall not be valid against the Corporation unless the agreement—

"(1) is in writing;

"(2) is executed by the bank and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the bank;

"(3) has been approved by the board of directors of the bank or its loan committee, which approval shall be reflected in the minutes of the board or committee; and

"(4) has been, continuously, from the time of its execution, an official record of the bank.

"(e) INSURED SYSTEM BANK.—As used in this section, the terms 'insured System bank' and 'bank' include each production credit association.

"(f) EFFECTIVE DATE.—The Corporation shall not exercise any authority under this section during the 5-year period beginning on the date of the enactment of this part.

12 USC 2277a-11.

"SEC. 5.62. INVESTMENT OF FUNDS.

"Money of the Corporation not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

12 USC 2277a-12.
State and local governments.

"SEC. 5.63. EXEMPTION FROM TAXATION.

"Notwithstanding any other provision of law, the Corporation, including its franchise, and its capital, reserves, surplus, and income, shall be exempt from all taxation imposed by the United

States, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, county, municipal, and local taxation to the same extent according to its value as other real property is taxed.

"SEC. 5.64. REPORTS.

12 USC 2277a-13.

"(a) In General.—The Corporation annually shall prepare and submit to Congress a report of the operations of the Corporation, as soon as practicable after the first day of January in each calendar year.

"(b) Contents.—Reports submitted under subsection (a) shall include information concerning the—

"(1) aggregate amount in the Insurance Fund at the close of the preceding calendar year;

"(2) projections of the costs to be incurred by the Corporation during the calendar year; and

"(3) estimates of the aggregate amount to be collected as premiums during the calendar year.

"SEC. 5.65. PROHIBITIONS.

12 USC 2277a-14.

"(a) Corporate Name.—

"(1) Use of corporate name.—It shall be unlawful for any person or entity to use the words 'Farm Credit System Insurance Corporation' or any combination of such words that would have the effect of leading the public to believe that there is any connection between such person or entity and the Corporation, by virtue of the name under which such person or entity does business.

"(2) False representation.—

"(A) By outside person or entities.—It shall be unlawful for any person or entity to falsely represent by any device, that the notes, bonds, debentures, or other obligations of the person or entity are insured or in any way guaranteed by the Corporation.

"(B) System banks.—It shall be unlawful for any insured System bank or person that markets insured obligations to falsely represent the extent to which or the manner in which such obligations are insured by the Corporation.

"(3) Penalty.—Any person or entity that willfully violates any provision of this subsection shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.

"(b) Payments or Distributions While in Default.—

"(1) In general.—It shall be unlawful for any insured System bank to pay any dividends on bank stock or participation certificates or interest on the capital notes or debentures of such bank (if such interest is required to be paid only out of net profits) or distribute any of the capital assets of such bank while the bank remains in default in the payment of any premium due to the Corporation.

"(2) Liability of directors.—Each director or officer of any insured System bank who willfully participates in the declaration or payment of any dividend or interest or in any distribution in violation of this subsection shall be fined not more than $1,000, imprisoned not more than 1 year, or both.

"(3) Applicability.—This subsection shall not apply to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

"(c) Failure to File Statement or Pay Premium.—

"(1) In general.—Any insured System bank that willfully fails or refuses to file any certified statement or pay any premium required under this part shall be subject to a penalty of not more than $100 for each day that such violations continue, which penalty the Corporation may recover for its use.

"(2) Applicability.—This subsection shall not apply to conduct with respect to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

"(d) Employment of Persons Convicted of Criminal Offenses.—

"(1) In general.—Except with the prior written consent of the Farm Credit Administration, it shall be unlawful for any person convicted of any criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any insured System bank.

"(2) Penalty.—For each willful violation of paragraph (1), the bank involved shall be subject to a penalty of not more than $100 for each day during which the violation continues, which the Corporation may recover for its use.".

SEC. 303. JOINT AND SEVERAL LIABILITY OF BANKS.

(a) Clarification of Joint and Several Liability.—Subsection (a) of section 4.4 (12 U.S.C. 2155(a)) is amended to read as follows:

"(a)(1) Each bank of the System shall be fully liable on notes, bonds, debentures, or other obligations issued by it individually, and shall be liable for the interest payments on long-term notes, bonds, debentures, or other obligations issued by other banks operating under the same title of this Act.

"(2)(A) Each bank shall also be primarily liable for the portion of any issue of consolidated or System-wide obligations made on its behalf and be jointly and severally liable for the payment of any additional sums as called upon by the Farm Credit Administration in order to make payments of interest or principal which any bank primarily liable therefor shall be unable to make.

"(B) Such calls first shall be made on all nondefaulting banks in proportion to each such bank's proportionate share of the aggregate available collateral held by all such banks.

"(C) For purposes of this paragraph, the term 'available collateral' means the amount (determined at the close of the last calendar quarter ending before such call) by which a bank's collateral as described in section 4.3 exceeds the collateral required to support the bank's outstanding notes, bonds, debentures, and other similar obligations.

"(D) If the Farm Credit Administration makes any such call and the available collateral of all such banks does not fully satisfy the liability necessitating such calls, such calls shall be made on all nondefaulting banks in proportion to each such bank's remaining assets.

"(E) Any System bank that, pursuant to a call by the Farm Credit Administration, makes a payment of principal or interest to the holder of any consolidated or System-wide obligation issued on behalf of another System bank shall be subrogated to all rights of the holder against such other bank to the extent of such payment.

"(F) On making such a call with respect to obligations issued on behalf of a System bank, the Farm Credit Administration shall appoint a receiver for the bank, which shall expeditiously liquidate or otherwise wind up the affairs of the bank.".

(b) INSURANCE FUND CALLED ON BEFORE INVOKING JOINT AND SEVERAL LIABILITY.—Section 4.4 (12 U.S.C. 2155) is amended by adding at the end thereof the following new subsection:

"(e) Beginning 5 years after the date of the enactment of this subsection, the Farm Credit Administration shall not call on any System institution to satisfy the liability of the institution on any joint, consolidated, or System-wide obligation participated in by the institution or with respect to which the institution is primarily, or jointly and severally, liable, before the Farm Credit Insurance Fund is exhausted, even if the Fund is only able to make a partial payment because of insufficient amounts in the Fund.".

SEC. 304. ENHANCEMENT OF CAPITAL ADEQUACY OF BANKS.

Subsection (c) of section 4.3 (12 U.S.C. 2154(c)) is amended to read as follows:

"(c) Each bank shall have on hand at the time of issuance of any note, bond, debenture, or other similar obligation and at all times thereafter maintain, free from any lien or other pledge, notes and other obligations representing loans made under this Act or real or personal property acquired in connection with loans made under this Act, obligations of the United States or any agency thereof direct or fully guaranteed, other bank assets (including marketable securities) approved by the Farm Credit Administration, or cash, in an aggregate value equal to the total amount of notes, bonds, debentures, or other similar obligations outstanding for which the bank is primarily liable.".

SEC. 305. FEDERAL INTERMEDIATE CREDIT BANK ASSESSMENT POWER.

Section 2.5 (12 U.S.C. 2076) is amended—

(1) in the title, by inserting "; AUTHORITY TO PASS ALONG COST OF INSURANCE PREMIUMS" before the period;

(2) by inserting "(a)" before "The Federal"; and

(3) by adding at the end thereof the following new subsection:

"(b) Each Federal intermediate credit bank may assess each production credit association and other financing institution described in section 2.3(a)(2) in the district in which the bank is located to cover the costs of making premium payments under part E of title V. The assessment on any such association or other financing institution for any calendar year shall not exceed the sum of—

"(1) the annual average principal outstanding for such year on loans made by the association, or on loans made by the other financing institution and discounted with the Federal intermediate credit bank, that are in accrual status, multiplied by 0.0015; and

"(2) the annual average principal outstanding for such year on loans made by the association, or on loans made by the other financing institution and discounted with the Federal intermediate credit bank, that are in nonaccrual status, multiplied by 0.0025.".

SEC. 306. CONSERVATORS AND RECEIVERS.

Section 4.12(b) (12 U.S.C. 2183(b)) is amended—

(1) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon;

(2) by inserting after paragraph (5) the following new paragraph: "(6) the institution is unable to timely pay principal or interest on any insured obligation (as defined in section 5.51(3)) issued by the institution."; and

(3) in the second sentence by inserting before the period at the end thereof the following: ", and such receiver or conservator, after the 5-year period beginning on the date of the enactment of the Agricultural Credit Act of 1987, shall be the Farm Credit System Insurance Corporation".

TITLE IV—RESTRUCTURING THE FARM CREDIT SYSTEM

Subtitle A—Creation of Farm Credit Banks

SEC. 401. FARM CREDIT BANKS AND ASSOCIATIONS CHARTERS.

Effective date. 12 USC 2011 note.

Effective 6 months after the date of enactment of this Act, titles I and II of the Farm Credit Act of 1971 (12 U.S.C. 2000 et seq.) are amended to read as follows:

"TITLE I—FARM CREDIT BANKS

12 USC 2011.

"SEC. 1.3. ESTABLISHMENT, CHARTERS, TITLES, BRANCHES.

"(a) ESTABLISHMENT.—The banks established pursuant to the merger of each District Federal Intermediate Credit Bank and Federal Land Bank (hereinafter referred to in this title as 'Farm Credit Banks') shall be Federally chartered instrumentalities of the United States.

"(b) CHARTERS.—The charters or organization certificates of Farm Credit Banks may be modified from time to time by the Farm Credit Administration Board, not inconsistent with the provisions of this title, as may be necessary or expedient to implement this Act.

"(c) TITLE.—Each Farm Credit Bank may include in its title the name of the city in which it is located or other geographical designation.

"(d) BRANCHES.—Each Farm Credit Bank may establish such branches or other offices as may be appropriate for the effective operation of its business.

12 USC 2012.

"SEC. 1.4. BOARD OF DIRECTORS.

"Each Farm Credit Bank shall elect from its voting stockholders a board of directors of such number, for such term, in such manner, and with such qualifications, as may be required in its bylaws, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

"SEC. 1.5. GENERAL CORPORATE POWERS.

12 USC 2013.

"Each Farm Credit Bank shall be a body corporate and, subject to regulation by the Farm Credit Administration, shall have power to—

"(1) adopt and use a corporate seal;

"(2) have succession until dissolved under the provisions of this Act or other Act of Congress;

"(3) make contracts;

Contracts.

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal property necessary or convenient to its business;

"(6) make, participate in, and discount loans, make commitments for credit, accept advance payments, and provide services as authorized in this Act, and charge fees for such;

"(7) operate under the direction of its board of directors;

"(8) provide by its board of directors for a president, one or more vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, as provided in this Act, define their duties, and require surety bonds or make other provision against losses occasioned by employees;

"(9) prescribe by its board of directors—

"(A) the bylaws of such bank that shall not be inconsistent with law, providing for the classes of the stock of the bank and the manner in which such stock shall be issued, transferred, and retired;

"(B) the officers, employees, and agents of the bank as provided for;

"(C) the property of the bank acquired, held, and transferred;

"(D) the loans and discounts made by the bank;

"(E) the general business conducted by the bank; and

"(F) the privileges granted to the bank by law exercised and enjoyed;

"(10) borrow money and issue notes, bonds, debentures, or other obligations individually, or in concert with one or more other banks of the System, of such character, terms, conditions, and rates of interest as may be determined as provided for in this Act;

"(11) purchase nonvoting stock in, or pay in surplus to, and accept deposits or securities of funds from associations in its district, and pay interest on such funds;

"(12) participate with—

"(A) one or more other Farm Credit Banks in loans under this title on such terms as may be agreed on among such banks;

"(B) participate with one or more other Farm Credit System institutions in loans made under this title or other titles on the basis prescribed in section 4.18; and

"(C) participate with lenders that are not Farm Credit System institutions in loans that the bank is authorized to make under this title;

"(13) approve the salary scale of the officers and employees of the associations in its district, and the appointment and compensation of the chief executive officer thereof, and supervise the exercise by such associations of the functions vested in or delegated to them;

"(14) deposit the securities and current funds of the bank with any member bank of the Federal Reserve System or any insured State nonmember bank as defined in section 3 of the Federal Deposit Insurance Act and pay fees and receive interest on such as may be agreed, and when designated for that purpose by the Secretary of the Treasury, such bank—

"(A) shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary;

"(B) may be employed as a fiscal agent of the Government; and

"(C) shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of such bank;

except that no Government funds deposited under the provisions of this paragraph shall be invested in loans or bonds or other obligations of the bank;

"(15) buy and sell obligations of, or insured by, the United States or any agency thereof, or securities backed by the full faith and credit of any such agency, and make other investments as may be authorized under regulations issued by the Farm Credit Administration;

"(16) sell to lenders that are not Farm Credit System institutions interests in loans, and buy from and sell to Farm Credit System institutions interests in loans and other extensions of credit, and nonvoting stock as may be authorized under regulations issued by the Farm Credit Administration;

"(17) conduct studies and make and adopt standards for lending;

"(18) delegate to Federal land bank associations such functions as the bank determines appropriate;

Contracts.

"(19) amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of such items;

"(20) for loans made by the bank, require associations to endorse notes and other obligations of borrowers from the bank;

"(21) exercise through the board of directors or authorized officers, employees, or agents of the bank, all such incidental powers as may be necessary or expedient to carry on the business of the bank;

"(22) accept contributions to the capital of the bank from associations and account for such as authorized by the Farm Credit Administration; and

"(23) as may be authorized by the board of directors of the bank and approved by the Farm Credit Administration Board, agree with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose.

12 USC 2014.

"SEC. 1.6. FARM CREDIT BANK CAPITALIZATION.

"In accordance with section 4.3A, the Farm Credit Banks shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the bank and the manner in which bank stock shall be issued, held, transferred, and retired and bank earnings distributed.

"SEC. 1.7. LENDING AUTHORITY.

12 USC 2015.

"(a) Real Estate Loans.—The Farm Credit Banks are authorized to make or participate with other lenders in long-term real estate mortgage loans in rural areas, as defined by the Farm Credit Administration, or to producers or harvesters of aquatic products, and make continuing commitments to make such loans under specified circumstances, for a term of not less than 5 nor more than 40 years.

"(b) Intermediate Credit.—

"(1) In general.—The Farm Credit Banks are authorized to make loans and extend other similar financial assistance to and to discount for or purchase from—

"(A) any production credit association, or

"(B) any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institution, credit union, or any association of agricultural producers engaged in the making of loans to farmers and ranchers, and any corporation engaged in the making of loans to producers or harvesters of aquatic products,

any note, draft, or other obligation with the institution's endorsement or guarantee, the proceeds of which note, draft, or other obligation have been advanced to persons and for purposes eligible for financing by production credit associations as authorized by this Act.

"(2) Participation with other entities.—The Farm Credit Banks may participate with one or more production credit associations or other Farm Credit Banks in the making of loans to eligible borrowers and may participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act. The banks may own and lease or lease with option to purchase to persons eligible for assistance under this title, equipment needed in the operations of such persons.

"(3) Limitations on extension of financial assistance.—

"(A) General rule.—No paper shall be purchased from or discounted for, and no loans shall be made or other similar financial assistance extended by a Farm Credit Bank to any entity identified in paragraph (1)(B) of this subsection if the amount of such paper added to the aggregate liabilities of such entity, whether direct or contingent (other than bona fide deposit liabilities), exceeds ten times the paid-in and unimpaired capital and surplus of such entity or the amount of such liabilities permitted under the laws of the jurisdiction creating such institution, whichever is the lesser.

"(B) Limitation on national bank.—It shall be unlawful for any national bank which is indebted to any Farm Credit Bank, on paper discounted or purchased under paragraph (1), to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities direct or contingent, will exceed the limitation herein contained.

"(4) FCA regulations.—

"(A) In general.—All of the loans, financial assistance, discounts and purchases authorized by this section shall be subject to regulations of the Farm Credit Administration and shall be secured by collateral, if any, as may be required in such regulations.

"(B) **Requirement of regulations.**—The regulations shall assure that such loans, financial assistance, discounts, and purchases are available on a reasonable basis to any financing institution authorized to receive such services under paragraph (1)(B) of this subsection, and that—

"(i) is significantly involved in lending for agricultural or aquatic purposes;

"(ii) demonstrates a continuing need for supplementary sources of funds to meet the credit requirements of its agricultural or aquatic borrowers;

"(iii) has limited access to national or regional capital markets; and

"(iv) does not use such services to expand its financing activities to persons and for purposes other than those authorized under title II.

"(C) **Fees.**—The regulations may authorize a Farm Credit Bank to charge reasonable fees for any commitment to extend service under this section to such a financing institution.

"(D) **Subsidiaries and affiliates.**—For purposes of this subsection, a financing institution together with the subsidiaries and affiliates of such may be considered as one, but such determination to consider such institution together with the subsidiaries and affiliates of such as one shall be made in the first instance by the bank and in the event of a denial by the bank of its services to a financial institution, then by the Farm Credit Administration on a case-by-case basis with due regard to the total relationship of the financing institution, its subsidiaries, and affiliates.

"(5) **Effective date.**—Nothing in this section shall require termination of discount relationships in existence on the effective date of the Farm Credit Act Amendments of 1980.

12 USC 2016.

"SEC. 1.8. INTEREST RATES AND OTHER CHARGES.

"(a) **In General.**—Loans and discounts made by a Farm Credit Bank shall bear interest at a rate or rates, and on such terms and conditions, as may be determined by the board of directors of the bank from time to time.

"(b) **Setting Rates and Charges.**—In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable costs on a sound business basis taking into consideration the cost of money to the bank, necessary reserve and expenses of the bank and associations, and providing services to members. The loan documents or discounting and financing agreements, may provide for the interest rate or rates to vary from time to time during the repayment period of the loan or agreement.

12 USC 2017.

"SEC. 1.9. ELIGIBILITY.

"The credit and financial services authorized in this title may be made available to persons who are or become stockholders or members of the bank or associations in the district, and who are—

"(1) bona fide farmers, ranchers, or producers or harvesters of aquatic products;

"(2) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs; or

"(3) owners of rural homes.

"SEC. 1.10. SECURITY; TERMS.

12 USC 2018.

"(a) REAL ESTATE LOANS.—

"(1) MAXIMUM LEVEL OF LOANS.—

"(A) IN GENERAL.—Real estate mortgage loans originated by a Farm Credit Bank, or in which a Farm Credit Bank participates in with a lender that is not a System institution, shall not exceed 85 percent of the appraised value of the real estate security, except as provided for in paragraphs (2) and (3).

"(B) REGULATION.—The Farm Credit Administration may, by regulation, require that loans not exceed 75 percent of the appraised value of the real estate security.

"(C) GUARANTEED LOANS.—If the loan is guaranteed by Federal, State, or other governmental agencies, the loan may not exceed 97 percent of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration.

State and local governments.

"(2) SECURITY.—All loans originated or participated in by a bank under this section shall be secured by first liens on interests in real estate of such classes as may be approved by the Farm Credit Administration.

"(3) VALUE OF SECURITY.—To adequately secure the loan, the value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by the Farm Credit Administration.

"(4) ADDITIONAL SECURITY.—Additional security for any loan may be required by the bank to supplement real estate security. Credit factors, other than the ratio between the amount of the loan and the security value, shall be given due consideration.

"(5) FINANCIAL STATEMENT.—Each Farm Credit Bank shall require a financial statement from each borrower at least once every 3 years, or during such shorter period of time as may be required under regulations of the Farm Credit Administration.

"(b) INTERMEDIATE CREDIT.—Loans, other than real estate loans, and discounts made under the provisions of this title shall be repayable in not more than 7 years (15 years if made to producers or harvester of aquatic products) from the time that such are made or discounted by the Farm Credit Bank, except that the Board of Directors, under regulations of the Farm Credit Administration, may approve policies permitting loans, advances, or discounts (other than those made to producers or harvesters of aquatic products) to be repayable in not more than 10 years from the time that such are made or discounted by such bank.

"SEC. 1.11. PURPOSES FOR EXTENSIONS OF CREDIT.

12 USC 2019.

"(a) AGRICULTURAL OR AQUATIC PURPOSES.—Loans made by a Farm Credit Bank to farmers, ranchers, and producers or harvesters of aquatic products may be for any agricultural or aquatic purpose and other credit needs of the applicant, including financing for basic processing and marketing directly related to the applicant's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products, except that the operations of the applicant shall supply at least 20 percent, or such larger percent as may be required by the board of directors of the bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended.

"(b) RURAL HOUSING FINANCING.—

"(1) IN GENERAL.—Loans and discounts may be made to rural residents for rural housing financing under regulations of the Farm Credit Administration.

"(2) LIMITATIONS.—Rural housing financed under this title shall be for single-family, moderate-priced dwellings and their appurtenances not inconsistent with the general quality and standards of housing existing in, or planned or recommended for, the rural area where it is located, except that a Farm Credit Bank may not at any one time have a total amount of loans outstanding for such rural housing to persons other than farmers or ranchers in amounts exceeding 15 percent of the total of all loans outstanding in such bank.

"(3) RURAL AREAS.—For rural housing purposes under this section the term 'rural areas' shall not be defined to include any city or village having a population in excess of 2,500 inhabitants.

"(c) FARM-RELATED SERVICES.—

"(1) IN GENERAL.—Loans to persons furnishing farm-related services to farmers and ranchers directly related to their on-farm operating needs may be made for the necessary capital structures and equipment and initial working capital for such services.

"(2) FACILITIES.—The banks may own and lease, or lease with option to purchase, to persons eligible for credit under this title, facilities needed in the operations of such persons.

12 USC 2020.

"SEC. 1.12. RELATED SERVICES.

"The Farm Credit Banks may provide technical assistance to borrowers, members, and applicants from the bank and associations in the district, including persons obligated on paper discounted by the bank, and may make available to them at their option such financial related services appropriate to their on-farm and aquatic operations as determined to be feasible by the board of directors of each district bank, under regulations of the Farm Credit Administration.

12 USC 2021.

"SEC. 1.13. LOANS THROUGH ASSOCIATIONS OR AGENTS.

"(a) IN GENERAL.—The Farm Credit Banks shall, except as otherwise herein provided, make loans of the type authorized under section 1.7(a) through a Federal land bank association chartered to serve the territory in which the real estate of the borrower is located.

"(b) NO ACTIVE ASSOCIATION.—If there is no active association chartered to serve territory where the real estate is located, the bank may make the loan directly or through such bank or trust company or savings or other financial institution as such bank may designate.

"(c) PURCHASE OF STOCK REQUIRED.—When the loan is not made through a Federal land bank association, the applicant shall purchase stock in the bank in accordance with the capitalization requirements provided for in the bylaws of the bank.

"SEC. 1.14. LIENS ON STOCK.

12 USC 2022.

"The Farm Credit Banks shall have a first lien on the stock or participation certificates it issues for the payment of any liability of the stockholders to the bank.

"SEC. 1.15. TAXATION.

12 USC 2023.

State and local governments.

"The Farm Credit Banks and the capital, reserves, and surplus thereof, and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Farm Credit Bank to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages held by the Farm Credit Banks and the notes, bonds, debentures, and other obligations issued by the banks shall be considered and held to be instrumentalities of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 742(a)).

"TITLE II—FARM CREDIT ASSOCIATIONS

"Subtitle A—Production Credit Associations

"SEC. 2.0. ORGANIZATION AND CHARTERS.

12 USC 2071.

"(a) CHARTER.—Each production credit association shall continue as a Federally chartered instrumentality of the United States.

"(b) ORGANIZATION.—

"(1) IN GENERAL.—Production credit associations may be organized by 10 or more farmers or ranchers or producers or harvesters of aquatic products desiring to borrow money under the provisions of this title.

"(2) ARTICLES OF ASSOCIATION.—The proposed articles of association shall be forwarded to the Farm Credit Bank for the district accompanied by an agreement to subscribe on behalf of the association for stock in the bank in such amounts as may be required by the bank.

"(3) CONTENTS OF ARTICLES.—The articles shall specify in general terms the—

"(A) objects for which the association is formed;

"(B) the powers to be exercised by the association in carrying out the functions authorized by this part; and

"(C) the territory the association proposes to serve.

"(4) SIGNATURES.—The articles shall be signed by persons desiring to form such an association and shall be accompanied by a statement signed by each such person establishing eligibility to borrow from the association in which such person will become a stockholder.

"(5) COPY TO FCA.—A copy of the articles of association shall be forwarded to the Farm Credit Administration with the recommendations of the bank concerning the need for such an association in order to adequately serve the credit needs of eligible persons in the proposed territory and whether that territory includes any area described in the charter of another production credit association.

"(6) DENIAL OF CHARTER.—The Farm Credit Administration for good cause shown may deny the charter.

"(7) APPROVAL OF ARTICLES.—On approval of the proposed articles by the Farm Credit Administration, and on the issuance of a charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

"(8) POWERS OF FCA.—The Farm Credit Administration shall have the power, under rules and regulations prescribed by the Farm Credit Administration or by prescribing in the terms of the charter or by approval of bylaws of the association to—

"(A) provide for the organization of the association;

"(B) provide for the initial amount of stock of the association;

"(C) provide for the territory within which the association's operations may be carried on; and

"(D) direct at any time such changes in the charter as the Farm Credit Administration finds necessary for the accomplishment of the purposes of this Act.

12 USC 2072.

"SEC. 2.1. BOARD OF DIRECTORS.

"Each production credit association shall elect from the voting members of such association, a board of directors of such number, for such terms, with such qualifications, and in such manner as may be required by the bylaws of the association, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

12 USC 2073.

"SEC. 2.2. GENERAL CORPORATE POWERS.

"Each production credit association shall be a body corporate and, subject to supervision by the Farm Credit Bank for the district and regulation by the Farm Credit Administration, shall have the power to—

"(1) have succession until terminated in accordance with this Act or any other Act of Congress;

"(2) adopt and use a corporate seal;

Contracts.

"(3) make contracts;

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real and personal property necessary or convenient to the business of the association;

"(6) operate under the direction of the board of directors of the association in accordance with the provisions of this Act;

"(7) subscribe to stock of the bank;

"(8) purchase stock of the bank held by other production credit associations and stock of other production credit associations;

"(9) contribute to the capital of the bank or other production credit associations;

"(10) invest funds of the association as may be approved by the Farm Credit Bank under regulations of the Farm Credit Administration and deposit the current funds and securities of such with the Farm Credit Bank, a member bank of the Federal Reserve System, or any bank insured under the Federal Deposit Insurance Corporation, and may pay fees therefor and receive interest thereon as may be agreed;

"(11) buy and sell obligations of or insured by the United States or of any agency thereof or of any banks of the Farm Credit System and buy from and sell to such banks, interests in loans and in other financial assistance extended and nonvoting stock, as may be authorized by the Farm Credit Bank in accordance with regulations of the Farm Credit Administration;

"(12) borrow money from the Farm Credit Bank, and with the approval of such bank, borrow from and issue notes or other obligations to any commercial bank or other financial institution;

"(13) make and participate in loans, accept advance payments, and provide services and other assistance as authorized in this subtitle and charge fees therefor, and when authorized by the bank participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act;

"(14) endorse and become liable on loans discounted or pledged to the Farm Credit Bank;

"(15) as may be authorized by the Farm Credit Bank in accordance with regulations of the Farm Credit Administration, agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose;

"(16) prescribe by the board of directors of the association the bylaws not inconsistent with law providing for—

"(A) the classes of association stock and the manner in which the stock shall be issued, transferred, and retired;

"(B) the officers and employees elected or provided for;

"(C) the property acquired, held, and transferred by the association; and

"(D) the general business conducted, and the privileges granted to the association by law exercised and enjoyed;

"(17) elect by the board of directors of the association a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this Act, define their duties, and require surety bonds or make other provisions against losses occasioned by employees, but no director shall, within one year after the date when such director ceases to be a member of the board, be elected or designated a salaried employee of the association on the board of which he served;

"(18) elect by the board of directors of the association a loan committee with power to approve applications for membership in the association and loans or participations or, with the approval of the bank, delegate the approval of applications for membership and loans or participations within specified limits to other committees or to authorized officers and employees of the association;

"(19) perform any functions delegated to the association by the bank; and

"(20) exercise by the board of directors or authorized officers or employees of the association, all such incidental powers as may be necessary or expedient to carry on the business of the association.

12 USC 2074.

"SEC. 2.3. PRODUCTION CREDIT ASSOCIATION CAPITALIZATION.

"(a) IN GENERAL.—In accordance with section 4.3A, each production credit association shall provide, through its bylaws and subject to Farm Credit Administration regulations, for its capitalization and the manner in which its stock shall be issued, held, transferred, and retired and, except as provided in subsection (b), its earnings distributed.

"(b) APPLICATION OF EARNINGS.—Each production credit association at the end of each fiscal year shall apply the amount of the earnings of the association for such year in excess of the operating expenses of the association (including provision for valuation reserves against loan assets in an amount equal to one-half of 1 percent of the loans outstanding at the end of the fiscal year to the extent that such earnings in such year in excess of other operating expenses permit, or in such greater amounts as are deemed necessary under generally accepted accounting principles, until such reserves equal or exceed 3½ percent of the loans outstanding at the end of the fiscal year, beyond which 3½ percent further additions to such reserves may be made, if deemed necessary under generally accepted accounting principles) first to the restoration of the impairment, if any, of capital, and second, to the establishment and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Farm Credit Bank.

"(c) PATRONAGE.—When the bylaws of an association so provide and subject to the general directions of the Farm Credit Administration, available net earnings at the end of any fiscal year may be distributed on a patronage basis in stock, participation certificates, or in cash. Any part of the earnings of the fiscal year in excess of the operating expenses for such year held in the surplus account may be allocated to patrons on a patronage basis.

12 USC 2075.

"SEC. 2.4. SHORT- AND INTERMEDIATE-TERM LOANS; PARTICIPATION; OTHER FINANCIAL ASSISTANCE; TERMS; CONDITIONS; INTEREST; SECURITY.

"(a) SHORT- AND INTERMEDIATE-TERM LOANS.—Each production credit association, under standards prescribed by the board of directors of the Farm Credit Bank of the district, may make, guarantee, or participate with other lenders in short- and intermediate-term loans and other similar financial assistance to—

"(1) bona fide farmers and ranchers and the producers or harvesters of aquatic products, for agricultural or aquatic purposes and other requirements of such borrowers, including financing for basic processing and marketing directly related to the operations of the borrower and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products, except that the operations of the borrower shall supply at least 20 percent, or such larger percent as is required by the supervising bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended;

"(2) rural residents for housing financing in rural areas, under regulations of the Farm Credit Administration; and

"(3) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs.

"(b) RURAL HOUSING.—

"(1) IN GENERAL.—Rural housing financed under this title shall be for single-family, moderate-priced dwellings and the appurtenances of such not inconsistent with the general quality and standards of housing existing in, planned or recommended for, the rural area where it is located.

"(2) LIMITATION.—The aggregate of such housing loans in an association to persons other than farmers or ranchers shall not exceed 15 percent of the outstanding loans at the end of its preceding fiscal year except on prior approval by the Farm Credit Bank of the district. The aggregate of such housing loans in any farm credit district shall not exceed 15 percent of the outstanding loans of all associations in the district at the end of the preceding fiscal year.

"(3) RURAL AREAS.—For rural housing purposes under this section the term 'rural areas' shall not be defined to include any city or village having a population in excess of 2,500 inhabitants.

"(4) EQUIPMENT.—Each association may own and lease, or lease with option to purchase, to stockholders of the association equipment needed in the operations of the stockholder.

"(c) INTEREST RATES AND CHARGES.—

"(1) IN GENERAL.—Loans authorized in subsection (a) hereof shall bear such rate or rates of interest as are determined under standards prescribed by the board of the bank subject to the provisions of section 4.17 of this Act, and shall be made upon such terms, conditions, and upon such security, if any, as shall be authorized in such standards.

"(2) SETTING OF RATES.—In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers, at the lowest reasonable cost on a sound business basis, taking into account the cost of money to the association, necessary reserves and expenses of the association, and services provided to borrowers and members.

"(3) VARYING RATES.—The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan in accordance with the rate or rates currently being charged by the association.

"(4) PRIOR APPROVAL.—Such standards may require prior approval of the bank on certain classes of loans, and may authorize a continuing commitment to a borrower of a line of credit.

"SEC. 2.5. OTHER SERVICES.

12 USC 2076.

"Each production credit association may provide technical assistance to borrowers, applicants, and members and may make available to them at their option such financial related services appropriate to their on-farm and aquatic operations as is determined feasible by the board of directors of each Farm Credit Bank, under regulations prescribed by the Farm Credit Administration.

"SEC. 2.6. TAXATION.

State and local governments.
12 USC 2077.

"Each production credit association and its obligations are instrumentalities of the United States and as such any and all notes, debentures, and other obligations issued by such associations shall be exempt, both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any State, territorial, or local taxing authority.

"Subtitle B—Federal Land Bank Associations

12 USC 2091.

"SEC. 2.10. ORGANIZATIONS; ARTICLES; CHARTERS; POWERS OF THE FARM CREDIT ADMINISTRATION.

"(a) CHARTER.—Each Federal land bank association shall continue as a federally chartered instrumentality of the United States.

"(b) ORGANIZATION.—

"(1) IN GENERAL.—A Federal land bank association may be organized by any group of 10 or more persons desiring to borrow money from a Farm Credit Bank, including persons to whom the Farm Credit Bank has made a loan directly or through an agent and has taken as security real estate located in the territory proposed to be served by the association.

"(2) ARTICLES OF ASSOCIATION.—

"(A) DESCRIPTION OF TERRITORY.—The articles of association shall describe the territory within which the association proposes to carry on its operations.

"(B) SUBMISSION TO FCA.—Proposed articles shall be forwarded to the Farm Credit Bank for the district, accompanied by an agreement to subscribe on behalf of the association for stock in accordance with the bylaws of the Farm Credit Bank.

"(C) STOCK PURCHASE.—Association stock may be paid for by surrendering for cancellation stock in the bank held by a borrower and the issuance of an equivalent amount of stock to such borrower in the association.

"(D) STATEMENT.—The articles shall be accompanied by a statement signed by each of the members of the proposed association establishing—

"(i) the individual's eligibility for, and request or need of the individual of a Farm Credit Bank loan;

"(ii) that the real estate with respect to which the individual desires the loan for is not being served by another Federal land bank association; and

"(iii) that the individual is or will become a stockholder in the proposed association.

"(E) SUBMISSION TO FCA.—A copy of the articles of association shall be forwarded to the Farm Credit Administration with the recommendations of the bank concerning the need for the proposed association in order to adequately serve the credit needs of eligible persons in the proposed territory and a statement as to whether or not the territory includes any territory described in the charter of another Federal land bank association.

"(3) DENIALS OF CHARTERS.—The Farm Credit Administration for good cause shown may deny the charter applied for.

"(4) APPROVAL OF ARTICLES.—On the approval of the proposed articles by the Farm Credit Administration and the issuance of such charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

"(c) FCA AUTHORITY ON ORGANIZATION.—The Farm Credit Administration shall have power, in the terms of the charter, under rules and regulations prescribed by the Farm Credit Administration or by approving the bylaws of the association, to provide for the—

"(1) organization of the association;

"(2) the initial amount of stock of such association;

"(3) the territory within which the operations of the association may be carried on; and

"(4) to direct at any time changes in the charter of such association as the Farm Credit Administration finds necessary in accomplishing the purposes of this Act.

"SEC. 2.11. BOARD OF DIRECTORS.

12 USC 2092.

"Each Federal land bank association shall elect from its voting shareholders a board of directors of such number, for such terms, in such manner, and with such qualifications as may be required by its bylaws except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

"SEC. 2.12. GENERAL CORPORATE POWERS.

12 USC 2093.

"Each Federal land bank association shall be a body corporate and, subject to supervision of the Farm Credit Bank for the district and the regulation of the Farm Credit Administration, shall have the power to—

"(1) adopt and use a corporate seal;

"(2) have succession until dissolved under the provisions of this Act or other Act of Congress;

"(3) make contracts;

Contracts.

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real estate and personal property necessary or convenient to the business of the association;

"(6) operate under the direction of the board of directors of the association in accordance with this Act;

"(7) elect by its board of directors a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this Act, define the duties of such, and require surety bonds or make other provision against losses occasioned by employees, except that no director shall, within one year after the date when such director ceases to be a member of the board, be elected or designated a salaried employee of the association on the board of which such director served;

"(8) prescribe by its board of directors, association bylaws, not inconsistent with law, providing for the classes of association stock and the manner in which such stock shall be issued, transferred, and retired; the officers and employees of the association elected or provided for, the property of the association that is acquired, held, and transferred, the general business of the association conducted, and the privileges granted to the association by law exercised and enjoyed;

"(9) accept applications for Farm Credit Bank loans and receive from such bank and disburse to the borrowers the proceeds of such loans;

"(10) subscribe to stock of the Farm Credit Bank of the district;

"(11) elect by its board of directors a loan committee with power to elect applicants for membership in the association and recommend loans to the Farm Credit Bank, or with the approval of the Farm Credit Bank, delegate the election of applicants for membership and the approval of loans within specified limits to other committees or to authorized employees of the association;

"(12) on agreement with the bank, take such additional actions with respect to applications and loans and perform such functions as are vested by law in the Farm Credit Banks as may be agreed to or delegated to the association;

"(13) endorse and become liable to the bank on loans it makes to association members;

"(14) receive such compensation and deduct such sums from loan proceeds with respect to each loan as may be agreed between the association and the bank and make such other charges for services as may be approved by the bank;

"(15) provide technical assistance to members, borrowers, applicants, and other eligible persons and make available to them, at their option, such financial related services appropriate to their operations as it determines, with Farm Credit Bank approval, are feasible, under regulations of the Farm Credit Administration;

"(16) borrow money from the bank and, with the approval of such bank, borrow from and issue association notes or other obligations to any commercial bank or other financial institution;

"(17) buy and sell obligations of or insured by the United States or any agency thereof or of any banks of the Farm Credit System;

"(18) invest association funds in such obligations as may be authorized in regulations of the Farm Credit Administration and approved by the bank and deposit securities and current funds of the association with any member bank of the Federal Reserve System, with the Farm Credit Bank, or with any bank insured by the Federal Deposit Insurance Corporation, and pay fees therefor and receive interest thereon as may be agreed;

"(19) perform such other function delegated to the association by the Farm Credit Bank of the district;

"(20) exercise by its board of directors or authorized officers or agents all such incidental powers as may be necessary or expedient in the conduct of its business; and

"(21) contribute to the capital of the bank.

12 USC 2094.

"SEC. 2.13. FEDERAL LAND BANK ASSOCIATION CAPITALIZATION.

"In accordance with section 4.3A, the Federal land bank association shall provide, through its bylaws and subject to Farm Credit Administration regulations, for its capitalization and the manner in which its stock shall be issued, held, transferred, and retired and its earnings distributed.

12 USC 2095.

"SEC. 2.14. LIQUIDATION.

"Whenever any Federal land bank association is liquidated, a sum equal to its reserve account as required in this Act shall be paid and become the property of the bank in which such association is a shareholder.

12 USC 2096.

"SEC. 2.15. AGREEMENTS FOR SHARING GAINS OR LOSSES.

"Each Farm Credit Bank may enter into agreements with Federal land bank associations in its district for sharing the gain or losses on loans or on security held therefor or acquired in liquidation thereof, and associations are authorized to enter into any such agreements and also, subject to bank approval, agreements with other associations in the district for sharing the risk of loss on loans endorsed by each such association. As may be authorized by the bank in accordance with regulations of the Farm Credit Administration, associations also may enter into agreements with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose.

"SEC. 2.16. LIENS ON STOCK.

12 USC 2097.

"Each Federal land bank association shall have a first lien on the stock and participation certificates it issues, except on stock or participation certificates held by other Farm Credit System institutions, for the payment of any liability of the stockholder to the association or to the bank, or to both of them.

"SEC. 2.17. TAXATION.

State and local governments.
12 USC 2098.

"Each Federal land bank association and the capital, reserves, and surplus thereof, and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Federal land bank association to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages held by the Federal land bank associations and the notes, bonds, debentures, and other obligations issued by the banks shall be considered and held to be instrumentalities of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 742(a)).".

Subtitle B—Merger of System Institutions

SEC. 410. MANDATORY MERGER.

12 USC 2011 note.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this section, the Federal land bank and the Federal intermediate credit bank of each district shall merge into a Farm Credit Bank in such district pursuant to a plan of merger agreed on by the Boards of Directors of such banks and approved by the Farm Credit Administration, or if such banks fail to agree, a plan of merger prescribed by the Farm Credit Administration.

(b) CAPITAL STOCK.—The number of shares of capital stock issued by a Farm Credit Bank to stockholders and other owners of the institution involved in the merger, and the rights and privileges of such shares (including voting power, redemption rights, preferences on liquidation, and the right to dividends) shall be determined by the plan of merger adopted by the merging banks, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

(c) ASSISTANCE.—The Assistance Board shall direct the Financial Assistance Corporation to provide any Farm Credit Bank with that amount of financial assistance as is necessary to ensure that the stock of the Farm Credit Bank, upon implementation of the merger, has a book value equal to 75 percent of par, and such Farm Credit Bank shall be subject to all of the requirements of title VI of the Farm Credit Act of 1971.

"(1) the institution provides written notice to the Farm Credit Administration Board not later than 90 days prior to the proposed termination date;

"(2) the termination is approved by the Farm Credit Administration Board;

"(3) the appropriate Federal or State authority grants approval to charter the institution as a bank, savings and loan association, or other financial institution;

"(4) the institution pays to the Farm Credit Assistance Fund, as created under section 6.25, if the termination is prior to January 1, 1992, or pays to the Farm Credit Insurance Fund, if the termination is after such date, the amount by which the total capital of the institution exceeds, 6 percent of the assets;

"(5) the institution pays or makes adequate provision for payment of all outstanding debt obligations of the institution;

"(6) the termination is approved by a majority of the stockholders of the institution voting, in person or by written proxy, at a duly authorized stockholders' meeting, held prior to giving notice to the Farm Credit Administration Board; and

"(7) the institution meets such other conditions as the Farm Credit Administration Board by regulation considers appropriate.

"(b) EFFECT.—On termination of its status as a System institution—

"(1) the Farm Credit Administration Board shall revoke the charter of the institution; and

"(2) the institution shall no longer be an instrumentality of the United States under this Act.

"Subtitle C—Approval of Disclosure Information and Issuance of Charters by the Farm Credit Administration Board

"SEC. 7.11. APPROVAL OF DISCLOSURE INFORMATION AND ISSUANCE OF CHARTERS.

12 USC 2279e.

"(a) DISCLOSURE OF INFORMATION.—

"(1) APPROVAL OF PLAN.—With respect to any plan of merger, transfer or assignment of lending authority, dissolution, or termination, prior to submission to the voters (voting stockholders and, where required, contributors to guaranty funds) of such institutions, such plan shall be submitted to the Farm Credit Administration Board, together with all information that is to be distributed to the voters with respect to the contemplated action, including an enumerated statement of the anticipated benefits and potential disadvantages of such action.

"(2) NOTICE OF APPROVAL.—On notification that the Farm Credit Administration Board has approved such plan for submission to the stockholders, or after 30 days of no action on the plan by the Board, the submitting institutions may submit the plan, together with the disclosure information, to the voters for the prescribed vote.

"(b) NOTICE OF REASONS FOR DISAPPROVAL.—If the Farm Credit Administration Board disapproves the plan for submission to the stockholders, notification to the submitting institutions shall specify

(d) INITIAL BOARD.—The initial board of each Farm Credit Bank shall be composed of the members of the district board (which is dissolved upon the creation of such bank) elected by the production credit associations, Federal land bank associations, and stockholders at large. Such initial board shall operate for such term as is agreed to by the members of the board, except that such period shall not exceed two years. Thereafter the board shall be elected and serve in accordance with the provisions of section 1.4 of the Farm Credit Act of 1971.

12 USC 2071 note.

SEC. 411. MERGER OF PRODUCTION CREDIT ASSOCIATIONS AND FEDERAL LAND BANK ASSOCIATIONS.

(a) SUBMISSION OF PROPOSAL.—Not later than 6 months after the date of the merger of the Federal land bank and the Federal intermediate credit bank in a district, the Boards of Directors of each Federal land bank association and each production credit association in such district, that share substantially the same geographical territory with each other, shall submit to the voting stockholders of each such association for their approval, a plan, approved by the supervising bank and the Farm Credit Administration, for merging such associations.

(b) PREREQUISITES TO MERGER.—

(1) STOCKHOLDER VOTE.—The stockholder vote required for approval of a merger under subsection (a) shall be a majority of the voting stockholders of each association voting, in person or by written proxy, at a duly authorized stockholders meeting.

(2) SUBMISSION TO FCA.—Not later than 60 days prior to the end of the 6-month period beginning on the date of the enactment of this section, the plan of merger under subsection (a), together with all information to be presented to the stockholders, shall be submitted to the Farm Credit Administration.

(3) EXPEDITED CONSIDERATION BY FCA.—The Farm Credit Administration shall expedite its consideration of the plan and accompanying information submitted under paragraph (2) so that review and approval of such plan and information shall be completed by the Administration so as to enable a stockholder vote to occur within the 6-month period referred to in paragraph (2).

(c) DIRECT LENDERS.—On approval of a merger under this subsection, the resulting association shall be a direct lender in the same manner as applies to production credit associations.

12 USC 2221 note.

SEC. 412. CONSOLIDATION OF FARM CREDIT SYSTEM DISTRICTS.

(a) SUBMISSION OF PROPOSAL.—

(1) SPECIAL COMMITTEE.—

(A) IN GENERAL.—Not later than 6 months after the date of the enactment of this section, a special committee shall be selected pursuant to regulations of the Farm Credit Administration for the purpose of developing a proposal for the consolidation of Farm Credit System districts.

(B) COMPOSITION.—The special committee selected under subparagraph (A) shall be composed of one representative from each Farm Credit Bank board and the members of the Board of Directors of the Assistance Board.

(2) DEVELOPMENT OF PROPOSAL.—Not later than 6 months after the formation of the special committee, the committee shall develop, a proposal to consolidate the Farm Credit System

banks into no less than six financially viable farm credit banks through inter-district mergers.

(3) REPORT.—Not later than the end of each calendar quarter beginning at least 6 months after the selection of the special committee, such committee shall prepare and submit, to the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the progress of the committee in developing a proposal under this subsection.

(b) PREREQUISITES TO CONSOLIDATION.—

(1) FCA REVIEW OF PROPOSAL.—Prior to the submission of the proposal developed under subsection (b)(2) to the stockholders under paragraph (2), the proposal together with all information to be presented to the stockholders, shall be submitted to the Farm Credit Administration for approval.

(2) PREREQUISITES.—Proposals developed under subsection (a)(2) shall not be submitted to stockholders under paragraph (3) unless the proposal is approved by—

(A) a majority of the members of the Board of Directors of the Assistance Board; and

(B) the members of the special committee that represent the districts affected by the terms of the proposal.

(3) SUBMISSION TO STOCKHOLDERS.—Not later than the end of the 18-month period after the date of enactment of this Act, each Farm Credit Bank involved, in consultation with the special committee, shall submit the proposed merger affecting such bank to the voting stockholders of each such bank.

(4) STOCKHOLDER VOTE.—Each association shall be entitled to cast a number of votes equal to the number of voting stockholders of such association.

SEC. 413. VOLUNTARY MERGER OF THE BANKS FOR COOPERATIVES.

12 USC 2121 note.

(a) SUBMISSION OF PROPOSAL.—

(1) SPECIAL COMMITTEE.—

(A) IN GENERAL.—Not later than 15 days after the date of the enactment of this section, a special committee shall be selected pursuant to subparagraph (B), for the purpose of developing a proposal for the voluntary merger of the banks for cooperatives.

(B) COMPOSITION.—The special committee selected under subparagraph (A) shall be composed of—

(i) one member of each district board elected by the voting stockholders of the bank for cooperatives in the district; and

(ii) one member chosen from the board of directors of the Central Bank for Cooperatives by the board of such Bank.

(C) DEVELOPMENT OF PLAN.—Not later than 75 days after the date of the enactment of this section, the special committee shall develop a plan of merger for all such banks and the Central Bank for Cooperatives into a National Bank for Cooperatives.

(2) PREREQUISITES TO MERGER.—

(A) SUBMISSION TO FCA.—On completion of the plan of merger pursuant to subparagraph (C), the special committee shall submit the proposed plan, together with all information that is to be distributed to the stockholders concerning such plan, to the Farm Credit Administration for approval.

(B) EXPEDITED REVIEW.—Not later than 30 days after the Farm Credit Administration receives the plan of merger, the Administration shall promptly review such plan and advise the special committee concerning any required changes that are necessary to the plan.

"(3) SUBMISSION TO STOCKHOLDERS.—On approval of the plan by the Farm Credit Administration, the special committee shall, under such procedures as may be established by the committee, submit the plan and recommendations to all voting stockholders and subscribers to the guaranty funds of the district banks and the Central Bank for Cooperatives.

(b) VOTING REQUIREMENTS.—

(1) MAJORITY VOTE REQUIRED.—An approval of the plan of merger developed and submitted under subsection (a) shall—

(A) require a majority vote of the stockholders of each district bank for cooperatives voting, in person or by proxy, at a duly authorized stockholders' meeting, computed both—

(i) in accordance with the requirement that, except as provided in section 3.3(d), each cooperative that is the holder of voting stock in, or a subscriber to the guaranty fund of the bank for cooperatives shall be entitled to cast one vote; and

(ii) on the basis of the total equity interests in the bank (including allocated, but not unallocated, surplus and reserves) held by such stockholders;

(B) require a majority vote of the voting stockholders of the Central Bank for Cooperatives voting on a one-bank-one-vote basis;

(C) take place not later than 180 days after the date of the enactment of this section; and

(D) take place prior to any other merger vote involving a bank for cooperatives.

(2) APPROVAL BY ALL BANKS FOR COOPERATIVES.—If the stockholders of all of the banks for cooperatives approve the merger, the merger shall take place.

(3) EFFECT OF LESSER VOTE.—If the stockholders of more than one but fewer than all of the banks approve the plan, each such bank whose stockholders voted to approve the merger shall be merged into a single bank for cooperatives, as provided in paragraphs (4) or (5).

(4) NATIONAL BANK FOR COOPERATIVES.—

(A) CREATION.—If the stockholders of eight or more of the district banks approve the merger, such banks, and the Central Bank for Cooperatives, shall be merged into a single bank, which shall be referred to as the "National Bank for Cooperatives".

(B) SERVICES PROVIDED.—The National Bank for Cooperatives may offer credit and related services to eligible borrowers located within any territory that may be served by Farm Credit System institutions under section 5.0, or to any borrower otherwise eligible under section 3.7(b).

(5) UNITED BANK FOR COOPERATIVES.—

(A) CREATION.—If the stockholders of more than one but fewer than eight of the district banks approve the plan, each such bank, and the Central Bank for Cooperatives (if approved by a numerical majority of its stockholders), shall be merged into a single bank, which shall be referred to as the "United Bank for Cooperatives".

(B) SERVICES PROVIDED.—The United Bank for Cooperatives shall offer credit and related services only in the territory included, as of the date of the enactment of this section, within the boundaries of the districts that had been served by the constituent banks of the United Bank for Cooperatives, and to any borrower otherwise eligible under section 3.7(b).

(6) NONCONSENTING BANKS.—

(A) IN GENERAL.—

(i) NATIONAL BANK FOR COOPERATIVES.—Any of the district banks whose stockholders did not approve the plan of merger may offer credit and related services to any eligible borrowers within any territory or area that may be served by the National Bank.

(ii) UNITED BANK FOR COOPERATIVES.—Any of the district banks whose stockholders did not approve the plan of merger, shall continue as district banks for cooperatives and shall continue to serve only the territory within the boundaries of the district that such banks served as of the date of the enactment of this section.

(B) NONDISCRIMINATION.—Any district bank whose stockholders did not approve the plan of merger, shall be entitled to the availability, from the National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be, of the same credit and related services now provided by the Central Bank for Cooperatives as of the date of the enactment of this section, regardless of the decision not to merge.

(C) SUBSEQUENT MERGERS.—Any district bank referred to in subparagraph (A) may subsequently merge with the National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be, on the approval of the voting stockholders of both banks proposing to merge based on the voting requirement of subsection (a).

(c) REFERENCES.—References in this section to voting stockholders shall include subscribers to the guaranty fund.

SEC. 414. BANK FOR COOPERATIVES BOARD OF DIRECTORS. 12 USC 2121 note.

(a) INITIAL BOARD.—The initial board of each district bank for cooperatives shall be composed of the members of the district board (which is dissolved upon the creation of the district Farm Credit Bank) elected by the stockholders of the bank for cooperatives and one member elected by the other two members, which member shall not be a director, officer, employee, or stockholder of a System institution. The initial board shall operate for such term as is agreed to by the members of the board, except that such period shall not exceed two years. Thereafter, the board shall be elected and serve in accordance with section 3.0 of the Farm Credit Act of 1971.

(b) PERMANENT BOARD.—Section 3.0 of the Act shall be amended— 12 USC 2121.

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) Each bank for cooperatives shall elect from its voting stockholders a board of directors of such number, for such term, in such manner, and with such qualifications as may be required in its bylaws, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.".

SEC. 415. ORGANIZATION AND OPERATION OF THE MERGED BANK FOR COOPERATIVES.

Title III (12 U.S.C. 2121 et seq.) is amended—

(1) by inserting after the title designation the following:

"PART A—BANKS FOR COOPERATIVES"; and

(2) by adding at the end thereof the following new part:

"PART B—UNITED AND NATIONAL BANKS FOR COOPERATIVES

12 USC 2141.

"SEC. 3.20. CHARTER, POWERS, AND OPERATION.

"(a) CHARTER.—The National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be (hereinafter in this part referred to in this section as the 'consolidated bank') shall be a federally chartered instrumentality of the United States and an institution of the Farm Credit System.

"(b) POWERS.—The consolidated bank and the board of directors of such bank shall have all of the powers, rights, responsibilities, and obligations of the district banks for cooperatives and the Central Bank for Cooperatives and the boards of directors of such banks, as otherwise provided for in this Act.

"(c) OPERATION.—The consolidated bank shall be organized and operated on a cooperative basis.

12 USC 2142.

"SEC. 3.21. BOARD OF DIRECTORS PROVISIONS.

"(a) INITIAL BOARD OF DIRECTORS.—The initial board of directors of a consolidated bank shall include the members of the boards of directors of the farm credit districts who were elected by voting stockholders of the constituent district banks for cooperatives (as such banks existed on the date of the enactment of this section) and who shall serve out the terms for which they were elected.

"(b) PERMANENT BOARD OF DIRECTORS.—

"(1) COMPOSITION.—The permanent board of directors of a consolidated bank shall consist of—

"(A) three members, elected by the voting stockholders of the consolidated bank, from each of the farm credit districts that had been served by constituent banks, as such districts existed on the date of the enactment of this section, at least one of whom, from each such district, shall be a farmer;

"(B) one member elected by the voting stockholders of each district bank for cooperatives that is not a constituent of the consolidated bank; and

"(C) one member appointed by the members chosen under subparagraphs (A) and (B) who shall not be a stockholder or borrower of a System institution or an officer or director of any such stockholder or borrower.

"(2) NOMINATION AND ELECTION.—For purposes of nominating and electing members of the board of directors under paragraph (1)(A):

"(A) FIRST MEMBER.—The nomination and election of the first member from each district shall be carried out on the basis provided for in section 3.3(d).

"(B) SECOND MEMBER.—

"(i) IN GENERAL.—The nomination and election of the second member from each district shall be carried out with each voting stockholder of the consolidated bank located in the district having one vote, plus a number of votes (or fractional part thereof) equal to the number of stockholders eligible to vote in that district multiplied by the percentage (or fractional part thereof) of the total equity interest (including allocated, but not unallocated, surplus and reserves) in the consolidated bank of all such stockholders located in that district held by the individual voting stockholder—

"(I) as of the final date of the fiscal year of the consolidated bank; or

"(II) with respect to the first election held under this subsection, as of such date as the Farm Credit Administration shall prescribe.

"(ii) TOTAL NUMBER OF VOTES.—The total number of votes for each district under this subparagraph shall be the number of voting stockholders of the consolidated bank located in the district multiplied by two.

"(3) TERMS.—

"(A) IN GENERAL.—The members of the board of directors of the consolidated bank shall serve for a term of 3 years.

"(B) TIMING OF ELECTIONS.—Procedures for electing members of the board of directors of the consolidated bank under this subsection shall ensure that the beginning of the terms of such members coincide with the expiration of the terms of members of the interim board of directors of the bank under subsection (a).

"(4) FCA REGULATIONS.—The nomination and election of the members of the board of directors of the consolidated bank under this subsection shall be carried out in accordance with regulations issued by the Farm Credit Administration.

"(c) MODIFICATION OF BOARD OF DIRECTORS PROVISIONS.—The provisions of subsection (b) relating to the board of directors of the consolidated bank, other than the provisions relating to the initial composition, nomination, and election of the members of the board, may be modified on an affirmative vote of at least two-thirds of the voting stockholders of the bank, with each such stockholder to have, for such purposes, only one vote. Any proposals for modifying such provisions shall be submitted for a vote by such stockholders in accordance with procedures prescribed by the Farm Credit Administration.

"SEC. 3.22. CREDIT DELIVERY OFFICE.

12 USC 2143.

"On a determination by the board of directors of the United Bank for Cooperatives or the National Bank for Cooperatives that the bank's loan portfolio is concentrated in any one district or districts (according to the district boundaries in effect immediately prior to the effective date of the merger), the bank may consider the creation of regional service centers to accommodate such loan concentrations.

12 USC 2144.

"SEC. 3.23. CONSOLIDATION OF FUNCTIONS.

"Subject to section 3.22, to the greatest extent practicable, the functions of the consolidated bank shall be consolidated in the central office of the bank.

12 USC 2145.

"SEC. 3.24. EXCHANGE OF OWNERSHIP INTERESTS.

"On the establishment of the consolidated bank, ownership interests of the stockholders and subscribers to the guaranty funds of the constituent district banks for cooperatives (including stock, participation certificates, and allocated equities) shall be exchanged for like ownership interests in the consolidated bank on a book value basis.

12 USC 2146.

"SEC. 3.25. CAPITALIZATION.

"The board of directors of the consolidated bank shall provide for the capitalization of such bank in accordance with the provisions of section 4.3A.

12 USC 2147.

"SEC. 3.26. PATRONAGE POOLS.

"Under such terms and conditions as may be determined by its board of directors, the consolidated bank may—

"(1) for a period of at least 3 years following the date of the enactment of this section, establish separate patronage pools consisting of loans to eligible borrowers located in each constituent farm credit district (as such district existed on the date of the enactment of this section); and

"(2) allocate revenues, expenses, and net savings among such pools on an equitable basis.

12 USC 2148.

"SEC. 3.27. TRANSACTIONS TO ACCOMPLISH THE MERGER.

"The receipt of assets or assumption of liabilities by the consolidated bank, the exchange of stock, equities, or other ownership interests, and any other transaction carried out in accomplishing the merger of the banks for cooperatives shall not be treated as a taxable event under the laws of the United States or of any State or political subdivision thereof. The preceding sentence shall also apply to the receipt of assets and liabilities by a taxable institution to the extent that the net amount of the distribution is immediately reinvested in stock of a consolidated bank (and in such case the basis of such stock shall be appropriately reduced by the amount of gain not recognized by reason of this sentence).

12 USC 2149.

"SEC. 3.28. LENDING LIMITS.

"The Farm Credit Administration may not establish lending limits for the consolidated bank with respect to any loans or borrowers that are more restrictive than the combined lending limits that were previously established by the Farm Credit Administration for a district bank for cooperatives and the Central Bank for Cooperatives with respect to such loans or borrowers.".

SEC. 416. MERGER OF SYSTEM INSTITUTIONS.

The Act (12 U.S.C. 2001 et seq.) (as amended by section 201 of this Act) is further amended by adding at the end thereof the following new title:

"TITLE VII—MERGERS OF SYSTEM INSTITUTIONS

"Subtitle A—Merger of Banks Within a District

"SEC. 7.0. POWER TO MERGE.

12 USC 2279a.

"Two or more banks within a district may merge into a single entity (hereinafter in this title referred to as a 'merged bank') if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective boards of directors of the banks involved;

"(3) a majority of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting in accordance with the provisions of section 5.2(c) relating to the casting of votes by stockholders; and

"(4) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

"SEC. 7.1. BOARD OF DIRECTORS FOR THE DISTRICT.

12 USC 2279a-1.

"(a) Composition.—

"(1) In general.—Following a merger pursuant to section 7.1, the district Board of Directors shall continue to be composed of seven members as provided in section 5.1.

"(2) Regulations.—The Farm Credit Administration shall issue regulations to ensure the fair and equitable representation of the associations of each of the merging banks on the initial Board of Directors of the merged bank.

"(b) Election.—Following a merger pursuant to section 7.8, the members of the district board shall be elected pursuant to regulations issued by the Farm Credit Administration prescribing procedures that are as consistent as practicable with those set forth in section 5.2.

"SEC. 7.2. POWERS OF MERGED BANKS.

12 USC 2279a-2.

"(a) In General.—Except as otherwise provided in this title, a merged bank shall have all of the powers granted to, and shall be subject to all of the obligations imposed on, any of the constituent entities of the merged bank.

"(b) Regulations.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the banks that form the merged bank are consolidated, and to the extent necessary, reconciled in the merged bank.

"SEC. 7.3. CAPITAL STOCK.

12 USC 2279a-3.

"(a) Plan of Merger.—Subject to subsection (c), the number of shares of capital stock issued by a merged bank to stockholders and other owners of any institution involved in the merger, and the rights and privileges of such shares (including voting power, redemption rights, preferences on liquidation, and the right to dividends) shall be determined by the plan of merger adopted by the banks involved, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

"(b) BOARD OF DIRECTORS.—Subject to subsection (a), the number of shares of capital stock issued by a merged bank, and the rights and privileges thereof, shall be determined by the Board of Directors of the merged bank established under this subtitle.

"(c) VOTING STOCK.—Voting stock of a merged bank shall be held only—

"(1) by associations or cooperatives that were, immediately prior to the merger, entitled to hold voting stock of one of the banks that merged; or

"(2) by farmers, ranchers, or producers or harvesters of aquatic products that are or were, immediately prior to the merger, direct borrowers from the merged bank or one of the banks that comprise the merged bank.

12 USC 2279a-4. **"SEC. 7.4. EARNINGS, RESERVES, AND DISTRIBUTIONS.**

"(a) USE OF NET EARNINGS.—The Board of Directors of a merged bank shall determine the use or other application of net earnings after payment of operating expenses.

"(b) RESTORATION OF VALUE OF IMPAIRED CAPITAL STOCK.—Net earnings shall first be applied to restore the value of impaired capital stock.

"(c) OTHER USES.—After restoration, the application of net earnings may include (but not necessarily in the following order)—

"(1) additions to an allocated reserve account;

"(2) additions to an unallocated reserve account;

"(3) payment of a dividend on capital stock; and

"(4) payment of patronage refunds in cash or in stock or other notices of allocation.

"(d) USE OF CAPITAL AND RETAINED EARNINGS.—All capital and retained earnings of a merged bank shall be available for use in the activities of the merged bank as the Board of Directors shall determine, without regard to the activities giving rise to such earnings.

12 USC 2279a-5. **"SEC. 7.5. REPORTS BY MERGED BANKS FOR COOPERATIVES.**

"(a) IN GENERAL.—When two or more banks for cooperatives merge, the resulting bank shall, not later than December 31 of each year of the succeeding 5 years following the date of the merger, file an annual report with the Farm Credit Administration that—

"(1) analyzes the effect of the merger;

"(2) includes a breakdown of loans outstanding according to the size of the cooperative stockholders of the bank; and

"(3) describes the adequacy of credit and other assistance services provided to smaller cooperatives.

"(b) AVAILABILITY.—A copy of the report required in subsection (a) shall be made available to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"Subtitle B—Mergers, Transfers of Assets, and Powers of Associations Within a District

"Chapter 1—Transfers by Federal Land Banks to Federal Land Bank Associations

"SEC. 7.6. TRANSFER OF LENDING AUTHORITY. 12 USC 2279b.

"(a) Assignments.—A Federal land bank or a merged bank having a Federal land bank as one of its constituents, may assign to a Federal land bank association, and the association may assume, the authority of the transferring bank in the territorial area served by the association, to make and participate in long-term real estate mortgage loans under sections 1.6 through 1.9 if the assignment is approved by—

"(1) the Farm Credit Administration Board;

"(2) the Board of Directors of both institutions; and

"(3) a majority of the stockholders of the bank and of the association, in accordance with the voting provisions of sections 7.0 and 7.6.

"(b) Direct Loans and Financial Assistance.—After an assignment described in subsection (a)—

"(1) the Federal land bank association shall possess all of the direct long-term real estate mortgage loan authority, formerly possessed by the transferring bank, in the territory served by the association; and

"(2) the Federal land bank may provide and extend financial assistance to, and discount for, or purchase from, the transferee Federal land bank association any note, draft, or other obligation with the endorsement or guarantee of the association, the proceeds of which have been advanced to persons eligible and for purposes of financing by the association under subsection (a).

"(c) Regulations.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the banks that make assignments or transfers are consolidated and, to the extent necessary, reconciled in the association referred to in subsection (a). Following a transfer or assignment under subsection (a), the provisions of section 4.3A shall be applicable to the association.

"Chapter 2—Merger of Like and Unlike Associations

"SEC. 7.7. MERGERS OF UNLIKE ASSOCIATIONS. 12 USC 2279c.

"On the merger of one or more production credit associations with one or more Federal land bank associations, the bank supervising the Federal land bank association shall transfer all of its direct lending authority of the bank to such association under section 7.8.

"SEC. 7.8. MERGER OF ASSOCIATIONS. 12 USC 2279c-1.

"(a) In General.—Two or more associations within the same district, whether or not organized under the same title of this Act, may merge into a single entity (hereinafter in this title referred to as a 'merged association') if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the boards of directors of the associations;

"(3) a majority of the shareholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(4) the Farm Credit Bank.

"(b) POWERS, OBLIGATIONS, AND CONSOLIDATION.—

"(1) POWERS AND OBLIGATIONS.—Except as otherwise provided by this title, a merged association shall—

"(A) possess all powers granted under this Act to the associations forming the merged association; and

"(B) be subject to all of the obligations imposed under this Act on the associations forming the merged association.

Regulations.

"(2) CONSOLIDATION.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the associations that form the merged association are consolidated and, to the extent necessary, reconciled in the merged association. Following a merger under subsection (a), the provisions of section 4.3A shall be applicable to the merged association.

"(c) STOCK ISSUANCE.—

"(1) PLAN OF MERGER.—Subject to section 4.3A, the number of shares of capital stock issued by a merged association to the stockholders of any association forming such merged association, and the rights and privileges of such shares (including voting power, preferences on liquidation, and the right to dividends), shall be determined by the plan of merger adopted by the merged associations.

"(2) PLAN OF CAPITALIZATION.—The number of shares of capital stock, and the rights and privileges thereof, issued by a merged association after a merger shall be determined by the Board of Directors of the merged association, with the approval of the supervising bank, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

"(3) VOTING STOCK.—Voting stock of a merged association shall be issued to and held by farmers, ranchers, or producers or harvesters of aquatic products who are or were, immediately prior to the merger, direct borrowers from one of the associations forming the merged association or the supervising bank of such merged association.

"(d) CAPITALIZATION.—The plan of merger shall provide for the issuance, transfer, and retirement of stock and the distribution of earnings in accordance with the provisions of section 4.3A.

12 USC 2279c-2.

"SEC. 7.9. RECONSIDERATION.

"(a) PERIOD.—A stockholder vote in favor of—

"(1) the merger of districts under section 5.17(a)(2);

"(2) the merger of banks within a district under section 7.0;

"(3) the transfer of the lending authority of a Federal land bank or a merged bank having a Federal land bank as one of its constituents, under section 7.6;

"(5) the merger of two or more associations under section 7.8;

"(6) the termination of the status of an institution as a System institution under section 7.10; and

"(7) the merger of similar banks under section 7.13;

shall not take effect except in accordance with subsection (b).

"(b) RECONSIDERATION.—

"(1) NOTICE.—Not later than 30 days after a stockholder vote in favor of any of the actions described in subsection (a), the officer or employee that records such vote shall ensure that all stockholders of the voting entity receive notice of the final results of the vote.

"(2) EFFECTIVE DATE.—A voluntary merger, transfer, or termination that is approved by a vote of the stockholders of two or more banks or associations, shall not take effect until the expiration of 30 days after the date on which the stockholders of such associations are notified of the final result of the vote in accordance with paragraph (1).

"(3) PETITION FILED.—If a petition for reconsideration of a merger, transfer, or termination vote, signed by at least 15 percent of the stockholders of one or more of the affected banks or associations, is presented to the Farm Credit Administration within 30 days after the date of the notification required under paragraph (1)—

"(A) a voluntary merger, transfer, or termination shall not take effect until the expiration of 60 days after the date on which the stockholders were notified of the final result of the vote; and

"(B) a special meeting of the stockholders of the affected banks or associations shall be held during the period referred to in subparagraph (A) to reconsider the vote.

"(4) VOTE ON RECONSIDERATION.—If a majority of stockholders of any one of the affected banks or associations voting, in person or by written proxy, at a duly authorized stockholders' meeting, vote against the proposed merger, transfer, or termination, such action shall not take place.

"(5) FAILURE TO FILE PETITION.—If a petition for reconsideration of such vote is either not filed prior to the 60th day after the vote or, if timely filed, is not signed by at least 15 percent of the stockholders, the merger, transfer, or termination shall become effective in accordance with the plan of merger, transfer, or termination.

"(c) SPECIAL RECONSIDERATION.—

"(1) ISSUANCE OF REGULATIONS.—Notwithstanding any other provision of this Act, the Farm Credit Administration shall issue regulations under which the stockholders of any association that voluntarily merged with one or more associations after December 23, 1985, and before the date of the enactment of this section, may petition for the opportunity to organize as a separate association.

"(2) REQUIREMENTS.—The regulations issued by the Farm Credit Administration shall require that—

"(A) the petition be filed within 1 year after the date of the implementation of such regulations;

"(B) the petition be signed by at least 15 percent of the stockholders of any one of the associations that merged during the period;

"(C) the petition describe the territory in which the proposed separate association will operate;

"(D) if the petition is approved—

"(i) the loans of the members of the new association will be transferred from the current association to such new association;

"(ii) the stock, participation certificates, and other similar equities of the current association held by members of the new association will be retired at book value and the proceeds of such will be transferred to the new association, and an equivalent amount of stock, participation certificates, and other similar equities will be issued to the members by the new association; and

"(iii) the other assets of the current association will be distributed equitably among the current association and any resulting new association.

"(3) NOTIFICATION.—

"(A) IN GENERAL.—Not later than 30 days after the filing of the petition for organization, the current association shall notify its stockholders that a petition to establish the separate association has been filed.

"(B) CONTENTS.—The notification required under this paragraph shall contain—

"(i) the date of a special stockholders' meeting to consider the petition for organization; and

"(ii) an enumerated statement of the anticipated benefits and the potential disadvantages to such stockholders if the new association is established.

"(C) FCA APPROVAL.—

"(i) IN GENERAL.—All notifications under this paragraph shall be submitted to the Farm Credit Administration Board for approval prior to being distributed to the stockholders.

"(ii) AMENDING NOTIFICATION.—The Farm Credit Administration Board shall require that, prior to the distribution of the notification to the stockholders, the notification be amended as determined necessary by the Board to provide accurate information to the stockholders that will enable such stockholders to make an informed decision as to the advisability of establishing a new association.

"(D) SPECIAL STOCKHOLDERS' MEETING.—

"(i) TIMING OF MEETING.—The special stockholders' meeting to consider the petition shall be held within 60 days after the filing of the petition.

"(ii) APPROVAL.—If, at the special stockholders' meeting, a majority of the stockholders of the current association who would be served by the new association approve, by voting in person or by proxy, the establishment of the separate association, the Farm Credit Administration shall, within 30 days of such vote, issue a charter to the new association and amend the charter of the current association to reflect the territory to be served by the new association.

"Chapter 3—Termination and Dissolution of Institutions

12 USC 2279d.

"SEC. 7.10. TERMINATION OF SYSTEM INSTITUTION STATUS.

"(a) CONDITIONS.—A System institution may terminate the status of the institution as a System institution if—

the reasons for the determination by the Board. If such plan is determined to be inadequate, it shall not be submitted to the voters for a vote.

"(c) FEDERAL CHARTER.—Each plan of merger or transfer of lending authority may include a proposed new or revised Federal charter for the merged or transferee entity. The Farm Credit Administration Board shall issue such charter on the approval of the plan, as prescribed in this title, unless the Board determines that the charter submitted is not consistent with this Act.

"Subtitle D—Mergers of Like Entities

12 USC 2279f.

"SEC. 7.12. MERGER OF SIMILAR BANKS.

"(a) IN GENERAL.—Banks organized or operating under this Act may merge with banks in other districts operating under the same title if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective Boards of Directors of the banks involved;

"(3) a majority vote of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting, with each association having a number of votes equal to the number of such association's voting stockholders; and

"(4) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

"(b) PROCEDURES.—The provisions of sections 7.2 through 7.4 shall apply to banks merged under this section.

"(c) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—After a merger under subsection (a), a board of directors shall be created for the resulting bank

"(2) COMPOSITION.—The board shall be composed of—

"(A) two directors elected by each of the bank boards, with at least one such director from each bank being elected by the eligible stockholders of, or subscribers to, the guaranty fund of the merging banks; and

"(B) one outside director elected by the members elected under subparagraph (A).

"(3) OUTSIDE DIRECTOR.—

"(A) QUALIFICATIONS.—The outside director elected under paragraph (2)(B) shall be experienced in financial services and credit, and within the 2-year period prior to such election, shall not have been a borrower from, shareholder in, or director, officer, employee, or agent of any institution of the Farm Credit System.

"(B) FAILURE TO ELECT.—If the other members of the board fail to elect an outside director, the Farm Credit Administration Board shall appoint a qualified person to serve on the board of directors until such member is so elected.

"(4) BYLAWS.—Notwithstanding paragraph (2), the bylaws of the merged bank may, with the approval of the Farm Credit Administration, provide for a different number of directors to be selected in a different manner, except that the bylaws shall provide for at least one outside director.

"SEC. 7.13. MERGER OF SIMILAR ASSOCIATIONS.

12 USC 2279f-1.

"(a) In General.—Associations may voluntarily merge with other like associations if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective Boards of Directors of the associations involved;

"(3) a majority vote of the stockholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(4) the Farm Credit Bank.

"(b) Procedures.—The provisions of subsections (b), (c), and (d) of section 7.8 shall apply to associations merged under this section.".

SEC. 414. NONDISCRIMINATION.

12 USC 2252.

The second sentence of section 5.17(a)(2) (12 U.S.C. 2251(a)(2)) is amended by striking out "; and the Farm Credit Administration shall ensure" and all that follows through "discriminated against in the provision of any financial service and assistance" and inserting in lieu thereof ". The Farm Credit Administration Board shall ensure that disapproving associations (A) shall not be charged any assessment under this Act at a rate higher than that charged other like associations in the district, and (B) shall be provided with financial services and assistance on the same basis as other like associations in the district".

SEC. 415. CONFORMING AMENDMENTS.

(a) Dissolution and Merger.—

(1) Part heading.—The part heading of part B of title IV (12 U.S.C. 2181 et seq.) is amended by striking out "And Merger".

(2) Merger.—Section 4.10 (12 U.S.C. 2181) is repealed.

(3) Boards of directors.—Section 4.11 (12 U.S.C. 2182) is repealed.

(4) Dissolution.—Section 4.12(a) (12 U.S.C. 2183(a)) is amended—

(A) by striking out the third sentence; and

(B) in the fourth sentence, by striking out "may require such merger" and inserting in lieu thereof "Board may require an association to merge with another association".

(b) Issuance of Obligations.—Section 4.2(d) (12 U.S.C. 2174(d)) is amended by striking out "each of the 12 districts and the Central Bank for Cooperatives" and inserting in lieu thereof "each bank".

12 USC 2153.

(c) District and Farm Credit Administration Organization.—Sections 5.1 through 5.6 (12 U.S.C. 2222-2227) are repealed.

(d) Farm Credit Administration Powers.—Section 5.17(a)(2) (12 U.S.C. 2252(a)(2)) is amended—

(1) by striking out "; approve mergers of banks" and all that follows through "territories" and inserting in lieu thereof "approve mergers and any related activities as provided for in title VII; and the consolidation or division of the territories"; and

(2) by striking out "4.10" and inserting in lieu thereof "7.0".

Subtitle C—Other Restructuring Provisions

SEC. 420. COMMUNICATIONS WITH STOCKHOLDERS.

Part B of title IV (12 U.S.C. 2181 et seq.) is amended by adding at the end thereof the following new section:

12 USC 2184.

"SEC. 4.12A. COMMUNICATIONS WITH STOCKHOLDERS.

"(a) PROVISION OF STOCKHOLDER LISTS.—

"(1) IN GENERAL.—Within 7 days after receipt of a written request by a stockholder, a bank for cooperatives, Federal land bank association, or production credit association shall provide a current list of its stockholders to such requesting stockholder.

"(2) CONDITIONS.—As a condition of providing a stockholder list under paragraph (1), the bank or association may require that the stockholder agree and certify in writing that the stockholder will—

"(A) use the list exclusively for communicating with stockholders for permissible purposes; and

"(B) not make the list available to any person, other than the stockholder's attorney or accountant, without first obtaining the written consent of the institution.

"(b) ALTERNATIVE COMMUNICATIONS.—

"(1) REQUEST TO ISSUE.—As an alternative to receiving a list of stockholders, a stockholder may request the institution to mail or otherwise furnish to each stockholder a communication for a permissible purpose on behalf of the requesting stockholder.

"(2) WHEN PERMISSIBLE.—Alternative communications may be used, at the discretion of the requesting stockholder, if the requester agrees to defray the reasonable costs of the communication. If the requester decides to exercise this option, the institution shall provide the requester with a written estimate of the costs of handling and mailing the communication as soon as is practicable after receipt of the stockholder's request to furnish the communication.".

SEC. 421. ELIGIBILITY TO BORROW FROM A BANK FOR COOPERATIVES.

Section 3.8 (12 U.S.C. 2129) is amended by striking out subsection (2) and inserting in lieu thereof the following new subsection:

"(b) Notwithstanding any other provision of this section:

"(1) The following entities shall also be eligible to borrow from a bank for cooperatives:

"(A) Cooperatives and other entities that have received a loan, loan commitment, or loan guarantee from the Rural Electrification Administration, or a loan or loan commitment from the Rural Telephone Bank, or that have been certified by the Administrator of the Rural Electrification Administration to be eligible for such a loan, loan commitment, or loan guarantee, and subsidiaries of such cooperatives or other entities.

"(B) Any legal entity more than 50 percent of the voting control of which is held by one or more associations or other entities that are eligible to borrow from a bank for cooperatives under subsection (a) or subparagraph (A) of this paragraph, except that any such legal entity, when considered together with one or more such associations or other entities that hold such control, meet the requirement of subsection (a)(3).

"(C) Any legal entity that (i) holds more than 50 percent of the voting control of an association or other entity that is eligible to borrow from a bank for cooperatives under subsection (a) or subparagraph (A) of this paragraph, and (ii) borrows for the purpose of making funds available to that association or entity, and make funds available to that association or entity under the same terms and conditions that the funds are borrowed from a bank for cooperatives.

"(2) Notwithstanding the provisions of section 3.9, the board of directors of a bank for cooperatives may determine that, with respect to a loan to any borrower eligible to borrow from a bank under paragraph (1)(A) that is fully guaranteed by the United States, no stock purchase requirement shall apply, other than the requirement that a borrower eligible to own voting stock shall purchase one share of such stock.

"(3) Each association and other entity eligible to borrow from a bank for cooperatives under this subsection, for purposes of section 3.7(a), shall be treated as an eligible cooperative association and a stockholder eligible to borrow from the bank.

"(4) Nothing in this subsection shall be construed to adversely affect the eligibility, as it existed on the date of the enactment of this subsection, of cooperatives and other entities for any other credit assistance under Federal law.".

SEC. 422. SALES OF INSURANCE BY SYSTEM INSTITUTIONS.

(a) IN GENERAL.—Section 4.29 (12 U.S.C. 2218) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after the subsection designation;

(B) by striking out "of this Act";

(C) by inserting "or borrower from" before "any such bank";

(D) by adding at the end thereof the following new sentence: "A member or borrower shall have the option, without coercion from the bank or association of such member or borrower, to accept or reject such insurance."; and

(E) by adding at the end thereof the following new paragraph:

"(2) In making insurance available through private insurers, the banks shall approve the programs of more than two insurers for each type of insurance offered in the district. The banks may provide comparative information relating to costs and quality of approved programs and the financial conditions of approved companies. Associations shall offer at least two insurers for each program from among those approved by the Federal intermediate credit banks."; and

(2) in paragraph (2) of subsection (b)—

(A) by redesignating clauses (i), (ii), and (iii), as subparagraphs (A), (B), and (C), respectively;

(B) by striking out "and" in subparagraph (B) as so redesignated;

(C) by striking out "and" in subparagraph (C) as so redesignated; and

(D) by adding at the end thereof the following new subparagraphs:

"(D) the insurance program has been approved by the bank or association from among specific programs made available to it by insurers—

"(i) meeting reasonable financial and quality of service standards; and

"(ii) licensed under State law to do business in the State; and

State and local governments.

"(E) in making insurance available through approved insurers, the board of directors of the association or bank selects and offers at least two approved insurers for each type of insurance made available to the members and borrowers; and".

12 USC 2218 note.

(b) CONTINUATION OF PROGRAM.—Notwithstanding the amendments made to section 4.29 by subsection (a), any insurance program offered by any bank or association of the Farm Credit System on the date of the enactment of this Act that does not meet the requirements of section 4.29, as so amended, may be continued until July 1, 1988.

SEC. 423. CIVIL MONEY PENALTIES.

(a) ASSESSMENT AUTHORITY.—Section 5.32(a) (12 U.S.C. 2268(a)) is amended by striking out "continues, but" and inserting in lieu thereof the following: "continues. Any such institution or person who violates any provision of this Act or any regulation issued under this Act shall forfeit and pay a civil penalty of not more than $500 per day for each day during which such violation continues. Notwithstanding the preceding sentences,".

(b) NOTIFICATION OF ALLEGED VIOLATORS.—Section 5.32(b) (12 U.S.C. 2268(b)) is amended by inserting after the subsection designation the following new sentence: "Before determining whether to assess a civil money penalty and determining the amount of such penalty, the Farm Credit Administration shall notify the institution or person to be assessed of the violation or violations alleged to have occurred or to be occurring, and shall solicit the views of the institution or person regarding the imposition of such penalty.".

(c) REVIEW OF FINAL ORDERS.—Section 5.32(d) (12 U.S.C. 2268(d)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "Final orders of the Farm Credit Administration issued under subsection (c) shall be reviewable under chapter 7 of title 5, United States Code.".

SEC. 424. LIMITATION ON FCA AUTHORITY TO REQUIRE DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Section 5.17(a)(9) (12 U.S.C. 2252(a)(9)) is amended by inserting before the period the following: ", except that the Farm Credit Administration may not require any System institution to disclose in any report to stockholders information concerning the condition or classification of a loan—

"(A) to a director of the institution—

"(i) who has resigned before the time for filing the applicable report with the Farm Credit Administration; or

"(ii) whose term of office will expire no later than the date of the meeting of stockholders to which the report relates; or

"(B) to a member of the immediate family of a director of the institution unless—

"(i) the family member resides in the same household as the director; or

"(ii) the director has a material financial or legal interest in the loan or business operation of the family member.".

12 USC 2252 note.

(b) REGULATIONS.—Within 30 days after the date of the enactment of this Act, the Farm Credit Administration shall amend its regulations as necessary to implement the amendment made by subsection (a).

SEC. 425. REMOVAL OF CERTAIN SUNSET PROVISIONS; PROHIBITION AGAINST USE OF SIGNED BALLOTS.

Section 4.20 (12 U.S.C. 2208) is amended to read as follows:

"SEC. 4.20. PROHIBITION AGAINST USE OF SIGNED BALLOTS.

"In any election or merger vote, or other proceeding subject to a vote of the stockholders (or subscribers to the guaranty fund of a bank for cooperatives), conducted by a lending institution of the Farm Credit System, the institution—

"(1) may not use signed ballots; and

"(2) shall implement measures to safeguard the voting process for the protection of the right of stockholders (or subscribers) to a secret ballot.".

SEC. 426. FEDERAL LAND BANK LOAN SECURITY.

Section 1.9 (12 U.S.C. 2017) is amended to read as follows:

"SEC. 1.9. FEDERAL LAND BANK LOAN SECURITY.

"(a) MAXIMUM LEVEL OF LOANS.—

"(1) IN GENERAL.—Loans originated by a Federal land bank, or in which a Federal land bank participates in with a lender that is not a System institution, shall not exceed 85 percent of the appraised value of the real estate security, except as provided for in paragraphs (2) and (3).

"(2) REGULATION.—The Farm Credit Administration may, by regulation, require that loans not exceed 75 percent of the appraised value of the real estate security.

State and local governments.

"(3) GUARANTEED LOANS.—If the loan is guaranteed by Federal, State, or other governmental agencies, the loan may not exceed 97 percent of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration.

"(b) SECURITY.—All loans originated or participated in by a bank under this section shall be secured by first liens on interests in real estate of such classes as may be approved by the Farm Credit Administration.

"(c) VALUE OF SECURITY.—To adequately secure the loan, the value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by the Farm Credit Administration.

"(d) ADDITIONAL SECURITY.—Additional security for any loan may be required by the bank to supplement real estate security. Credit factors, other than the ratio between the amount of the loan and the security value, shall be given due consideration.

"(e) FINANCIAL STATEMENT.—Each Federal land bank shall require a financial statement from each borrower at least once every 3 years, or during such shorter period of time as may be required under regulations of the Farm Credit Administration.".

SEC. 427. AFFIRMATIVE ACTION.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

Contracts.
12 USC 2219c.

"SEC. 4.37. AFFIRMATIVE ACTION.

The Assistance Board established under section 6.0 and all institutions of the Farm Credit System with more than 20 employees shall establish and maintain an affirmative action program plan that applies the affirmative action standards otherwise applied to contractors of the Federal Government.".

SEC. 428. ENCOURAGEMENT OF CONSERVATION PRACTICES.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

12 USC 2219d.

"SEC. 4.38. ENCOURAGEMENT OF CONSERVATION PRACTICES.

"At the time a System institution or an agricultural mortgage loan originator (as defined in section 8.0(7)) approves a loan made to a borrower that, in the opinion of the institution or originator, would be ineligible for a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) by reason of subtitle B or C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.), the institution or originator, as the case may be, shall encourage the borrower to contact the Department of Agriculture Soil Conservation Service to obtain information about soil conservation methods and practices.".

SEC. 429. UNIFORM FINANCIAL REPORTING INSTRUCTIONS.

Part B of title V is amended by inserting after section 5.22 (12 U.S.C. 2257) the following new section:

12 USC 2257a.

"SEC. 5.22A. UNIFORM FINANCIAL REPORTING INSTRUCTIONS.

"(a) In General.—Each System institution shall comply with uniform financial reporting instructions required by the Farm Credit Administration, to standardize and facilitate the reporting of System data.

"(b) Computerized System.—If the financial reports are maintained by a computer system, each System institution may develop an internal computer system or it may contract out to a vendor under open competitive bidding any or all aspects of the computerized system.

"(c) Submission of Proposal.—Within 6 months of the date of the enactment of this section, each System institution shall submit to the Farm Credit Administration a report on the plan of that institution to bring the operations of the institution into compliance with the uniform financial reporting instructions required by the Farm Credit Administration.".

SEC. 430. COMPENSATION FOR DIRECTORS.

Section 5.5 (12 U.S.C. 2226) is amended by inserting before the period at the end thereof the following: "No director may receive compensation under this section during any year in a total amount exceeding $15,000.".

SEC. 431. FARM CREDIT ADMINISTRATION BOARD.

(a) Rules and Records.—Section 5.8(c) (12 U.S.C. 2242) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "The Board shall adopt such rules as it deems appropriate for the transaction of business by the Board, and shall keep permanent and accurate records and minutes of the actions and proceedings of the Board.".

(b) Chairman.—Subsection (a) of section 5.10 (12 U.S.C. 2244(a)) is amended to read as follows:

"(a)(1) The Chairman of the Board shall be the chief executive officer of the Farm Credit Administration.

"(2) In carrying out the responsibilities of the chief executive officer, the Chairman shall be responsible for directing the implementation of policies and regulations adopted by the Board and, after consultation with the Board, the execution of the administrative functions and duties of the Farm Credit Administration.

"(3) In carrying out policies as directed by the Board, the Chairman shall act as spokesperson for the Board and represent the Board and the Farm Credit Administration in their official relations within the Federal Government.

"(4) Under policies adopted by the Board, the Chairman shall consult on a regular basis with—

"(A) the Secretary of the Treasury concerning the exercise, by the System, of the powers conferred under section 4.2;

"(B) the Board of Governors of the Federal Reserve System concerning the effect of System lending activities on national monetary policy; and

"(C) the Secretary of Agriculture concerning the effect of System policies on farmers, ranchers, and the agricultural economy.".

(c) FUNCTIONS AND APPOINTMENTS.—Section 5.11 (12 U.S.C. 2245) is amended to read as follows:

"SEC. 5.11. ORGANIZATION OF THE FARM CREDIT ADMINISTRATION.

"(a) POLICIES OF THE BOARD.—The Chairman of the Farm Credit Administration Board, in carrying out the powers and duties vested in the Chairman by this Act, and Acts supplementary thereto, shall be governed by policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

"(b) APPOINTMENTS.—The Chairman of the Board shall appoint such personnel as may be necessary to carry out the functions of the Farm Credit Administration. The appointment by the Chairman of the heads of major administrative divisions under the Board shall be subject to the approval of the Board.

"(c) PERSONNEL.—

"(1) APPOINTMENTS BY BOARD MEMBERS.—Personnel employed regularly and full-time in the immediate offices of Board members shall be appointed by each such Board member.

"(2) OFFICERS AND EMPLOYEES.—The officers and employees of the agency shall be—

"(A) subject to the Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.);

"(B) considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18, United States Code; and

"(C) subject to section 5315 of title 5, United States Code.

"(3) DELEGATION.—The powers of the Chairman as chief executive officer necessary for day to day management may be exercised and performed by the Chairman through such other officers and employees of the Administration as the Chairman shall designate, except that the Chairman may not delegate powers specifically reserved to the Chairman by this Act without Board approval.

"(d) FUNDING.—The operations of the Farm Credit Administration, and the salaries of members of the Board and employees of the Administration, shall be funded and paid for from the fund created under section 5.15.".

(d) ADVISORY COMMITTEES.—Section 5.12 (12 U.S.C. 2246) is amended by inserting ", subject to the approval of the Board," after "Chairman of the Board".

12 USC 2252.

(e) POWERS.—Section 5.17(a) (12 U.S.C. 2251(a)) is amended—

(1) in paragraph (2), by striking out the last sentence and inserting in lieu thereof the following new sentence: "The Farm Credit Administration Board, after consultation with the respective boards of directors of the affected banks, may require two or more banks operating under the same or different titles to merge if the Board determines that one of such banks has failed to meet its outstanding obligations."; and

(2) in paragraph (15)—

(A) by inserting "by the Board" after "determined"; and

(B) by adding at the end thereof the following new sentence: "The Board may not delegate its responsibilities under this paragraph.".

(f) SPECIAL DISTRICT RULE.—Section 2.15 (12 U.S.C. 2096) is amended by adding at the end thereof the following new subsection:

"(c)(1) On request, the Farm Credit Administration Board may permit a production credit association, located in a district in which there are no more than three such associations, notwithstanding any territorial limitation in the charter of such association, to provide credit and technical assistance to any borrower who is denied credit by a production credit association that—

"(A) has an adjoining service territory; and

"(B) is located in the same district,

if the Board determines that one of the production credit associations in the district is unduly restrictive in the application of credit standards.

"(2) If the Farm Credit Administration Board approves the extension of credit and technical assistance under paragraph (1), the association shall approve or deny the application for credit within 90 days after the receipt of the application from the borrower.".

(g) CONFORMING AMENDMENT.—Section 4.12 (12 U.S.C. 2183) is amended by inserting "Board" after "Farm Credit Administration" each place it appears in subsection (b) other than in clause (5) of the first sentence.

SEC. 432. FARM CREDIT ADMINISTRATION ORGANIZATION.

(a) OPERATING EXPENSES FUND.—Section 5.15 (12 U.S.C. 2249) is amended to read as follows:

12 USC 2250.

"SEC. 5.15. FARM CREDIT ADMINISTRATION OPERATING EXPENSES FUND.

"(a) DETERMINATIONS REQUIRED.—

"(1) GENERALLY.—Prior to the first day of each fiscal year, the Farm Credit Administration shall determine—

"(A) the cost of administering this Act for the subsequent fiscal year, including expenses for official functions;

"(B) the amount of assessments that will be required to pay such administrative expenses, taking into consideration the funds contained in the Administrative Expense Account, and maintain a necessary reserve; and

"(C) the amount of assessments that will be required to pay the costs of supervising and examining the Mortgage Corporation established under title VIII.

"(2) Apportionments.—On the basis of the determinations made under paragraph (1), the Farm Credit Administration shall—

"(A) apportion the amount of such assessment among the System institutions on a basis that is determined to be equitable by the Farm Credit Administration;

"(B) assess and collect such apportioned amounts from time to time during the fiscal year as determined necessary by the Farm Credit Administration; and

"(C) assess and collect from the Mortgage Corporation, from time to time during the fiscal year, the amount specified in paragraph (1)(C).

"(b) Deposits into Fund.—

"(1) Treasury fund.—The amounts collected under subsection (a) shall be deposited in the Farm Credit Administration Administrative Expense Account. The Expense Account shall be maintained in the Treasury of the United States and shall be available, without regard to the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) or any other law, to pay the expenses of the Farm Credit Administration.

"(2) Nongovernment funds.—The funds contained in the Expense Account shall not be construed to be Federal Government funds or appropriated moneys.

"(3) Investment.—

"(A) Authority.—On request of the Farm Credit Administration, the Secretary of the Treasury shall invest and reinvest such amounts contained in the Expense Account as, in the determination of the Farm Credit Administration, are in excess of the amounts necessary for current expenses of the Farm Credit Administration.

"(B) Returns.—All income earned from such investments and reinvestments shall be deposited in the Expense Account.

"(C) Type.—Such investments shall be made in public debt securities with maturities suitable to the needs of the Expense Account, as determined by the Farm Credit Administration, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

(b) Examination of Federal Land Bank Associations.—Section 5.19(a) (12 U.S.C. 2253(a)) is amended— 12 USC 2254.

(1) in the first sentence, by striking out "Each" and inserting in lieu thereof "Except for Federal land bank associations, each";

(2) by inserting after the first sentence the following new sentence: "Each Federal land bank association shall be examined by Farm Credit Administration examiners at such times as the Farm Credit Administration Board may determine, except that each such association shall be examined at least once every 5 years."; and

(3) by striking out "the Chairman of" each place it appears in such subsection.

(c) Power To Remove Directors and Officers.—Part C of title V (12 U.S.C. 2260) is amended by adding at the end thereof the following new section:

12 USC 2274.

"SEC. 5.38. POWER TO REMOVE DIRECTORS AND OFFICERS.

"Notwithstanding any other provision of this Act, a farm credit district board, bank board, or bank officer or employee shall not remove any director or officer of any production credit association or Federal land bank association.".

12 USC 2071 note.

SEC. 433. REASSIGNMENT OF ASSOCIATIONS TO ADJOINING DISTRICTS.

(a) Petition of Bank.—Notwithstanding any other provision of this Act, effective for the 12-month period beginning on the date of enactment of the Agricultural Credit Act of 1987, each Federal land bank association or production credit association, whose chartered territory adjoins the territory of another district, may petition the Farm Credit Administration to amend the charters of the association and the adjoining district bank to provide that the territory of the association is part of the adjoining district.

(b) Requirements of Petition.—To be considered under this section, the petition must be signed by not less than 15 percent of the stockholders of the association. Only one such petition may be filed by an association under this subsection.

(c) FCA Action.—The Farm Credit Administration shall take any action necessary—

(1) to amend the charters of the association and the district bank; and

(2) to incorporate the petitioning association into the adjoining district if the reassignment is approved by—

(A) a majority of the stockholders of the association voting, in person or by proxy, at a duly authorized stockholders' meeting held for such purpose;

(B) the board of directors of such adjoining district;

(C) the Assistance Board; and

(D) the Farm Credit Administration Board.

SEC. 434. CONFORMING AMENDMENT.

Effective 6 months after the date of the enactment of this Act, section 1.2 (12 U.S.C. 2002) is amended to read as follows:

"SEC. 1.2. THE FARM CREDIT SYSTEM.

"The Farm Credit System shall include the the Farm Credit Banks, the Federal land bank associations, the production credit associations, the banks for cooperatives, and such other institutions as may be made a part of the System, all of which shall be chartered by and subject to the regulation by the Farm Credit Administration.".

TITLE V—STATE MEDIATION PROGRAMS

Subtitle A—Matching Grants for State Mediation Programs

7 USC 5101.

SEC. 501. QUALIFYING STATES.

(a) In General.—A State is a qualifying State if the Secretary of Agriculture (hereinafter in this subtitle referred to as the "Secretary") determines that the State has in effect an agricultural loan mediation program that meets the requirements of subsection (c).

(b) Determination by Secretary.—Within 15 days after the Secretary receives from the Governor of a State, a description of the agricultural loan mediation program of the State and a statement certifying that the State has met all of the requirements of subsection (c), the Secretary shall determine whether the State is a qualifying State.

(c) Requirements of State Programs.—Within 15 days after the Secretary receives a description of a State agricultural loan mediation program, the Secretary shall certify the State as a qualifying State if the State program—

(1) provides for mediation services to be provided to producers, and their creditors, that, if decisions are reached, result in mediated, mutually agreeable decisions between parties under an agricultural loan mediation program;

(2) is authorized or administered by an agency of the State government or by the Governor of the State;

(3) provides for the training of mediators;

(4) provides that the mediation sessions shall be confidential; and

(5) ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program.

SEC. 502. MATCHING GRANTS TO STATES.

7 USC 5102.

(a) Matching Grants.—Within 60 days after the Secretary certifies the State as a qualifying State under section 501(b), the Secretary shall provide financial assistance to the State, in accordance with subsection (b), for the operation and administration of the agricultural loan mediation program.

(b) Amount of Grant.—

(1) In general.—Subject to paragraph (2), the Secretary shall pay to a State under subsection (a) not more than 50 percent of the cost of the operation and administration of the agricultural loan mediation program within the State.

(2) Maximum amount.—The Secretary shall not pay more than $500,000 per year to a single State under subsection (a).

(c) Use of Grant.—Each State that receives an amount paid under subsection (a) shall use that amount only for the operation and administration of the agricultural loan mediation program of the State.

(d) Penalty.—If the Secretary determines that a State has not complied with subsection (c), such State shall not be eligible for additional financial assistance under this subtitle.

SEC. 503. PARTICIPATION OF FEDERAL AGENCIES.

7 USC 5103.

(a) Duties of the Secretary of Agriculture.—

(1) In general.—The Secretary, with respect to each program under the jurisdiction of the Secretary that makes, guarantees, or insures agricultural loans—

Regulations.

(A) shall prescribe rules requiring each such program to participate in good faith in any State agricultural loan mediation program;

(B) shall, on the date of the enactment of this Act, participate in agricultural loan mediation programs; and

(C) shall—

(i) cooperate in good faith with requests for information or analysis of information made in the course of mediation under any agricultural loan mediation program described in section 501; and

(ii) present and explore debt restructuring proposals advanced in the course of such mediation.

(2) NONBINDING ON SECRETARY.—The Secretary shall not be bound by any determination made in a program described in paragraph (1) if the Secretary has not agreed to such determination.

Regulations.

(b) DUTIES OF THE FARM CREDIT ADMINISTRATION.—The Farm Credit Administration shall prescribe rules requiring the institutions of the Farm Credit System—

(1) to cooperate in good faith with requests for information or analysis of information made in the course of mediation under any agricultural loan mediation program described in section 501; and

(2) to present and explore debt restructuring proposals advanced in the course of such mediation.

7 USC 5104.

SEC. 504. REGULATIONS.

Within 150 days after the date of the enactment of this Act, the Secretary and the Farm Credit Administration shall prescribe such regulations as may be necessary to carry out this subtitle.

7 USC 5105.

SEC. 505. REPORT.

Not later than January 1, 1990, the Secretary of Agriculture shall report to Congress on—

(1) the effectiveness of the State agricultural loan mediation programs receiving matching grants under this subtitle;

(2) recommendations for improving the delivery of mediation services to producers; and

(3) the savings to the States as a result of having an agricultural loan mediation program.

7 USC 5106.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $7,500,000 for each of the fiscal years 1988 through 1991.

Subtitle B—Waiver of Mediation Rights

SEC. 511. WAIVER OF MEDIATION RIGHTS BY FARM CREDIT SYSTEM BORROWERS.

Part C of Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after the section added by section 107 the following new section:

12 USC 2202e.

"SEC. 4.14E. WAIVER OF MEDIATION RIGHTS BY BORROWERS.

"No System institution may make a loan secured by a mortgage or lien on agricultural property to a borrower on the condition that the borrower waive any right under the agricultural loan mediation program of any State.".

SEC. 512. WAIVER OF MEDIATION RIGHTS BY FMHA BORROWERS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 619 of this Act the following new section:

"SEC. 358. WAIVER OF MEDIATION RIGHTS BY BORROWERS.

7 USC 2006.

"The Secretary may not make, insure, or guarantee any farmer program loan to a farm borrower on the condition that the borrower waive any right under the agricultural loan mediation program of any State.".

TITLE VI—FARMERS HOME ADMINISTRATION LOANS

SEC. 601. AMENDMENT OF CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

SEC. 602. DEFINITIONS.

Section 343 (7 U.S.C. 1991) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) As used in sections 307(e), 331D, 335 (e) and (f), 338(f), 351(h), 352 (b) and (c), 353, and 357:

"(1) The term 'borrower' means any farm borrower who has outstanding obligations to the Secretary under any farmer program loan, without regard to whether the loan has been accelerated, but does not include any farm borrower all of whose loans and accounts have been foreclosed on or liquidated, voluntarily or otherwise.

"(2) The term 'loan service program' means, with respect to a farmer program borrower, a primary loan service program or a preservation loan service program.

"(3) The term 'primary loan service program' means—

"(A) loan consolidation, rescheduling, or reamortization;

"(B) interest rate reduction, including the use of the limited resource program;

"(C) loan restructuring, including deferral, set aside, or writing down of the principal or accumulated interest charges, or both, of the loan; or

"(D) any combination of actions described in subparagraphs (A), (B), and (C).

"(4) The term 'preservation loan service program' means—

"(A) homestead retention as authorized under section 352; and

"(B) a leaseback or buyback of farmland authorized under section 335.".

SEC. 603. SECURITY FOR FMHA REAL ESTATE LOANS.

Section 307(c) (7 U.S.C. 1927(c)) is amended by adding at the end thereof the following new sentence: "A borrower may use the same collateral to secure two or more loans made, insured, or guaranteed under this subtitle, except that the outstanding amount of such loans may not exceed the total value of the collateral so used.".

SEC. 604. ADDITIONAL COLLATERAL.

Section 307 (7 U.S.C. 1927) is amended by adding at the end thereof the following new subsection:

"(e) The Secretary may not—

"(1) require any borrower to provide additional collateral to secure a farmer program loan made or insured under this title, if the borrower is current in the payment of principal and interest on the loan; or

"(2) bring any action to foreclose, or otherwise liquidate, any such loan as a result of the failure of a borrower to provide additional collateral to secure a loan, if the borrower was current in the payment of principal and interest on the loan at the time the additional collateral was requested.".

SEC. 605. NOTICE OF LOAN SERVICE PROGRAMS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after section 331C the following new section:

7 USC 1981d.

"SEC. 331D. NOTICE OF LOAN SERVICE PROGRAMS.

"(a) Requirement.—The Secretary shall provide notice by certified mail to each borrower who is at least 180 days delinquent in the payment of principal or interest on a loan made or insured under this title.

"(b) Contents.—The notice required under subsection (a) shall—

"(1) include a summary of all primary loan service programs, preservation loan service programs, and appeal procedures, including the eligibility criteria, and terms and conditions of such programs and procedures;

"(2) include a summary of the manner in which the borrower may apply, and be considered, for all such programs, except that the Secretary shall not require the borrower to select among such programs or waive any right in order to be considered for any program carried out by the Secretary;

"(3) advise the borrower regarding all filing requirements and any deadlines that must be met for requesting loan servicing;

"(4) provide any relevant forms, including applicable response forms;

"(5) advise the borrower that a copy of regulations is available on request; and

"(6) be designed to be readable and understandable by the borrower.

"(c) Contained in Regulations.—All notices required by this section shall be contained in the regulations implementing this title.

"(d) Timing.—The notice described in subsection (b) shall be provided—

"(1) at the time an application is made for participation in a loan service program;

"(2) on written request of the borrower; and

"(3) before the earliest of—

"(A) initiating any liquidation;

"(B) requesting the conveyance of security property;

"(C) accelerating the loan;

"(D) repossessing property;

"(E) foreclosing on property; or

"(F) taking any other collection action.

"(e) Consideration of Borrowers for Loan Service Programs.—The Secretary shall consider a farmer program borrower for all loan service programs if, within 45 days after receipt of the notice required in this section, the borrower requests such consideration in writing. In considering a borrower for loan service programs, the Secretary shall place the highest priority on the preservation of the borrower's farming operations.".

SEC. 606. PLANTING AND PRODUCTION HISTORY GUIDELINES.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after the section added by section 605 of this Act the following new section:

"SEC. 331E. PLANTING AND PRODUCTION HISTORY GUIDELINES.

State and local governments.
Disaster assistance.
7 USC 1981e.

"The Secretary shall ensure that appropriate procedures, including to the extent practicable onsite inspections, or use of county or State yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by natural disasters declared under the Disaster Relief Act of 1974.".

SEC. 607. COUNTY COMMITTEES.

Section 332(a) (7 U.S.C. 1982(a)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the second sentence, by striking out "deriving the principal part of their income from farming";

(3) by inserting before the period at the end thereof the following: "before conducting any county committee election. The Secretary shall publish any regulation promulgated under this subsection"; and

Regulations.

(4) by adding at the end thereof the following new paragraphs:

"(2) The Secretary shall ensure that farmers have—

"(A) at least 45 days to submit nominations following general public notice of any procedure by which to submit nominations for county committee elections in each county; and

"(B) at least 30 days after general public notice of an election in each county, before the election is held.

"(3) Any farmer eligible for a loan made or insured under subtitle A shall be eligible to serve as an elected or appointed county committee member, subject to section 336(c).

"(4) Not more than one farmer eligible for a loan made or insured under subtitle A may serve on a county committee at the same time.

"(5) For purposes of this subsection, the term 'farmer' shall include the spouse of a farmer otherwise eligible under this section.".

SEC. 608. ADMINISTRATIVE APPEALS.

Section 333B (7 U.S.C. 1983b) is amended by adding at the end thereof the following new subsections:

"(d) The Secretary shall establish and maintain within the Farmers Home Administration a national appeals division, which shall consist of a director, hearing officers, and such other personnel necessary to the administration of the division, all of whom shall be employees of the Farmers Home Administration who shall have no duties other than hearing and determining formal appeals arising under this section.

"(e)(1) Hearing officers within the appeals division in a State shall hear and determine all formal appeals of decisions which are subject to this section and are made by county supervisors, county committees, district directors, State directors, or other employees of the Secretary working in the State. Such hearings shall be held in the

State of residence of the appellant. The decisions of hearing officers shall, on the request and election of the borrower, be reviewed by the State director of the State of residence of the appellant or shall be referred directly to the director of the national appeals division. If the borrower elects review by the State director, the decisions of the State director shall, on request of the borrower, be subject to further review by the director of the national appeals division.

"(2) Each hearing before a hearing officer in the appeals division shall be recorded verbatim by voice recorder, stenographer, or other method, and a transcript of the hearing, together with all documents and evidence submitted, shall be made available to the appellant, on request, if the decision of the hearing officer is appealed. The record of the hearing shall consist of copies of all documents and other evidence presented to the hearing officer and the transcript of the hearing.

"(3) If a decision of a hearing officer is appealed, the hearing officer shall certify the record and deliver or otherwise provide the certified record to the director of the national appeals division and the Secretary. The national appeals division shall base its review of the hearing on the transcript of the hearing and the evidence presented to the hearing officer.

"(f) All hearing officers within the national appeals division shall report to the principal officers of the division, and shall not be under the direction or control of, or receive administrative support (except on a reimbursable basis) from, offices other than the national appeals division.

"(g) The Secretary shall ensure that the national appeals division has resources and personnel adequate to hear and determine all initial appeals in the State of residence of the appellant on a timely basis, and that hearing officers receive training and retraining adequate for their duties on initial employment and at regular intervals thereafter. The Secretary may expend sums available in the Farmers Home Administration's various revolving insurance funds for the purposes of this subsection in the event that necessary appropriations sufficient to fund the division are not available.".

7 USC 1983c.

SEC. 609. BORROWERS' RIGHT TO INFORMATION.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after section 333B the following new section:

"SEC. 333C. PROVISION OF INFORMATION TO BORROWERS.

"(a) In General.—On request of a farm borrower of a farmer program loan, the Secretary shall make available to the borrower the following:

"(1) One copy of each document signed by the borrower.

"(2) One copy of each appraisal performed with respect to the loan.

"(3) All documents that the Secretary otherwise is required to provide to the borrower under any law or rule of law in effect on the date of such request.

"(b) Construction of Section.—Subsection (a) shall not be construed to supersede any duty imposed on the Secretary by any law or rule of law in effect immediately before the date of the enactment of this section, unless such duty is in direct conflict with any duty imposed by subsection (a).".

SEC. 610. DISPOSITION AND LEASING OF FARMLAND.

(a) Classification of Property.—Section 335(c) (7 U.S.C. 1985(c)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting after the first sentence the following new sentence: "The County Committee shall classify or reclassify real property (including real property administered by the Secretary on the date of the enactment of this sentence) that is farmland, as being suitable for farming operation for such disposition unless the property, including property subdivided in accordance with subsection (e)(5), cannot be used to meet any of the purposes of section 303 (including being used as a start-up or add-on parcel of farmland)."; and

(3) by adding at the end thereof the following new paragraph:

Contracts.

"(2) Notwithstanding any other provision of law, the Secretary shall sell suitable farmland administered under this subtitle to operators (as of the time immediately after such contract for sale or lease is entered into) of not larger than family sized farms, as determined by the county committee. In selling such land, the county committee shall—

"(A) grant a priority to persons eligible for loans under subtitle A, including individuals approved for, but who, as of the date of the enactment of this paragraph, have not yet received, such loans;

"(B) offer suitable land at a price not greater than that which reflects the appraised market value of such land;

"(C) select from among qualified applicants the applicant who has the greatest need for farm income and best meets the criteria for eligibility to receive loans under subtitle A; and

Public information.

"(D) publish or caused to be published three consecutive weekly announcements at least twice annually of the availability of such farmland, in at least one newspaper that is widely circulated in the county in which the land is located until the property is sold.".

(b) Disposition and Leasing.—Section 335(e) (7 U.S.C. 1985(e)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1)(A)(i) During the 180-day period beginning on the date of acquisition, or during the applicable period under State law, the Secretary shall allow the borrower from whom the Secretary acquired real property used to secure any loan made to the borrower under this title (hereinafter referred to in this paragraph as the 'borrower-owner') to purchase or lease such property.

"(ii) The period for the purchase or lease of real property described under clause (i), by a person described in clauses (i) or (ii) of subparagraph (C), shall expire 190 days after the date of acquisition, or after the applicable period under State law.

"(iii) The rights regarding the purchase or lease of real property provided by this paragraph and accorded a person described in subparagraph (C) may be freely and knowingly waived by such person.

"(B) Any purchase or lease under subparagraph (A) shall be on such terms and conditions as are established in regulations promulgated by the Secretary.

"(C) The Secretary shall give preference in the sale or lease, with option to purchase, of property that has been foreclosed, purchased, redeemed, or otherwise acquired by the Secretary to persons in the following order:

"(i) The immediate previous borrower-owner of the acquired property.

"(ii) If actively engaged in farming—

"(I) the spouse or child of the previous borrower-owner; or

"(II) a stockholder in the corporation, if the borrower-owner is a corporation held exclusively by members of the same family.

"(iii) The immediate previous family size farm operator of such acquired property.

"(iv) Operators (as of the time immediately after such sale or lease is entered into) of not larger than family-size farms.

Indians.

"(D)(i) If—

"(I) the real property described in subparagraph (A)(i) is located within an Indian reservation,

"(II) the borrower-owner is the Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of such Indian tribe, and

"(III) the period in which the right to purchase or lease such real property provided in clauses (i) and (ii) of subparagraph (A) has expired,

the Secretary shall dispose of or administer the property only as provided for in this subparagraph.

"(ii) For purposes of this subparagraph, the term 'Indian reservation' means all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a federally recognized Indian tribe.

"(iii) The Secretary shall, within 90 days after the expiration of the period for which the right to purchase or lease real property described in clause (i) is provided in clauses (i) and (ii) of subparagraph (A), afford an opportunity to purchase or lease the real property in accordance with the order of priority established under clause (iv) by the Indian tribe having jurisdiction over the Indian reservation within which the real property is located or, if no order of priority is established by such Indian tribe under clause (iv), in the following order:

"(I) to an Indian member of the Indian tribe that has jurisdiction over the reservation within which the real property is located;

"(II) to an Indian corporate entity;

"(III) to such Indian tribe.

"(iv) The governing body of any Indian tribe having jurisdiction over an Indian reservation may revise the order of priority provided in clause (iii) under which lands located within such reservation shall be offered for purchase or lease by the Secretary under clause (iii) and may restrict the eligibility for such purchase or lease to—

"(I) persons who are members of such Indian tribe, "(II) Indian corporate entities that are authorized by such Indian tribe to lease or purchase lands within the boundaries of such reservation, or

"(III) such Indian tribe itself.

"(v) If real property described in clause (i) is not purchased or leased under clause (iii) and the Indian tribe having jurisdiction over the reservation within which the real property is located is unable to purchase or lease the real property, the Secretary shall transfer the real property to the Secretary of the Interior who shall administer the real property as if the real property were held in trust by the United States for the benefit of such Indian tribe. From the rental income derived from the lease of the transferred real property, and all other income generated from the transferred real property, the Secretary of the Interior shall pay those State, county, municipal, or other local taxes to which the transferred real property was subject at the time of acquisition by the Secretary, until the earlier of—

Contracts.
State and local governments.
Taxes.

"(I) the expiration of the 4-year period beginning on the date on which the real property is so transferred, or

"(II) such time as the lands are transferred into trust pursuant to clause (viii).

"(vi) At any time any real property is transferred to the Secretary of the Interior under clause (v), the Secretary of Agriculture shall be deemed to have no further responsibility under this Act for collection of any amounts with regard to the farm program loan which had been secured by such real property, nor with regard to any lien arising out of such loan transaction, nor for repayments of any amount with regard to such loan transactions or liens to the Treasury of the United States, and the Secretary of the Interior shall be deemed to have succeeded to all right, title and interest of the Secretary of Agriculture in such real estate arising from the farm program loan transaction, including the obligation to remit to the Treasury of the United States, in repayment of the original loan, those amounts provided in clause (vii).

"(vii) After the payment of any taxes which are required to be paid under clause (v), all remaining rental income derived from the lease of the real property transferred to the Secretary of the Interior under clause (v), and all other income generated from the real property transferred to the Secretary of the Interior under clause (v), shall be deposited as miscellaneous receipts in the Treasury of the United States until the amount deposited is equal to the lesser of—

"(I) the amount of the outstanding lien of the United States against such real property, as of the date the real property was acquired by the Secretary;

"(II) the fair market value of the real property, as of the date of the transfer to the Secretary of the Interior; or

"(III) the capitalized value of the real property, as of the date of the transfer to the Secretary of the Interior.

"(viii) When the total amount that is required to be deposited under clause (vii) with respect to any real property has been deposited into the Treasury of the United States, title to the real property shall be held in trust by the United States for the benefit of the Indian tribe having jurisdiction over the Indian reservation within which the real property is located.

"(ix) Notwithstanding any other clause of this subparagraph, the Indian tribe having jurisdiction over the Indian reservation within which the real property described in clause (i) is located may, at any time after the real property has been transferred to the Secretary of the Interior under clause (v), offer to pay the remaining amount on the lien, or the fair market value of the real property, whichever is less. Upon payment of such amount, title to such real property shall be held by the United States in trust for the tribe and such trust or restricted lands that have been acquired by the Secretary under foreclosure or voluntary transfer under a loan made or insured under this title and transferred to an Indian person, entity, or tribe under the provisions of this subparagraph shall be deemed to have never lost trust or restricted status.

"(E) The rights provided in this subsection shall be in addition to any such right of first refusal under the law of the State in which the property is located.";

(2) in paragraph (3)—

(A) by striking out subparagraph (A);

(B) by redesignating subparagraphs (B), (C), and (D), as subparagraphs (A), (B), and (C), respectively;

(C) in subparagraph (B) (as so redesignated), by striking out "give special consideration to a previous owner or operator of such land if such owner or operator" and inserting in lieu thereof "determine if the lessee"; and

(D) by adding at the end thereof the following new subparagraph:

Contracts. "(D) The Secretary may enter into a contract with a borrower of a farmer program loan made or insured under this title, to provide for the subsequent sale or lease of land that will be acquired from the borrower in the future, before the Secretary takes possession of such land.";

(3) by amending subparagraph (A) of paragraph (5) to read as follows:

"(A) If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subtitle A because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for such eligible persons, the Secretary shall, to the greatest extent practicable, subdivide such land into tracts suitable for sale under subsection (c). Such land shall be subdivided into parcels of land the shape and size of which are suitable for farming, the value of which shall not exceed the individual loan limits as prescribed under section 305.";

(4) in paragraph (6)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) provide written notice reasonably calculated to inform the immediate previous owner or immediate previous family-size farm operator of such farmland, of the availability of such farmland."; and

(5) by adding at the end thereof the following new paragraphs:

"(9) Denials of applications for or disputes over terms and conditions of a lease or purchase agreement under this section are appealable under section 333B.

"(10) In the event of any conflict between any provision of this subsection and any provision of the law of any State providing a right of first refusal to the owner of farmland or the operator of a farm before the sale or lease of land to any other person, such provision of State law shall prevail.".

SEC. 611. INCOME RELEASE.

Subsection (f) of section 335 (7 U.S.C. 1985(f)) is amended to read as follows:

"(f)(1) As used in this subsection, the term 'normal income security' means all security not considered basic security, including crops, livestock, poultry products, Agricultural Stabilization and Conservation Service payments and Commodity Credit Corporation payments, and other property covered by Farmers Home Administration liens that is sold in conjunction with the operation of a farm or other business, but shall not include any equipment (including fixtures in States that have adopted the Uniform Commercial Code), or foundation herd or flock, that is the basis of the farming or other operation, and is the basic security for a Farmers Home Administration farmer program loan.

"(2) The Secretary shall release from the normal income security provided for such loan an amount sufficient to pay for the essential household and farm operating expenses of the borrower, until such time as the Secretary accelerates such loan.

"(3) A borrower whose account was accelerated on or after November 1, 1985, and on or before May 7, 1987, but not thereafter foreclosed on or liquidated, shall be entitled to the release of security income for a period of 12 months, to pay the essential household and farm operating expenses of such borrower in an amount not to exceed $18,000 over 12 months, if such borrower—

"(A) as of October 30, 1987, continued to be actively engaged in the farming operations for which the Secretary had made the farmer program loan; and

"(B) as of the deadline for responding to the notice provided for under paragraph (5), requests restructuring of such loans pursuant to section 353.

"(4) The county committee in the county in which borrower's land is located shall determine whether the borrower has complied with the requirements of paragraph (3)(A).

"(5)(A) Within 45 days after the date of the enactment of this subsection, the Secretary shall provide to the borrowers described in paragraph (3) notice by certified mail of the right of such borrowers to apply for the benefits under such paragraph.

"(B) Releases under such paragraph shall be made to qualified borrowers who have responded to the notice within 30 days after receipt.

"(C) Within 12 months after a borrower has requested restructuring under section 353, the Secretary shall make a final determination on the request. Notwithstanding the 12-month limitation provided for in paragraph (3), releases shall continue to be made to the borrower until a denial or dismissal of the application of the borrower for restructuring under section 353 is made. The amount of essential household and farm operating expenses which may be released to any borrower eligible for such releases after 12 months may exceed $18,000, by an amount proportionate to the period of time beyond 12 months before a final determination is made by the Secretary.

"(6) If a borrower is required to plan for or to report on how proceeds from the sale of collateral property will be used, the Secretary shall—

"(A) notify the borrower of such requirement; and

"(B) notify the borrower of the right to the release of funds under this section and the means by which a request for the funds may be made.

Regulations.

"(7) The Secretary shall issue regulations consistent with this section that—

"(A) ensure the release of funds to each borrower; and

"(B) establish guidelines for releases under paragraph (3), including a list of expenditures for which funds will normally be released.".

SEC. 612. CONSERVATION EASEMENTS.

Section 349 (7 U.S.C. 1997) is amended—

(1) in subsection (c)(4), by inserting "and other wildlife habitat" after "wetland"; and

(2) in subsection (e), by striking out the last period and inserting in lieu thereof the following: "or the difference between the amount of the outstanding loan secured by the land and the current value of the land, whichever is greater.".

SEC. 613. INTEREST RATE REDUCTION PROGRAM; DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.

7 USC 1999 note.
7 USC 1999.

(a) EXTENSION OF PROGRAM FOR 5 YEARS.—Section 1320 of the Food Security Act of 1985 (99 Stat. 1532) is amended by striking out "1988" and inserting in lieu thereof "1993".

(b) AMENDMENTS TO PROGRAM.—Section 351 (7 U.S.C. 1999) is amended—

(1) in subsection (b)(1)(C), by striking out "12-month" and inserting in lieu thereof "24-month"; and

(2) by adding at the end thereof the following new subsections:

"(f) Each Farmers Home Administration county supervisor shall make available to farmers, on request, a list of approved lenders in the area that participate in the Farmers Home Administration guaranteed farm loan programs and other lenders in the area that express a desire to participate in such programs and that request inclusion in the list.

Contracts.

"(g) Notwithstanding any other provision of law, each contract of guarantee on a farm loan entered into under this title after the date of the enactment of this subsection shall contain a condition that the lender of the guaranteed loan may not initiate foreclosure action on the loan until 60 days after a determination is made with respect to the eligibility of the borrower thereof to participate in the program under this section.".

(c) DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.—Section 351 (7 U.S.C. 1999) is amended by adding after the subsection added by subsection (b) of this section the following new subsection:

"(h)(1) During the 3-year period beginning on the date of the enactment of this subsection, the Secretary shall establish and carry out a demonstration project in accordance with this subsection under which the Secretary may issue certificates of eligibility to Farmers Home Administration eligible borrowers to reduce the interest rate paid by the borrowers on loans obtained from legally organized lending institutions and Farm Credit System institutions to purchase acquired properties owned by institutions of the Farm Credit System certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971.

"(2) To be eligible to participate in the project, a borrower must—

"(A) meet the requirements of subsection (b)(1);

"(B) provide a down payment to purchase the land, using personal funds of the borrower, equal to at least 15 percent of the purchase price of the land; and

"(C) meet all conservation requirements for the land that are imposed on borrowers of guaranteed farm ownership loans under this title.

"(3) A certificate of eligibility issued under this subsection may be used to reduce the interest rate payable by an eligible borrower on a guaranteed loan by not more than 4 percent.

"(4) A certificate of eligibility issued under this subsection shall reduce the interest rate on a guaranteed loan for a term equal to the outstanding term of such loan, or 5 years, whichever is less.

"(5) Notwithstanding any other provision of law, if the lender of a guaranteed loan assisted under this subsection reduces the interest rate payable on the loan by at least 1 full percentage point, the Secretary may guarantee the repayment of 95 percent of the principal and interest due on the loan.

"(6) In carrying out this subsection, the Secretary may—

"(A) certify the eligibility of borrowers to participate in the demonstration project;

"(B) process applications for participation in the project;

"(C) provide certificate of eligibility to eligible borrowers on a timely basis consistent with the availability of acquired property owned by institutions of the Farm Credit System certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971; and

"(D) set aside the largest practicable portion of funds made available to guarantee farm ownership loans under this title (including unobligated funds) to carry out this subsection.

"(7) To carry out this subsection, the Secretary may transfer such amounts as may be necessary from farm operating guaranteed loans to farm ownership guaranteed loans.

"(8) In carrying out this subsection, Farm Credit System institutions shall—

"(A) sell land to eligible borrowers under this subsection at fair market value;

"(B) to the extent practicable, set aside each fiscal year land acquired or owned by such institutions of the Farm Credit System in an aggregate amount not to exceed $250,000,000 at fair market value, for purchase by eligible borrowers in accordance with this subsection; and

"(C) if necessary, subdivide tracts of land made available under this subsection into parcels that permit eligible borrowers to purchase the parcels consistent with limits placed on the size of loans made, insured, or guaranteed under this title.

"(9) Not later than 60 days after the date of the enactment of this subsection, the Secretary and the Farm Credit Administration shall develop a joint memorandum of understanding governing the implementation of this subsection.".

SEC. 614. HOMESTEAD PROTECTION.

Section 352 (7 U.S.C. 2000) is amended—

(1) in subsection (a)(3), by inserting before the period ", including a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual";

(2) in subsection (b), by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) The Secretary or the Administrator shall, on application by a borrower who meets the eligibility requirements of subsection (c)(1), permit the borrower to retain possession and occupancy of homestead property under the terms set forth, and until the action described in this section has been completed, if—

"(A) the Secretary forecloses, holds in inventory on the date of the enactment of this paragraph, or takes into inventory, property securing a loan made or insured under this title;

"(B) the Administrator forecloses, holds in inventory on the date of the enactment of this paragraph, or takes into inventory, property securing a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.); or

"(C) the borrower of a loan made or insured by the Secretary or the Administrator files a petition in bankruptcy that results in the conveyance of the homestead property to the Secretary or the Administrator, or agrees to voluntarily liquidate or convey such property in whole or in part.";

(3) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) To be eligible to occupy homestead property, a borrower of a loan made or insured by the Secretary or the Administrator shall—

"(A) apply for such occupancy not later than 90 days after the property is acquired by the Secretary or Administrator, or for property in inventory on the date of the enactment of this subsection, the borrower shall apply for occupancy not later than 90 days after such date;

"(B) have received from farming or ranching operations gross farm income reasonably commensurate with—

"(i) the size and location of the farming unit of the borrower; and

"(ii) local agricultural conditions (including natural and economic conditions), in at least 2 calendar years during the 6-year period preceding the calendar year in which the application is made;

"(C) have received from farming or ranching operations at least 60 percent of the gross annual income of the borrower and any spouse of the borrower in at least 2 calendar years during any 6-year period described in subparagraph (B);

"(D) have continuously occupied the homestead property during the 6-year period described in subparagraph (B), except that such requirement may be waived if a borrower has, due to circumstances beyond the control of the borrower, had to leave the homestead property for a period of time not to exceed 12 months during the 6-year period;

"(E) during the period of the occupancy of the homestead property, pay a reasonable sum as rent for such property to the Secretary or the Administrator in an amount substantially equivalent to rents charged for similar residential properties in the area in which the homestead property is located;

"(F) during the period of the occupancy of the homestead property, maintain the property in good condition; and

"(G) meet such other reasonable and necessary terms and conditions as the Secretary may require consistent with this section.

"(2) For purposes of subparagraphs (B) and (C) of paragraph (1), the term 'farming or ranching operations' shall include rent paid by lessees of agricultural land during any period in which the borrower, due to circumstances beyond the control of the borrower, is unable to actively farm such land.

"(3) For the purposes of paragraph (1)(E), the failure of the borrower to make timely rental payments shall constitute cause for the termination of all rights of such borrower to possession and occupancy of the homestead property under this section. In effecting any such termination, the Secretary shall afford the borrower or lessee the notice and hearing procedural rights described in section 333B and shall comply with all applicable State and local laws governing eviction from residential property.

"(4)(A) The period of occupancy allowed the prior owner of homestead property under this section shall be the period requested in writing by the prior owner, except that such period shall not exceed 5 years.

"(B) At any time during the period of occupancy, the borrower shall have a right of first refusal to reacquire the homestead property on such terms and conditions as the Secretary shall determine, except that the Secretary may not demand a payment for the homestead property that is in excess of the current market value of the homestead property as established by an independent appraisal. The independent appraisal shall be conducted by an appraiser selected by the borrower from a list of three appraisers approved by the county supervisor.

"(5) No rights of a borrower under this section, and no agreement entered into between the borrower and the Secretary for occupancy of the homestead property, shall be transferable or assignable by the borrower or by operation of any law, except that in the case of death or incompetency of such borrower, such rights and agreements shall be transferable to the spouse of the borrower if the spouse agrees to comply with the terms and conditions thereof.

"(6) Within 30 days of the acquisition of the homestead property securing a loan made or insured under this title, the Secretary shall notify the borrower from whom the property was acquired of the availability of homestead protection rights under this section. For property in inventory on the date of the enactment of this subsection, the Secretary shall make a good faith effort to notify the borrower of the availability of homestead protection rights under this section within 60 days after such date.";

(3) in subsection (d), by adding at the end thereof the following new sentence: "Such terms and conditions shall not be less favorable than those intended to be offered to any other buyer."; and

(4) by adding at the end thereof the following new subsections:

Contracts.

"(f) The Secretary may enter into contracts authorized by this section before the Secretary acquires title to the homestead property.

"(g) In the event of any conflict between this section and any provision of the law of any State relating to the right of a borrower to designate for separate sale or redeem part or all of the real property securing a loan foreclosed on by the lender thereof, such provision of State law shall prevail.".

SEC. 615. DEBT RESTRUCTURING AND LOAN SERVICING.

(a) In General.—Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding at the end thereof the following new section:

7 USC 2001. **"SEC. 353. DEBT RESTRUCTURING AND LOAN SERVICING.**

"(a) In General.—The Secretary shall modify delinquent farmer program loans made or insured under this title, or purchased from the lender or the Federal Deposit Insurance Corporation under section 309B, to the maximum extent possible—

"(1) to avoid losses to the Secretary on such loans, with priority consideration being placed on writing-down the loan principal and interest (subject to subsections (d) and (e)), and debt set-aside (subject to subsection (e)), whenever these procedures would facilitate keeping the borrower on the farm or ranch, or otherwise through the use of primary loan service programs as provided in this section; and

"(2) to ensure that borrowers are able to continue farming or ranching operations.

"(b) Eligibility.—To be eligible to obtain assistance under subsection (a)—

"(1) the delinquency must be due to circumstances beyond the control of the borrower, as defined in regulations issued by the Secretary;

"(2) the borrower must have acted in good faith with the Secretary in connection with the loan as defined in regulations issued by the Secretary;

"(3) the borrower must present a preliminary plan to the Secretary that contains reasonable assumptions that demonstrate that the borrower will be able to—

"(A) meet the necessary family living and farm operating expenses; and

"(B) service all debts, including those of the loans restructured; and

"(4) the loan, if restructured, must result in a net recovery to the Federal Government, during the term of the loan as restructured, that would be more than or equal to the net recovery to the Federal Government from an involuntary liquidation or foreclosure on the property securing the loan.

"(c) Restructuring Determinations.—

"(1) Determination of net recovery.—In determining the net recovery from the involuntary liquidation of a loan under this section, the Secretary shall calculate—

"(A) the recovery value of the collateral securing the loan, in accordance with paragraph (2); and

"(B) the value of the restructured loan, in accordance with paragraph (3).

"(2) Recovery value.—For the purpose of paragraph (1), the recovery value of the collateral securing the loan shall be based on—

"(A) the amount of the current appraised value of the property securing the loan; less

"(B) the estimated administrative, legal, and other expenses associated with the liquidation and disposition of the loan and collateral, including—

"(i) the payment of prior liens;

"(ii) taxes and assessments, depreciation, management costs, the yearly percentage decrease or increase in the value of the property, and lost interest income, each calculated for the average holding period for the type of property involved;

Taxes.

"(iii) resale expenses, such as repairs, commissions, and advertising; and

"(iv) other administrative and attorney's costs.

"(3) VALUE OF THE RESTRUCTURED LOAN.—

"(A) IN GENERAL.—For the purpose of paragraph (1), the value of the restructured loan shall be based on the present value of payments that the borrower would make to the Federal Government if the terms of such loan were modified under any combination of primary loan service programs to ensure that the borrower is able to meet such obligations and continue farming operations.

"(B) PRESENT VALUE.—For the purpose of calculating the present value referred to in subparagraph (A), the Secretary shall use a discount rate of not more than the current rate on 90-day Treasury bills.

"(4) NOTIFICATION.—Within 60 days after receipt of a written request for restructuring from the borrower, the Secretary shall—

"(A) make the calculations specified in paragraphs (2) and (3);

"(B) notify the borrower in writing of the results of such calculations; and

"(C) provide documentation for the calculations.

"(5) RESTRUCTURING OF LOANS.—If the value of the restructured loan is greater than or equal to the recovery value, the Secretary shall, within 45 days after notifying the borrower of such calculations, offer to restructure the loan obligations of the borrower under this title through primary loan service programs that would enable the borrower to meet the obligations (as modified) under the loan and to continue the farming operations of the borrower. If the borrower accepts such offer, within 45 days after receipt of notice of acceptance, the Secretary shall restructure the loan accordingly.

"(6) TERMINATION OF LOAN OBLIGATIONS.—If the value of the restructured loan is less than the recovery value and if, within 45 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the recovery value, the obligations of the borrower to the Secretary under the loan shall terminate, except that the Secretary may require, as a condition of such termination of loan obligations, that the borrower enter into an agreement with the Secretary if the borrower sells or otherwise conveys the real property used to secure such loan within 2 years after the date of such agreement. Any such agreement shall provide for the recapture of part or all of the difference between the recovery value of the loan and the fair market value (on the date of such agreement) of the property securing the loan if the borrower realizes a gain on the sale or conveyance over the amount of the recovery value of the loan. In no event shall any such agreement provide for recapture of an amount that exceeds the difference between such recovery value and the fair market value of the property securing the loan on the date of such agreement.

"(d) PRINCIPAL AND INTEREST WRITE-DOWN.—

"(1) IN GENERAL.—

"(A) PRIORITY CONSIDERATION.—In selecting the restructuring alternatives to be used in the case of a borrower who has requested restructuring under this section, the Secretary shall give priority consideration to the use of principal and interest write-down, except that this procedure shall not be given first priority in the case of a borrower unless other creditors of such borrower (other than those creditors who are fully collateralized) representing a substantial portion of the total debt of the borrower held by such creditors, agree to participate in the development of the restructuring plan or agree to participate in a State mediation program.

"(B) FAILURE OF CREDITORS TO AGREE.—Failure of creditors to agree to participate in the restructuring plan or mediation program shall not preclude the use of principal and interest write-down by the Secretary if the Secretary determines that this restructuring alternative results in the least cost to the Secretary.

"(2) PARTICIPATION OF CREDITORS.—Before eliminating the option to use debt write-down in the case of a borrower, the Secretary shall make a reasonable effort to contact the creditors of such borrower, either directly or through the borrower, and encourage such creditors to participate with the Secretary in the development of a restructuring plan for the borrower.

"(e) SHARED APPRECIATION ARRANGEMENTS.—

"(1) IN GENERAL.—As a condition of restructuring a loan in accordance with this section, the borrower of the loan may be required to enter into a shared appreciation arrangement that requires the repayment of amounts written off or set aside.

"(2) TERMS.—Shared appreciation agreements shall have a term not to exceed 10 years, and shall provide for recapture based on the difference between the appraised values of the real security property at the time of restructuring and at the time of recapture.

"(3) PERCENTAGE OF RECAPTURE.—The amount of the appreciation to be recaptured by the Secretary shall be 75 percent of the appreciation in the value of such real security property if the recapture occurs within 4 years of the restructuring, and 50 percent if the recapture occurs during the remainder of the term of the agreement.

"(4) TIME OF RECAPTURE.—Recapture shall take place at the end of the term of the agreement, or sooner—

"(A) on the conveyance of the real security property;

"(B) on the repayment of the loans; or

"(C) if the borrower ceases farming operations.

"(5) TRANSFER OF TITLE.—Transfer of title to the spouse of a borrower on the death of such borrower shall not be treated as a conveyance for the purpose of paragraph (4).

"(f) DETERMINATION TO RESTRUCTURE.—If the appeal process results in a determination that a loan is eligible for restructuring, the Secretary shall restructure the loan in the manner consistent with this section, taking into consideration the restructuring recommendations, if any, of the appeals officer.

"(g) Prerequisites to Foreclosure or Liquidation.—No foreclosure or other similar actions shall be taken to liquidate any loan determined to be ineligible for restructuring by the Secretary under this section—

"(1) until the borrower has been given the opportunity to appeal such decision; and

"(2) if the borrower appeals, the appeals process has been completed, and a determination has been made that the loan is ineligible for restructuring.

"(h) Time Limits for Restructuring.—Once an appeal has been filed under section 333B, a decision shall be made at each level in the appeals process within 45 days after the receipt of the appeal or request for further review.

"(i) Notice of Ineligibility for Restructuring.—

"(1) In general.—A notice of ineligibility for restructuring shall be sent to the borrower by registered or certified mail within 15 days after such determination.

"(2) Contents.—The notice required under paragraph (1) shall contain—

"(A) the determination and the reasons for the determination;

"(B) the computations used to make the determination, including the calculation of the recovery value of the collateral securing the loan; and

"(C) a statement of the right of the borrower to appeal the decision to the appeals division, and to appear before a hearing officer.

"(j) Independent Appraisals.—An appeal filed with the appeals division under section 333B may include a request by the borrower for an independent appraisal of any property securing the loan. On such request, the appeals division shall present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower shall select an appraiser to conduct the appraisal, the cost of which shall be borne by the borrower. The results of such appraisal shall be considered in any final determination concerning the loan. A copy of any appraisal made under this paragraph shall be provided to the borrower.

"(k) Future Creditworthiness of Borrower Determined Without Regard to Restructuring.—The creditworthiness of, or the adequacy of collateral offered by, any borrower whose loan obligations are restructured under this section shall be determined without regard to such restructuring.".

(b) Other Restructuring Provisions.—

(1) **OPTION TO RESTRUCTURE INTEREST RATES FOR CERTAIN WATER AND WASTE DISPOSAL AND COMMUNITY FACILITY BORROWERS.—**

(A) In general.—The item designated "Loan Programs" under the subheading "Farmers Home Administration" in chapter I of title I of the Supplemental Appropriations Act, 1985 (7 U.S.C. 1927a; 99 Stat. 296) is amended—

(i) by striking out "Effective November 12, 1983, and thereafter," and inserting in lieu thereof "Effective October 1, 1981, and thereafter, in the case of water and waste disposal and community facility borrowers, and effective November 12, 1983, and thereafter, in the case of housing and farm borrowers,"; and

(ii) by striking out "housing, farm, water and waste disposal, and community facility" and inserting in lieu thereof "such".

7 USC 1927a note.

(B) CERTAIN OBLIGATIONS EXCEPTED.—The amendment made by subparagraph (A) shall not apply to any note or other obligation sold under section 1001 of the Omnibus Reconciliation Act of 1986 on or before the date of the enactment of this paragraph.

7 USC 1926 note.

(2) INTEREST RATE RESTRUCTURING FOR CERTAIN OTHER BORROWERS.—Effective July 29, 1987, the interest rate charged on any loan of $2,000,000 or more made on such date under section 306 to any nonprofit corporation shall be the interest rate quoted to such nonprofit corporation by the Farmers Home Administration on June 22, 1987, in the request for obligation of funds made with respect to the loan.

(c) LIQUIDATION NOT REQUIRED AS PREREQUISITE TO DEBT RESTRUCTURING AND LOAN SERVICING.—Subsection (d) of section 331 (7 U.S.C. 1981(d)) is amended—

(1) by inserting "debts or" before "claims"; and

(2) by adding at the end of the first sentence the following: "The Secretary may not require liquidation of property securing any farmer program loan or acceleration of any payment required under any farmer program loan as a prerequisite to initiating an action authorized under this subsection.".

7 USC 2001 note.

(d) SUSPENSION OF COLLECTION ACTIVITIES DURING TRANSITION PERIOD.—The Secretary of Agriculture shall not initiate any acceleration, foreclosure, or liquidation in connection with any delinquent farmer program loan before the date the Secretary has issued final regulations to carry out the amendments made by this section. The preceding sentence shall not prohibit the Secretary from taking any action with respect to waste, fraud, or abuse by the borrower.

Fraud.

SEC. 616. TRANSFER OF INVENTORY LANDS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 615(a) of this Act the following new section:

State and local governments.
7 USC 2002.

"SEC. 354. TRANSFER OF INVENTORY LANDS.

"The Secretary, without reimbursement, may transfer to any Federal or State agency, for conservation purposes any real property, or interest therein, administered by the Secretary under this Act—

"(1) with respect to which the rights of all prior owners and operators have expired;

"(2) that is determined by the Secretary to be suitable or surplus; and

"(3) that—

"(A) has marginal value for agricultural production;

"(B) is environmentally sensitive; or

"(C) has special management importance.".

SEC. 617. TARGET PARTICIPATION RATES.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 616 of this Act the following new section:

Disadvantaged persons.
7 USC 2003.

"SEC. 355. TARGET PARTICIPATION RATES.

"(a) ESTABLISHMENT.—

"(1) In general.—The Secretary shall establish annual target participation rates, on a county wide basis, that shall ensure that members of socially disadvantaged groups will receive loans made or insured under subtitle A and will have the opportunity to purchase or lease inventory farmland.

"(2) Group population.—In establishing such target rates the Secretary shall take into consideration the portion of the population of the county made up of such groups, and the availability of inventory farmland in such county.

"(b) Reservation and Allocation.—

"(1) Reservation.—The Secretary shall, to the greatest extent practicable, reserve sufficient loan funds made available under subtitle A, for use by members of socially disadvantaged groups identified under target participation rates established under subsection (a).

"(2) Allocation.—The Secretary shall allocate such loans on the basis of the proportion of members of socially disadvantaged groups in a county and the availability of inventory farmland, with the greatest amount of loan funds being distributed in the county with the greatest proportion of socially disadvantaged group members and the greatest amount of available inventory farmland.

"(c) Report.—The Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes the annual target participation rates and the success in meeting such rates.

"(d) Definition.—As used in this section, the term 'socially disadvantaged group' means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.".

SEC. 618. EXPEDITED CLEARING OF TITLE TO INVENTORY PROPERTY.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 617 of this Act the following:

"SEC. 356. EXPEDITED CLEARING OF TITLE TO INVENTORY PROPERTY.

7 USC 2004.

"The Farmers Home Administration may employ local attorneys, on a case-by-case basis, to process all legal procedures necessary to clear the title to foreclosed properties in the inventory of the Farmers Home Administration. Such attorneys shall be compensated at not more than their usual and customary charges for such work.".

SEC. 619. PAYMENT OF LOSSES ON GUARANTEED LOANS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 357. PAYMENT OF LOSSES ON GUARANTEED LOANS.

7 USC 2005.

"(a) Payments to Lenders.—

"(1) Requirement.—Within 3 months after a court of competent jurisdiction confirms a plan of reorganization under chapter 12 of title 11, United States Code, for any borrower to whom a lender has made a loan guaranteed under this title, the Secretary shall pay the lender an amount estimated by the Secretary to be equal to the loss incurred by the lender for purposes of the guarantee.

"(2) PAYMENT TOWARD LOAN GUARANTEE.—Any amount paid to a lender under this subsection with respect to a loan guaranteed under this title shall be treated as payment towards satisfaction of the loan guarantee.

"(b) ADMINISTRATION.—

"(1) LOSS BY LENDER.—If the lender of a guaranteed farmer program loan takes any action described in section 331(d) with respect to the loan and the Secretary approves such action, then, for purposes of the guarantee, the lender shall be treated as having sustained a loss equal to the amount by which—

"(A) the outstanding balance of the loan immediately before such action, exceeds

"(B) the outstanding balance of the loan immediately after such action.

"(2) NET PRESENT VALUE OF LOAN.—The Secretary shall approve the taking of an action described in section 331(d) by the lender of a guaranteed farmer program loan with respect to the loan if such action reduces the net present value of the loan to an amount equal to not less than the greater of—

"(A) the greatest net present value of a loan the borrower could reasonably be expected to repay; and

"(B) the greatest amount that the lender of the loan could reasonably expect to recover from the borrower through bankruptcy, or liquidation of the property securing the loan, less all reasonable and necessary costs and expenses that the lender of the loan could reasonably expect to incur to preserve or dispose of such property (including all associated legal and property management costs) in the course of such a bankruptcy or liquidation.

"(3) CONSTRUCTION OF SUBSECTION.—This subsection shall not be construed to limit the authority of the Secretary to enter into a shared appreciation arrangement with a borrower, or the terms and conditions which shall be required of a borrower, under section 353(e).".

7 USC 1926 note.

SEC. 620. LEASE OF CERTAIN ACQUIRED PROPERTY.

Notwithstanding any other provision of law, the Secretary of Agriculture may lease to public or private nonprofit organizations, for a nominal rent, any facilities acquired in connection with the disposition of a loan made by the Secretary under section 306. Any such lease shall be for such reasonable period of time as the Secretary determines is appropriate.

7 USC 1989 note.

SEC. 621. STUDY AND REPORT TO CONGRESS BEFORE ISSUANCE OF CERTAIN FINAL REGULATIONS.

Not later than 60 days before the Secretary of Agriculture issues final regulations providing for the use of ratios and standards as part of loan applications or preapplications, for determining the degree of potential loan risk on loans insured or guaranteed under the Consolidated Farm and Rural Development Act, the Secretary shall complete a study and report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the effects of such regulations on a representative sample of persons who, as of the date of the enactment of this Act, are borrowers or potential borrowers of such loans, and shall demonstrate in such study that the implementation of such final regulations will not result in a portfolio of borrowers that is inconsistent with the purposes of the Consolidated Farm and Rural Development Act.

SEC. 622. CONTINUATION OF LIMITED RESOURCE FARMERS' INITIATIVE.

The Secretary of Agriculture shall maintain substantially at the levels in effect on the date of the enactment of this title, the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise.

SEC. 623. FARM OWNERSHIP OUTREACH PROGRAM TO SOCIALLY DISADVANTAGED INDIVIDUALS.

7 USC 1985 note.

The Secretary of Agriculture, in coordination with the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise, shall establish a farm ownership outreach program for persons who are members of any group with respect to which an individual may be identified as a socially disadvantaged individual under section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)) to encourage the acquisition of inventory farmland of the Farmers Home Administration by—

(1) informing persons eligible for assistance under any other provision of this Act of—

(A) the possiblity of acquiring such inventory farmland; and

(B) various farm ownership loan programs; and

(2) providing technical assistance to such persons in the acquisition of such inventory farmland.

SEC. 624. REGULATIONS.

7 USC 1989 note.

Within 150 days after the date of the enactment of this title, and after considering public comment obtained under section 553 of title 5, United States Code, the Secretary shall issue final regulations to carry out the amendments made by this title.

SEC. 625. SENSE OF CONGRESS REGARDING GUARANTEED LOAN PROGRAM.

It is the sense of Congress that the Secretary of Agriculture should issue guarantees for loans under the Consolidated Farm and Rural Development Act, to the maximum extent practicable, to assist eligible borrowers whose loans are restructured by institutions of the Farm Credit System, commercial banks, insurance companies, and other lending institutions.

SEC. 626. SENSE OF CONGRESS REGARDING NATIONAL RURAL CRISIS RESPONSE CENTER.

It is the sense of Congress that efforts by various State and local public agencies, citizens' groups, church and civic organizations, and individuals to focus attention on and respond to rural problems throughout the Nation are deserving of the recognition, encouragement, and support of Congress and the American people for the valuable services they provide.

TITLE VII—AGRICULTURAL MORTGAGE SECONDARY MARKETS

Housing.

Subtitle A—The Federal Agricultural Mortgage Corporation

12 USC 2279aa note.

SEC. 701. STATEMENT OF PURPOSE.

It is the purpose of this subtitle—

(1) to establish a corporation chartered by the Federal Government;

(2) to authorize the certification of agricultural mortgage marketing facilities by the corporation;

(3) to provide for a secondary marketing arrangement for agricultural real estate mortgages that meet the underwriting standards of the corporation—

(A) to increase the availability of long-term credit to farmers and ranchers at stable interest rates;

(B) to provide greater liquidity and lending capacity in extending credit to farmers and ranchers; and

(C) to provide an arrangement for new lending to facilitate capital market investments in providing long-term agricultural funding, including funds at fixed rates of interest; and

(4) to enhance the ability of individuals in small rural communities to obtain financing for moderate-priced homes.

SEC. 702. AGRICULTURAL MORTGAGE SECONDARY MARKET.

The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by adding after title VII (as added by section 401 of this Act) the following new title:

"TITLE VIII—AGRICULTURAL MORTGAGE SECONDARY MARKET

12 USC 2279aa.

"SEC. 8.0. DEFINITIONS.

"For purposes of this title:

"(1) Agricultural real estate.—The term 'agricultural real estate' means—

"(A) a parcel or parcels of land, or a building or structure affixed to the parcel or parcels, that—

"(i) is used for the production of one or more agricultural commodities or products; and

"(ii) consists of a minimum acreage or is used in producing minimum annual receipts, as determined by the Corporation; or

"(B) a principal residence that is a single family, moderate-priced residential dwelling located in a rural area, excluding—

"(i) any community having a population in excess of 2,500 inhabitants; and

"(ii) any dwelling with a purchase price exceeding $100,000 (as adjusted for inflation).

"(2) Board.—The term 'Board' means—

"(A) the interim board of directors established in section 8.2(a); and

"(B) the permanent board of directors established in section 8.2(b);

as the case may be.

"(3) CERTIFIED FACILITY.—The term 'certified facility' means a secondary marketing agricultural loan facility that is certified under section 8.5.

"(4) CORPORATION.—The term 'Corporation' means the Federal Agricultural Mortgage Corporation established in section 8.1.

"(5) GUARANTEE.—The term 'guarantee' means the guarantee of timely payment of the principal and interest on securities representing interests in, or obligations backed by, pools of qualified loans, in accordance with this title.

"(6) INTERIM BOARD.—The term 'interim board' means the interim board of directors established in section 8.2(a).

"(7) ORIGINATOR.—The term 'originator' means any Farm Credit System institution, bank, insurance company, business and industrial development company, savings and loan association, association of agricultural producers, agricultural cooperative, commercial finance company, trust company, credit union, or other entity that originates and services agricultural mortgage loans.

"(8) PERMANENT BOARD.—The term 'permanent board' means the permanent board of directors established in section 8.2(b).

"(9) QUALIFIED LOAN.—The term 'qualified loan' means an obligation that—

"(A) is secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate located in the United States that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage;

"(B) is an obligation of—

"(i) a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States; or

"(ii) a private corporation or partnership whose members, stockholders, or partners hold a majority interest in the corporation or partnership and are individuals described in clause (i); and

"(C) is an obligation of a person, corporation, or partnership that has training or farming experience that, under criteria established by the Corporation, is sufficient to ensure a reasonable likelihood that the loan will be repaid according to its terms.

"(10) STATE.—The term 'State' has the meaning given such term in section 5.51.

"SEC. 8.1. FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

12 USC 2279aa-1.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby established a corporation to be known as the Federal Agricultural Mortgage Corporation, which shall be a federally chartered instrumentality of the United States.

"(2) INSTITUTION WITHIN FARM CREDIT SYSTEM.—The Corporation shall be an institution of the Farm Credit System.

"(3) LIABILITY.—

"(A) CORPORATION.—The Corporation shall not be liable for any debt or obligation of any other institution of the Farm Credit System.

"(B) SYSTEM INSTITUTIONS.—The Farm Credit System and System institutions (other than the Corporation) shall not be liable for any debt or obligation of the Corporation.

"(b) DUTIES.—The Corporation shall—

"(1) in consultation with originators, develop uniform underwriting, security appraisal, and repayment standards for qualified loans;

"(2) determine the eligibility of agricultural mortgage marketing facilities to contract with the Corporation for the provision of guarantees for specific mortgage pools; and

"(3) provide guarantees for the timely repayment of principal and interest on securities representing interests in, or obligations backed by, pools of qualified loans.

12 USC 2279aa-2.

"SEC. 8.2. BOARD OF DIRECTORS.

"(a) INTERIM BOARD.—

President of U.S.

"(1) NUMBER AND APPOINTMENT.—Until the permanent board of directors established in subsection (b) first meets with a quorum of its members present, the Corporation shall be under the management of an interim board of directors composed of 9 members appointed by the President within 90 days after the effective date of this title as follows:

"(A) 3 members appointed from among persons who are representatives of banks, other financial institutions or entities, and insurance companies.

"(B) 3 members appointed from among persons who are representatives of the Farm Credit System institutions.

"(C) 2 members appointed from among persons who are farmers or ranchers who are not serving, and have not served, as directors or officers of any financial institution or entity, of which not more than 1 may be a stockholder of any Farm Credit System institution.

"(D) 1 member appointed from among persons who represent the interests of the general public and are not serving, and have not served, as directors or officers of any financial institution or entity.

"(2) POLITICAL AFFILIATION.—Not more than 5 members of the interim board shall be of the same political party.

"(3) VACANCY.—A vacancy in the interim board shall be filled in the manner in which the original appointment was made.

"(4) CONTINUATION OF MEMBERSHIP.—If—

"(A) any member of the interim board who was appointed to such board from among persons who are representatives of banks, other financial institutions or entities, insurance companies, or Farm Credit System institutions ceases to be such a representative; or

"(B) any member who was appointed from among persons who are not or have not been directors or officers of any financial institution or entity becomes a director or an officer of any financial institution or entity;

such member may continue as a member for not longer than the 45-day period beginning on the date such member ceases to be such a representative or becomes such a director or officer, as the case may be.

"(5) **Terms.**—The members of the interim board shall be appointed for the life of such board.

"(6) **Quorum.**—5 members of the interim board shall constitute a quorum.

"(7) **Chairperson.**—The President shall designate 1 of the members of the interim board as the chairperson of the interim board.

President of U.S.

"(8) **Meetings.**—The interim board shall meet at the call of the chairperson or a majority of its members.

"(9) **Voting common stock.**—

"(A) **Initial offering.**—Upon the appointment of sufficient members of the interim board to convene a meeting with a quorum present, the interim board shall arrange for an initial offering of common stock and shall take whatever other actions are necessary to proceed with the operations of the Corporation.

"(B) **Purchasers.**—Subject to subparagraph (C), the voting common stock shall be offered to banks, other financial entities, insurance companies, and System institutions under such terms and conditions as the interim board may adopt.

"(C) **Distribution.**—The voting stock shall be fairly and broadly offered to ensure that no institution or institutions acquire a disproportionate amount of the total amount of voting common stock outstanding of a class and that capital contributions and issuances of voting common stock for the contributions are fairly distributed between entities eligible to hold class A and class B stock, as provided under section 8.4.

"(10) **Termination.**—The interim board shall terminate when the permanent board of directors established in subsection (b) first meets with a quorum present.

"(b) **Permanent Board.**—

"(1) **Establishment.**—Immediately after the date that banks, other financial institutions or entities, insurance companies, and System institutions have subscribed and fully paid for at least $20,000,000 of common stock of the Corporation, the Corporation shall arrange for the election and appointment of a permanent board of directors. After the termination of the interim board, the Corporation shall be under the management of the permanent board.

"(2) **Composition.**—The permanent board shall consist of 15 members, of which—

"(A) 5 members shall be elected by holders of common stock that are insurance companies, banks, or other financial institutions or entities;

"(B) 5 members shall be elected by holders of common stock that are Farm Credit System institutions; and

"(C) 5 members shall be appointed by the President, by and with the advice and consent of the Senate—

"(i) which members shall not be, or have been, officers or directors of any financial institutions or entities;

"(ii) which members shall be representatives of the general public;

"(iii) of which members not more than 3 shall be members of the same political party; and

"(iv) of which members at least 2 shall be experienced in farming or ranching.

"(3) PRESIDENTIAL APPOINTEES.—The President shall appoint the members of the permanent board referred to in paragraph (2)(C) not later than the later of—

"(A) the date referred to in paragraph (1); or

"(B) the expiration of the 270-day period beginning on the effective date of this title.

"(4) VACANCY.—

"(A) ELECTED MEMBERS.—Subject to paragraph (6), a vacancy among the members elected to the permanent board in the manner described in subparagraph (A) or (B) of paragraph (2) shall be filled by the permanent board from among persons eligible for election to the position for which the vacancy exists.

"(B) APPOINTED MEMBERS.—A vacancy among the members appointed to the permanent board under paragraph (2)(C) shall be filled in the manner in which the original appointment was made.

"(5) CONTINUATION OF MEMBERSHIP.—If—

"(A) any member of the permanent board who was appointed or elected to the permanent board from among persons who are representatives of banks, other financial institutions or entities, insurance companies, or Farm Credit System institutions ceases to be such a representative; or

"(B) any member who was appointed from persons who are not or have not been directors or officers of any financial institution or entity becomes a director or an officer of any financial institution or entity;

such member may continue as a member for not longer than the 45-day period beginning on the date such member ceases to be such a representative, officer, or employee or becomes such a director or officer, as the case may be.

"(6) TERMS.—

"(A) APPOINTED MEMBERS.—The members appointed by the President shall serve at the pleasure of the President.

"(B) ELECTED MEMBERS.—The members elected under subparagraphs (A) and (B) of subsection (b)(2) shall each be elected annually for a term ending on the date of the next annual meeting of the common stockholders of the Corporation and shall serve until their successors are elected and qualified. Any seat on the permanent board that becomes vacant after the annual election of the directors shall be filled by the members of the permanent board from the same category of directors, but only for the unexpired portion of the term.

"(C) VACANCY APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed only for the remainder of such term.

"(D) SERVICE AFTER EXPIRATION OF TERM.—A member may serve after the expiration of the term of the member until the successor of the member has taken office.

"(7) Quorum.—8 members of the permanent board shall constitute a quorum.

"(8) No additional pay for federal officers or employees.—Members of the permanent board who are fulltime officers or employees of the United States shall receive no additional pay by reason of service on the permanent board.

"(9) Chairperson.—The President shall designate 1 of the members of the permanent board who are appointed by the President as the chairperson of the permanent board.

President of U.S.

"(10) Meetings.—The permanent board shall meet at the call of the chairperson or a majority of its members.

"(c) Officers and Staff.—The Board may appoint, employ, fix the pay of, and provide other allowances and benefits for such officers and employees of the Corporation as the Board determines to be appropriate.

"SEC. 8.3. POWERS AND DUTIES OF CORPORATION AND BOARD.

12 USC 2279aa-3.

"(a) Guarantees.—After the Board has been duly constituted, subject to the other provisions of this title and other commitments and requirements established pursuant to law, the Corporation may provide guarantees on terms and conditions determined by the Corporation of securities issued on the security of, or in participation in, pooled interests in qualified loans.

"(b) Duties of the Board.—

"(1) In general.—The Board shall—

"(A) determine the general policies that shall govern the operations of the Corporation;

"(B) select, appoint, and determine the compensation of qualified persons to fill such offices as may be provided for in the bylaws of the Corporation; and

"(C) assign to such persons such executive functions, powers, and duties as may be prescribed by the bylaws of the Corporation or by the Board.

"(2) Executive officers and functions.—The persons elected or appointed under paragraph (1)(B) shall be the executive officers of the Corporation and shall discharge the executive functions, powers, and duties of the Corporation.

"(c) Powers of the Corporation.—The Corporation shall be a body corporate and shall have the following powers:

"(1) To operate under the direction of its Board.

"(2) To issue stock in the manner provided in section 8.4.

"(3) To adopt, alter, and use a corporate seal, which shall be judicially noted.

"(4) To provide for a president, 1 or more vice presidents, secretary, treasurer, and such other officers, employees, and agents, as may be necessary, define their duties and compensation levels, all without regard to title 5, United States Code, and require surety bonds or make other provisions against losses occasioned by acts of the persons.

"(5) To provide guarantees in the manner provided under section 8.6.

"(6) To have succession until dissolved by a law enacted by the Congress.

"(7) To prescribe bylaws, through the Board, not inconsistent with law, that shall provide for—

"(A) the classes of the stock of the Corporation; and

"(B) the manner in which—

"(i) the stock shall be issued, transferred, and retired;

"(ii) the officers, employees, and agents of the Corporation are selected;

"(iii) the property of the Corporation is acquired, held, and transferred;

"(iv) the commitments and other financial assistance of the Corporation are made;

"(v) the general business of the Corporation is conducted; and

"(vi) the privileges granted by law to the Corporation are exercised and enjoyed;

"(8) To prescribe such standards as may be necessary to carry out this title.

Contracts.

"(9) To enter into contracts and make payments with respect to the contracts.

"(10) To sue and be sued in its corporate capacity and to complain and defend in any action brought by or against the Corporation in any State or Federal court of competent jurisdiction.

Contracts.

"(11) To make and perform contracts, agreements, and commitments with persons and entities both inside and outside of the Farm Credit System.

Real property.

"(12) To acquire, hold, lease, mortgage or dispose of, at public or private sale, real and personal property, purchase or sell any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to the business of the Corporation.

"(13) To exercise such other incidental powers as are necessary to carry out the powers, duties, and functions of the Corporation in accordance with this title.

"(d) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks may act as depositaries for, or as fiscal agents or custodians of, the Corporation.

"(e) ACCESS TO BOOK-ENTRY SYSTEM.—The Secretary of the Treasury may authorize the Corporation to use the book-entry system of the Federal Reserve System.

12 USC 2279aa-4.

"SEC. 8.4. STOCK ISSUANCE.

"(a) VOTING COMMON STOCK.—

"(1) ISSUE.—The Corporation shall issue voting common stock having such par value as may be fixed by the Board from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in section 8.2(a)(9). The stock shall be divided into two classes with the same par value per share. Class A stock may be held only by entities that are not Farm Credit System institutions that are entitled to vote for directors specified in section 8.2(b)(2)(A). Class B stock may be held only by Farm Credit System institutions that are entitled to vote for directors specified in section 8.2(b)(2)(B).

"(2) LIMITATION ON ISSUE.—After the date the permanent board first meets with a quorum of its members present, voting common stock of the Corporation may be issued only to originators and certified facilities.

"(3) AUTHORITY OF BOARD TO ESTABLISH TERMS AND PROCEDURES.—The Board shall adopt such terms, conditions, and procedures with regard to the issue of stock under this section as may be necessary, including the establishment of a maximum amount limitation on the number of shares of voting common stock that may be outstanding at any time.

"(4) TRANSFERABILITY.—Subject to such limitations as the Board may impose, any share of any class of voting common stock issued under this section shall be transferable among the institutions or entities to which shares of such class of common stock may be offered under paragraph (1), except that, as to the Corporation, such shares shall be transferable only on the books of the Corporation.

"(5) MAXIMUM NUMBER OF SHARES.—No stockholder, other than a holder of class B stock, may own, directly or indirectly, more than 33 percent of the outstanding shares of such class of the voting common stock of the Corporation.

"(b) REQUIRED CAPITAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Corporation may require each originator and each certified facility to make, or commit to make, such nonrefundable capital contributions to the Corporation as are reasonable and necessary to meet the administrative expenses of the Corporation.

"(2) STOCK ISSUED AS CONSIDERATION FOR CONTRIBUTION.—The Corporation, from time to time, shall issue to each originator or certified facility voting common stock evidencing any capital contributions made pursuant to this subsection.

"(c) DIVIDENDS.—

"(1) IN GENERAL.—Such dividends as may be declared by the Board, in the discretion of the Board, shall be paid by the Corporation to the holders of the voting common stock of the Corporation pro rata based on the total number of shares of both classes of stock outstanding.

"(2) RESERVES REQUIREMENT.—No dividend may be declared or paid by the Board under this section unless the Board determines that adequate provision has been made for the reserve required under section 8.10(c)(1).

"(3) DIVIDENDS PROHIBITED WHILE OBLIGATIONS ARE OUTSTANDING.—No dividend may be declared or paid by the Board under this section while any obligation issued by the Corporation to the Secretary of the Treasury under section 8.13 remains outstanding.

"(d) NONVOTING COMMON STOCK.—The Corporation is authorized to issue nonvoting common stock having such par value as may be fixed by the Board from time to time. Such nonvoting common stock shall be freely transferable, except that, as to the Corporation, such stock shall be transferable only on the books of the Corporation. Such dividends as may be declared by the Board, in the discretion of the Board, may be paid by the Corporation to the holders of the nonvoting common stock of the Corporation, subject to paragraphs (2) and (3) of subsection (c).

"(e) PREFERRED STOCK.—

"(1) AUTHORITY OF BOARD.—The Corporation is authorized to issue nonvoting preferred stock having such par value as may be fixed by the Board from time to time. Such preferred stock issued shall be freely transferable, except that, as to the Corporation, such stock shall be transferred only on the books of the Association.

"(2) RIGHTS OF PREFERRED STOCK.—Subject to paragraphs (2) and (3) of subsection (c), the holders of the preferred stock shall be entitled to such rate of cumulative dividends, and such holders shall be subject to such redemption or other conversion provisions, as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(3) PREFERENCE ON TERMINATION OF BUSINESS.—In the event of any liquidation, dissolution, or winding up of the business of the Corporation, the holders of the preferred shares of stock shall be paid in full at the par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

12 USC 2279aa-5.

"SEC. 8.5. CERTIFICATION OF AGRICULTURAL MORTGAGE MARKETING FACILITIES.

"(a) ELIGIBILITY STANDARDS.—

"(1) ESTABLISHMENT REQUIRED.—Within 120 days after the date on which the permanent board first meets with a quorum present, the Corporation shall issue standards for the certification of agricultural mortgage marketing facilities, including eligibility standards in accordance with paragraph (2).

"(2) MINIMUM REQUIREMENTS.—To be eligible to be certified under the standards referred to in paragraph (1), an agricultural mortgage marketing facility shall—

"(A) be an institution of the Farm Credit System or a corporation, association, or trust organized under the laws of the United States or of any State;

"(B) meet or exceed capital standards established by the Board;

"(C) have as one of the purposes of the facility, the sale or resale of securities representing interests in, or obligations backed by, pools of qualified loans that have been provided guarantees by the Corporation;

"(D) demonstrate managerial ability with respect to agricultural mortgage loan underwriting, servicing, and marketing that is acceptable to the Corporation;

"(E) adopt appropriate agricultural mortgage loan underwriting, appraisal, and servicing standards and procedures that meet or exceed the standards established by the Board;

"(F) for purposes of enabling the Corporation to examine the facility, agree to allow officers or employees of the Corporation to have access to all books, accounts, financial records, reports, files, and all other papers, things, or property, of any type whatsoever, belonging to or used by the Corporation that are necessary to facilitate an examination of the operations of the facility in connection with securities, and the pools of qualified loans that back securities, for which the Corporation has provided guarantees; and

"(G) adopt appropriate minimum standards and procedures relating to loan administration and disclosure to borrowers concerning the terms and rights applicable to loans for which guarantee is provided, in conformity with uniform standards established by the Corporation.

"(3) NONDISCRIMINATION REQUIREMENT.—The standards established under this subsection shall not discriminate between or against Farm Credit System and non-Farm Credit System applicants.

"(b) CERTIFICATION BY CORPORATION.—Within 60 days after receiving an application for certification under this section, the Corporation shall certify the facility if the facility meets the standards established by the Corporation under subsection (a)(1).

"(c) MAXIMUM TIME PERIOD FOR CERTIFICATION.—Any certification by the Corporation of an agricultural mortgage marketing facility shall be effective for a period determined by the Corporation of not to exceed 5 years.

"(d) REVOCATION.—

"(1) IN GENERAL.—After notice and an opportunity for a hearing, the Corporation may revoke the certification of an agricultural mortgage marketing facility if the Corporation determines that the facility no longer meets the standards referred to in subsection (a).

"(2) EFFECT OF REVOCATION.—Revocation of a certification shall not affect any pool guarantee that has been issued by the Corporation.

"(e) AFFILIATION OF FCS INSTITUTIONS WITH FACILITY.—

"(1) ESTABLISHMENT OF AFFILIATE AUTHORIZED.—Notwithstanding any other provision of this Act, any Farm Credit System institution (other than the Corporation), acting for such institution alone or in conjunction with one or more other such institutions, may establish and operate, as an affiliate, an agricultural mortgage marketing facility if, within a reasonable time after such establishment, such facility obtains and thereafter retains certification under subsection (b) as a certified facility.

"(2) EXCLUSIVE AGENCY AGREEMENT AUTHORIZED.—Any number of Farm Credit System institutions (other than the Corporation) may enter into an agreement with any certified facility (including an affiliate established under paragraph (1)) to sell the qualified loans of such institutions exclusively to or through the facility.

"SEC. 8.6. GUARANTEE OF QUALIFIED LOANS.

12 USC 2279aa-6.

"(a) GUARANTEE AUTHORIZED FOR CERTIFIED FACILITIES.—

"(1) IN GENERAL.—Subject to the requirements of this section and on such other terms and conditions as the Corporation shall consider appropriate, the Corporation shall guarantee the timely payment of principal and interest on the securities issued by a certified facility that represents interests in, or obligations backed by, any pool of qualified loans held by such facility.

"(2) INABILITY OF FACILITY TO PAY.—If the facility is unable to make any payment of principal or interest on any security for which a guarantee has been provided by the Corporation under paragraph (1), subject to the provisions of subsection (b) the Corporation shall make such payment as and when due in cash, and on such payment shall be subrogated fully to the rights satisfied by such payment.

Contracts.

"(3) POWER OF CORPORATION.—Notwithstanding any other provision of law, the Corporation is empowered, in connection with any guarantee under this subsection, whether before or after any default, to provide by contract with the facility for the extinguishment, on default by the facility, of any redemption, equitable, legal, or other right, title, or interest of the facility in any mortgage or mortgages constituting the pool against which the guaranteed securities are issued. With respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such pool shall become the absolute property of the Corporation subject only to the unsatisfied rights of the holders of the securities based on and backed by such pool.

"(b) Reserve or Subordinated Participation Requirements.—In the case of any pool referred to in subsection (a), the Corporation shall—

"(1) provide a guarantee only with respect to an individual pool of qualified loans on application of a certified facility;

"(2) provide a guarantee only if a reserve, or retained subordinated participating interests, in an amount equal to at least 10 percent of the outstanding principal amount of the loans constituting the pool has been established in accordance with this title;

"(3) require that full recourse be taken against reserves and retained subordinated participating interests before any demand be made by the certified facility with respect to the guarantee of the Corporation; and

"(4) ensure the timely receipt of principal and interest due to security or obligation holders only after full recourse has been taken against such reserves and retained subordinated participating interests.

"(c) Standards Requiring Diversified Pools.—

"(1) In general.—To reduce the risks incurred by the Corporation in providing guarantees under this section and to further the purposes of this title, the Board shall establish standards governing the composition of each pool of qualified loans (in connection with which such guarantees are provided) over the period during which the commitment to provide guarantees is effective.

"(2) Minimum criteria.—The standards established by the Board pursuant to paragraph (1) for pools of qualified loans shall, at a minimum—

"(A) require that each pool consist of loans that—

"(i) are secured by agricultural real estate that is widely distributed geographically;

"(ii) vary widely in terms of amounts of principal; and

"(iii) in the case of land ~~used in~~ the production of agricultural commodities, are secured by agricultural real estate that, in the aggregate, is used to produce a wide range of agricultural commodities;

"(B) prohibit the inclusion in any such pool of—

"(i) any loan the principal amount of which exceeds 3.5 percent of the aggregate amount of principal of all loans in such pool; and

"(ii) 2 or more loans to related borrowers; and

"(C) require that each pool consist of not less than 50 loans.

"(3) Small farms and family farmers.—In establishing the standards described in paragraph (2)(A)(ii), the Board shall include provisions that promote and encourage the inclusion of loans for small farms and family farmers in pools of qualified loans.

"(4) CONGRESSIONAL REVIEW.—No standard prescribed under this subsection shall take effect before the later of—

"(A) the end of a period consisting of 30 legislative days and beginning on the date such standards are submitted to Congress; or

"(B) the end of a period consisting of 90 calendar days and beginning on such date.

"(d) OTHER RESPONSIBILITIES OF AND LIMITATIONS ON CERTIFIED FACILITIES.—As a condition for providing any guarantees under this section for securities issued by a certified facility that represent interests in, or obligations backed by, any pool of qualified loans, the Corporation shall require such facility to agree to comply with the following requirements:

"(1) LOAN DEFAULT RESOLUTION.—The facility shall act in accordance with the standards of a prudent institutional lender to resolve loan defaults.

"(2) SUBROGATION OF UNITED STATES AND CORPORATION TO INTERESTS OF FACILITY.—The proceeds of any collateral, judgments, settlements, or guarantees received by the facility with respect to any loan in such pool, shall be applied, after payment of costs of collection—

"(A) first, to reduce the amount of any principal outstanding on any obligation of the Corporation that was purchased by the Secretary of the Treasury under section 8.13 to the extent the proceeds of such obligation were used to make guarantees in connection with such securities; and

"(B) second, to reimburse the Corporation for any such guarantee payments.

"(3) LOAN SERVICING.—The originator of any loan in such pool shall be permitted to retain the right to service the loan.

"(4) LOANS WITH RECOURSE TO ORIGINATOR PROHIBITED.—Each loan in the pool shall have been sold to the certified facility without recourse to the originator of such loan (other than recourse to any interest of such originator in a reserve established in connection with such loan or any subordinated participation interest of such originator in such loan).

"(5) COMPLIANCE WITH DIVERSIFIED POOL STANDARDS.—The facility shall comply with the standards adopted by the Board under subsection (c) in establishing and maintaining the pool.

"(6) MINORITY PARTICIPATION IN PUBLIC OFFERINGS.—The facility shall take such steps as may be necessary to ensure that minority owned or controlled investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of securities.

"(7) NO DISCRIMINATION AGAINST STATES WITH BORROWERS RIGHTS.—The facility may not refuse to purchase qualified loans originating in States that have established borrowers rights laws either by statute or under the constitution of such States, except that the facility may require discounts or charge fees reasonably related to costs and expenses arising from such statutes or constitutional provisions.

"(e) ADDITIONAL AUTHORITY OF THE BOARD.—To ensure the liquidity of securities for which guarantees have been provided under this section, the Board shall adopt appropriate standards regarding—

"(1) the characteristics of any pool of qualified loans serving as collateral for such securities;

"(2) registration requirements (if any) with respect to such securities; and

"(3) transfer requirements.

"(f) AGGREGATE PRINCIPAL AMOUNTS OF QUALIFIED LOANS.—

"(1) INITIAL YEAR.—During the first year after the effective date of this title, the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an aggregate principal amount in excess of 2 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year (as published by the Board of Governors of the Federal Reserve System), less all Farmers Home Administration agricultural real estate debt.

"(2) SECOND YEAR.—During the year following the year referred to in paragraph (1), the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an additional principal amount in excess of 4 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

"(3) THIRD YEAR.—During the year following the year referred to in paragraph (2), the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an additional principal amount in excess of 8 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

"(4) SUBSEQUENT YEARS.—In years subsequent to the year referred to in paragraph (3), the Corporation may provide guarantees without regard to the principal amount of the qualified loans guaranteed.

12 USC 2279aa-7.

"SEC. 8.7. RESERVES AND SUBORDINATED PARTICIPATION INTERESTS OF CERTIFIED FACILITIES.

"(a) CASH CONTRIBUTIONS.—

"(1) CONTRIBUTIONS BY ORIGINATORS.—For each pool of loans, a certified facility and the participating originators may each contribute a share of the minimum reserve required under section 8.6(b)(2).

"(2) COMPOSITION OF RESERVES.—The reserves required under this section, other than retained subordinated participation interests, shall be held in the form of United States Treasury securities or other securities issued, guaranteed, or insured by an agency or instrumentality of the United States Government.

"(3) USE AND DISPOSITION OF ASSETS IN RESERVE.—Subject to the requirements of subsection (c), any certified facility that establishes a reserve pursuant to this subsection shall be required by the Corporation to maintain such reserve as a segregated account consisting of the amounts contributed (but not the earnings accruing on such amounts) to ensure the repayment of principal of, and the payment of interest on, the securities representing an interest in, or obligations backed by, the pool of qualified loans with respect to which such reserve is established.

"(b) RETENTION OF SUBORDINATED PARTICIPATION INTERESTS.—

"(1) IN GENERAL.—A certified facility may meet the requirements of section 8.6(b)(2) with respect to any pool of qualified loans by retaining a subordinated participation interest in each loan included in each such pool in an amount not less than the amount that is equal to 10 percent of the principal amount of such loan.

"(2) RETENTION OF SUCH INTERESTS BY LOAN ORIGINATORS.—Under the terms of the sale of any qualified loan by the originator of such loan to a certified facility, the originator of such loan may agree to retain a subordinated participation interest in such loan and the amount of the subordinated interest so retained by such loan originator shall be attributed to the facility for purposes of determining whether the requirements of paragraph (1) have been met.

"(3) DISTRIBUTION RIGHTS OF HOLDERS OF SUBORDINATED INTERESTS.—The rights of the holders of the subordinated participation interests to receive distributions with respect to the loans constituting the pool shall be subordinated as prescribed by the Corporation to enhance the likelihood of regular receipt by the other holders of interests in such pool of the full amount of scheduled payments of principal and interest on loans constituting the pool.

"(c) ADDITIONAL REQUIREMENTS RELATING TO SECTION 8.6(b)(2) RESERVES.—

"(1) DISTRIBUTION OF EARNINGS ACCRUING IN SECTION 8.6(b)(2) RESERVES.—In the case of each applicable loan pool, a certified facility shall distribute to originators, at least semiannually, any earnings on the contributions of the originators to the reserve.

"(2) EXCEPTION FOR WITHDRAWALS THAT WOULD DECREASE RESERVE LEVELS BELOW RESERVE REQUIREMENT.—No withdrawal and distribution authorized under paragraph (1) may be made to the extent such withdrawal would cause the reserve to fall below the amount required to be held in such reserve under section 8.6(b)(2).

"(3) SEPARATE LOAN LOSS ACCOUNTING.—Any certified facility that maintains a reserve (pursuant to section 8.6(b)(2)) to which any originator has contributed shall maintain separate loan loss accounting for each loan for which a contribution was made by such originator to such reserve.

"(4) LOAN LOSS ATTRIBUTION RULE.—Except for that portion of losses absorbed by a contribution of a certified facility to the reserve as provided in subsection (a)(1), each originator participating in the pool shall absorb any losses on loans originated up to the total amount the originator has contributed to the reserve before the losses are absorbed by the contributions of other originators who are participating in the pool.

"(d) AUTHORITY OF BOARD TO ESTABLISH OTHER POLICIES AND PROCEDURES.—The Board may establish such other policies and procedures with respect to—

"(1) the establishment of reserves and the retention of subordinated participation interests under this section; and

"(2) the manner in which such reserves or interests shall be available to make payments of interest on, and repayments of principal of, securities for which the Corporation has provided guarantees, as the Board determines to be necessary or appropriate to carry out the purposes of this title.

12 USC 2279aa-8.

"SEC. 8.8. STANDARDS FOR QUALIFIED LOANS.

"(a) STANDARDS.—Not later than 120 days after the appointment and election of the Board, the Corporation, in consultation with originators, shall establish uniform underwriting, security appraisal, and repayment standards for qualified loans. In establishing standards for qualified loans, the Corporation shall confine corporate operations, so far as practicable, to mortgage loans that are deemed by the Board to be of such quality so as to meet, substantially and generally, the purchase standards imposed by private institutional mortgage investors.

"(b) MINIMUM CRITERIA.—To further the purpose of this title to provide a new source of long-term fixed rate financing to assist farmers and ranchers to purchase agricultural real estate, the standards established by the Board pursuant to subsection (a) shall, at a minimum—

"(1) provide that no agricultural mortgage loan with a loan-to-value ratio in excess of 80 percent may be treated as a qualified loan;

"(2) require each borrower to demonstrate sufficient cash-flow to adequately service the agricultural mortgage loan;

"(3) contain sufficient documentation standards;

"(4) contain adequate standards to protect the integrity of the appraisal process with respect to any agricultural mortgage loans;

"(5) contain adequate standards to ensure that the borrower is or will be actively engaged in agricultural production, and require the borrower to certify to the originator that the borrower intends to continue agricultural production on the site involved;

"(6) minimize speculation in agricultural real estate for nonagricultural purposes; and

"(7) in establishing the value of agricultural real estate, consider the purpose for which the real estate is taxed.

"(c) LOAN AMOUNT LIMITATION.—

"(1) IN GENERAL.—A loan may not be treated as a qualified loan if the principal amount of such loan exceeds $2,500,000, adjusted for inflation, except as provided in paragraph (2).

"(2) ACREAGE EXCEPTION.—Paragraph (1) shall not apply with respect to any agricultural mortgage loan described in such paragraph if such loan is secured by agricultural real estate that, in the aggregate, comprises not more than 1,000 acres.

"(d) CONGRESSIONAL REVIEW.—No standard prescribed under subsection (a) shall take effect before the later of—

"(1) the end of a period consisting of 30 legislative days and beginning on the date such standards are submitted to the Congress; or

"(2) the end of a period consisting of 90 calendar days and beginning on such date.

"(e) NONDISCRIMINATION REQUIREMENT.—The standards established under subsection (a) shall not discriminate against small originators or small agricultural mortgage loans that are at least $50,000.

"SEC. 8.9. EXEMPTION FROM RESTRUCTURING AND BORROWERS RIGHTS PROVISIONS FOR POOLED LOANS.

12 USC 2279aa-9.

"(a) RESTRUCTURING.—Notwithstanding any other provision of law, sections 4.14, 4.14A, 4.14B, 4.14C, and 4.37 shall not apply to any loan included in a pool of qualified loans backing securities or obligations for which the Corporation provides guarantee. The loan servicing standards established by the Corporation shall be patterned after similar standards adopted by other federally sponsored secondary market facilities.

"(b) BORROWERS RIGHTS.—At the time of application for a loan, originators that are Farm Credit System institutions shall give written notice to each applicant of the terms and conditions of the loan, setting forth separately terms and conditions for pooled loans and loans that are not pooled. This notice shall include a statement, if applicable, that the loan may be pooled and that, if pooled, sections 4.14, 4.14A, 4.14B, 4.14C, and 4.37 shall not apply. This notice also shall inform the applicant that he or she has the right not to have the loan pooled. Within 3 days from the time of commitment, an applicant has the right to refuse to allow the loan to be pooled, thereby retaining rights under sections 4.14, 4.14A, 4.14B, 4.14C, and 4.37, if applicable.

"SEC. 8.10. FUNDING FOR GUARANTEE; RESERVES OF CORPORATION.

12 USC 2279aa-10.

"(a) GUARANTEE.—The Corporation shall provide guarantees for securities representing interests in, or obligations backed by, pools of qualified loans through commitments issued by the Corporation providing for guarantees.

"(b) GUARANTEE FEES.—

"(1) INITIAL FEE.—At the time a guarantee is issued by the Corporation, the Corporation shall assess the certified facility a fee of not more than ½ of 1 percent of the initial principal amount of each pool of qualified loans.

"(2) ANNUAL FEES.—Beginning in the second year after the date the guarantee is issued under paragraph (1), the Corporation may, at the end of each year, assess the certified facility an annual fee of not more than ½ of 1 percent of the principal amount of the loans then constituting the pool.

"(3) DETERMINATION OF AMOUNT.—The Corporation shall establish such fees on the amount of risk incurred by the Corporation in providing the guarantees with respect to which such fee is assessed, as determined by the Corporation. Fees assessed under paragraphs (1) and (2) shall be established on an actuarially sound basis.

Reports.

"(4) ANNUAL REVIEW BY GAO.—The Comptroller General of the United States shall annually review, and submit to the Congress a report regarding, the actuarial soundness and reasonableness of the fees established by the Corporation under this subsection.

"(c) CORPORATION RESERVE AGAINST GUARANTEES LOSSES REQUIRED.—

"(1) IN GENERAL.—So much of the fees assessed under this section as the Board determines to be necessary shall be set aside by the Corporation in a segregated account as a reserve against losses arising out of the guarantee activities of the Corporation.

"(2) EXHAUSTION OF RESERVE REQUIRED.—The Corporation may not issue obligations to the Secretary of the Treasury under section 8.13 in order to meet the obligations of the Corporation with respect to any guarantees provided under this title until the reserve established under paragraph (1) has been exhausted.

"(d) FEES TO COVER ADMINISTRATIVE COSTS AUTHORIZED.—The Corporation may impose charges or fees in reasonable amounts in connection with the administration of its activities under this title to recover its costs for performing such administration.

12 USC 2279aa-11.

"SEC. 8.11. SUPERVISION, EXAMINATION, AND REPORT OF CONDITION.

"(a) REGULATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, the regulatory authority of the Farm Credit Administration with respect to the Corporation shall be confined to—

"(A) providing for the examination of the condition of the Corporation; and

"(B) providing for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation by this title, including through the use of the enforcement powers of the Farm Credit Administration under part C of title V.

"(2) CONSIDERATIONS.—In exercising its authority pursuant to this section, the Farm Credit Administration shall consider—

"(A) the purposes for which the Corporation was created;

"(B) the practices appropriate to the conduct of secondary markets in agricultural loans; and

"(C) the reduced levels of risk associated with appropriately structured secondary market transactions.

"(b) EXAMINATIONS AND AUDITS.—

"(1) IN GENERAL.—The financial transactions of the Corporation shall be examined by examiners of the Farm Credit Administration in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Administration.

"(2) FREQUENCY.—The examinations shall occur at such times as the Farm Credit Administration Board may determine, but in no event less than once each year.

"(3) ACCESS.—The examiners shall—

"(A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit; and

"(B) be afforded full access for verifying transactions with certified facilities and other entities with whom the Corporation conducts transactions.

"(c) ANNUAL REPORT OF CONDITION.—The Corporation shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such additional information as the Farm Credit Administration may by regulation prescribe. The financial statements of the Corporation shall be audited by an independent public accountant.

"(d) FCA ASSESSMENTS TO COVER COSTS.—The Farm Credit Administration shall assess the Corporation for the cost to the Administration of any regulatory activities conducted under this section, including the cost of any examination.

"SEC. 8.12. SECURITIES IN CREDIT ENHANCED POOLS.

12 USC 2279aa-12.

"(a) FEDERAL LAWS.—

"(1) APPLICABILITY OF CERTAIN FEDERAL SECURITIES LAWS.—For purposes of section 3(a)(2) of the Securities Act of 1933, no security representing an interest in a pool of qualified loans for which guarantees have been provided by the Corporation shall be deemed to be a security issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States. No such security shall be deemed to be a 'government security' for purposes of the Securities Exchange Act of 1934 or for purposes of the Investment Company Act of 1940.

"(2) NO FULL FAITH AND CREDIT OF THE UNITED STATES.—Each security for which credit enhancement has been provided by the Corporation shall clearly indicate that the security is not an obligation of, and is not guaranteed as to principal or interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(b) STATE SECURITIES LAWS.—

"(1) GENERAL EXEMPTION.—Any security or obligation that has been provided a guarantee by the Corporation shall be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by, or guaranteed as to principal and interest by, the United States or any agency or instrumentality of the United States.

"(2) STATE OVERRIDE.—The provisions of paragraph (1) shall not be applicable to any State that, during the 8-year period beginning on the effective date of this title, enacts a law that—

"(A) specifically refers to this subsection; and

"(B) expressly provides that paragraph (1) shall not apply to the State.

"(c) AUTHORIZED INVESTMENTS.—

Business and industry.

"(1) IN GENERAL.—Securities representing an interest in, or obligations backed by, pools of qualified loans with respect to which the Corporation has provided a guarantee shall be authorized investments of any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing under the laws of the United States or any State to the same extent that the person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality of the United States. Such securities or obligations may be accepted as security for all fiduciary, trust, and public funds, the investment or deposits of which shall be under the authority and control of the United States or any State or any officers of either.

"(2) STATE LIMITATIONS ON PURCHASE, HOLDING, OR INVESTMENT.—If State law limits the purchase, holding, or investment in obligations issued by the United States by the person, trust, corporation, partnership, association, business trust, or business entity, securities or obligations of a certified facility issued on which the Corporation has provided a guarantee shall be considered to be obligations issued by the United States for purposes of the limitation.

"(3) NONAPPLICABILITY OF PROVISIONS.—

"(A) SUBSEQUENT STATE LAW.—Paragraphs (1) and (2) shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, in any State that, prior to the expiration of the 8-year period beginning on the date of the enactment of this title, enacts a law that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in the securities by any person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, than is provided in paragraphs (1) and (2).

"(B) EFFECT OF SUBSEQUENT STATE LAW.—The enactment by any State of a law of the type described in subparagraph (A) shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to the effective date of the law and shall not require the sale or other disposition of any securities acquired prior to the effective date of the law.

"(d) STATE USURY LAWS SUPERSEDED.—Any provision of the constitution or law of any State which expressly limits the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by agricultural lenders or certified facilities shall not apply to any agricultural loan made by an originator or a certified facility in accordance with this title that is included in a pool for which the Corporation has provided a guarantee.

12 USC 2279aa-13.

"SEC. 8.13. AUTHORITY TO ISSUE OBLIGATIONS TO COVER GUARANTEE LOSSES OF CORPORATION.

"(a) SALE OF OBLIGATIONS TO TREASURY.—

"(1) IN GENERAL.—Subject to the limitations contained in sections 8.6(b) and 8.10(c) and the requirement of paragraph (2), the Corporation may issue obligations to the Secretary of the Treasury the proceeds of which may be used by the Corporation solely for the purpose of fulfilling the obligations of the Corporation under any guarantee provided by the Corporation under this title.

"(2) CERTIFICATION.—The Secretary of the Treasury may purchase obligations of the Corporation under paragraph (1) only if the Corporation certifies to the Secretary that—

"(A) the requirements of sections 8.6(b) and 8.10(c) have been fulfilled; and

"(B) the proceeds of the sale of such obligations are needed to fulfill the obligations of the Corporation under any guarantee provided by the Corporation under this title.

"(b) EXPEDITIOUS TRANSACTION REQUIRED.—Not later than 10 business days after receipt by the Secretary of the Treasury of any certification by the Corporation under subsection (a)(2), the Secretary of the Treasury shall purchase obligations issued by the Corporation in an amount determined by the Corporation to be sufficient to meet the guarantee liabilities of the Corporation.

"(c) LIMITATION ON AMOUNT OF OUTSTANDING OBLIGATIONS.—The aggregate amount of obligations issued by the Corporation under subsection (a)(1) which may be held by the Secretary of the Treasury at any time (as determined by the Secretary) shall not exceed $1,500,000,000.

"(d) TERMS OF OBLIGATION.—

"(1) INTEREST.—Each obligation purchased by the Secretary of the Treasury shall bear interest at a rate determined by the Secretary, taking into consideration the average rate on outstanding marketable obligations of the United States as of the last day of the last calendar month ending before the date of the purchase of such obligation.

"(2) REDEMPTION.—The Secretary of the Treasury shall require that such obligations be repurchased by the Corporation within a reasonable time.

"(e) COORDINATION WITH TITLE 31, UNITED STATES CODE.—

"(1) AUTHORITY TO USE PROCEEDS FROM SALE OF TREASURY SECURITIES.—For the purpose of purchasing obligations of the Corporation, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale by the Secretary of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include such purchases.

"(2) TREATMENT OF TRANSACTIONS.—All purchases and sales by the Secretary of the Treasury of obligations issued by the Corporation under this section shall be treated as public debt transactions of the United States.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Treasury $1,500,000,000, without fiscal year limitation, to carry out the purposes of this title.

"SEC. 8.14. FEDERAL JURISDICTION.

12 USC 2279aa-14.

"Notwithstanding section 1349 of title 28, United States Code, or any other provision of law:

"(1) The Corporation shall be considered an agency under sections 1345 and 1442 of such title.

"(2) All civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States and, to the extent applicable, shall be deemed to be governed by Federal common law. The district courts of the United States shall have original jurisdiction of all such actions, without regard to amount of value.

"(3) Any civil or other action, case, or controversy in a court of a State or any court, other than a district court of the United States, to which the Corporation is a party may at any time before trial be removed by the Corporation, without the giving of any bond or security—

"(A) to the District Court of the United States for the district and division embracing the place where the same is pending; or

"(B) if there is no such district court, to the District Court of the United States for the district in which the principal office of the Corporation is located;

by following any procedure for removal for causes in effect at the time of such removal.

"(4) No attachment or execution shall be issued against the Corporation or any of the property of the Corporation before final judgment in any Federal, State, or other court.".

SEC. 703. GAO AUDIT OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Section 9105(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) FEDERAL AGRICULTURAL MORTGAGE CORPORATION.—

"(A) AUDITS AUTHORIZED.—Notwithstanding any other provision of law and under such regulations as the Comptroller General may prescribe, the Comptroller General shall perform a financial audit of the Federal Agricultural Mortgage Corporation on whatever basis the Comptroller General determines to be necessary.

"(B) COOPERATION OF CORPORATION REQUIRED.—The Federal Agricultural Mortgage Corporation shall—

"(i) make available to the Comptroller General for audit all records and property of, or used or managed by, the Association which may be necessary for the audit; and

"(ii) provide the Comptroller General with facilities for verifying transactions with the balances or securities held by any depositary, fiscal agent, or custodian.".

12 USC 2279aa note.

SEC. 704. GAO STUDIES.

(a) STUDIES REQUIRED.—The Comptroller General of the United States shall conduct studies of the following:

(1) The implementation of the amendments made by this title by the Federal Agricultural Mortgage Corporation and the effect of the operations of the Corporation on producers, the Farm Credit System, and other lenders, and the capital markets.

(2) The feasibility and appropriateness of promoting the establishment of a secondary market for securities representing interests in, or obligations backed by, pools of agricultural real estate loans for which a guarantee has not been provided by the Federal Agricultural Mortgage Corporation.

(3) The feasibility of expanding the authority granted under the amendments made by this title to authorize the sale of securities based on or backed by a trust or pool consisting of loans made to farm-related and rural small businesses. For purposes of the preceding sentence, the term "farm-related businesses" means businesses 90 percent or more of the annual dollar volume of the sales of which are made to agricultural producers.

(b) SUBMISSION OF REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Congress a report on the studies required by subsection (a), including therein such recommendations for administrative action and legislation as may be appropriate.

SEC. 705. CONFORMING AMENDMENTS.

(a) FEDERAL LAND BANKS.—Section 1.4 (12 U.S.C. 2012) is amended by adding at the end thereof the following new paragraph:

"(23) Operate as an originator and to become certified as a certified facility under title VIII.".

(b) FEDERAL LAND BANK ASSOCIATIONS.—Section 1.15 (12 U.S.C. 2033) is amended by adding at the end thereof the following new paragraph:

"(22) Operate as an originator and to become certified as a certified facility under title VIII.".

(c) FEDERAL INTERMEDIATE CREDIT BANKS.—Section 2.1 (12 U.S.C. 2072) is amended by adding at the end thereof the following new paragraph:

"(21) Operate as an originator and to become certified as a certified facility under title VIII.".

(d) PRODUCTION CREDIT ASSOCIATIONS.—Section 2.12 (12 U.S.C. 2093) is amended by adding at the end thereof the following new paragraph:

"(21) Operate as an originator and to become certified as a certified facility under title VIII.".

Subtitle B—Farmers Home Administration Loans

SEC. 711. IMPROVEMENT OF SECONDARY MARKET OPERATIONS FOR LOANS GUARANTEED BY THE FARMERS HOME ADMINISTRATION.

(a) IN GENERAL.—Section 338 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988) is amended by adding at the end thereof the following:

"(f)(1)(A) The guaranteed portion of any loan made under this title may be sold by the lender, and by any subsequent holder, in accordance with regulations governing such sales as the Secretary shall establish, subject to the following limitations:

"(i) All fees due the Secretary with respect to a guaranteed loan are to be paid in full before any sale.

"(ii) The loan is to have been fully disbursed to the borrower before the sale.

Contracts.

"(B) After a loan is sold in the secondary market, the lender shall remain obligated under its guarantee agreement with the Secretary, and shall continue to service the loan in accordance with the terms and conditions of such agreement.

"(C) The Secretary shall develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations, and for determining the increase of farmers' access to capital at reasonable rates and terms as a result of secondary market operations.

"(D) This subsection shall not be interpreted to impede or extinguish the right of the borrower or the successor in interest to such borrower to prepay (in whole or in part) any loan made under this title, or to impede or extinguish the rights of any party under any provision of this title.

"(2)(A) The Secretary may, directly or through a market maker approved by the Secretary, issue pool certificates representing ownership of part or all of the guaranteed portion of any loan guaranteed by the Secretary under this title. Such certificates shall be based on and backed by a pool established or approved by the

Secretary and composed solely of the entire guaranteed portion of such loans.

"(B) The Secretary may, on such terms and conditions as the Secretary deems appropriate, guarantee the timely payment of the principal and interest on pool certificates issued on behalf of the Secretary by approved market makers for purposes of this subsection. Such guarantee shall be limited to the extent of principal and interest on the guaranteed portions of loans that compose the pool. If a loan in such pool is prepaid, either voluntarily or by reason of default, the guarantee of timely payment of principal and interest on the pool certificates shall be reduced in proportion to the amount of principal and interest such prepaid loan represents in the pool. Interest on prepaid or defaulted loans shall accrue and be guaranteed by the Secretary only through the date of payment on the guarantee. During the term of the pool certificate, the certificate may be called for redemption due to prepayment or default of all loans constituting the pool.

"(C) The full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee of such pool certificates issued by approved market makers under this subsection. The Secretary may expend amounts in the Agricultural Credit Insurance Fund to make payments on such guarantees.

"(D) The Secretary shall not collect any fee for any guarantee under this subsection. The preceding sentence shall not preclude the Secretary from collecting a fee for the functions described in paragraph (3).

"(E) Within 30 days after a borrower of a guaranteed loan is in default of any principal or interest payment due for 60 days or more, the Secretary shall—

"(i) purchase the pool certificates representing ownership of the guaranteed portion of the loan; and

"(ii) pay the registered holder of the certificates an amount equal to the guaranteed portion of the loan represented by the certificate.

Claims.

"(F)(i) If the Secretary pays a claim under a guarantee issued under this subsection, the claim shall be subrogated fully to the rights satisfied by such payment, as may be provided by the Secretary.

"(ii) No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of the Secretary's ownership rights in the portions of loans constituting the pool against which the certificates are issued.

"(3) On the adoption of final rules and regulations, the Secretary shall do the following:

"(A) Provide for the central collection of registration information from all participating market makers for all loans and pool certificates sold under paragraphs (1) and (2). Such information shall include, with respect to each original sale and any subsequent sale, identification of the interest rate paid by the borrower to the lender, the lender's servicing fee, whether interest on the loan is at a fixed or variable rate, identification of each purchaser of a pool certificate, the interest rate paid on the certificate, and such other information as the Secretary deems appropriate.

"(B) Before any sale, require the seller to disclose to each prospective purchaser of the portion of a loan guaranteed under this title and to each prospective purchaser of a pool certificate issued under paragraph (2), information on the terms, conditions, and yield of such instrument. As used in this subparagraph, if the instrument being sold is a loan, the term 'seller' does not include (i) the person who made the loan or (ii) any person who sells three or fewer guaranteed loans per year.

"(C) Provide for adequate custody of any pooled guaranteed loans.

"(D) Take such actions as are necessary, in restructuring pools of the guaranteed portion of loans, to minimize the estimated costs of paying claims under guarantees issued under this subsection.

"(E) Require each market maker—

"(i) to service all pools formed, and participations sold, by the market maker; and

"(ii) to provide the Secretary with information relating to the collection and disbursement of all periodic payments, prepayments, and default funds from lenders, to or from the reserve fund that the Secretary shall establish to enable the timely payment guarantee to be self-funding, and from all beneficial holders.

"(F) Regulate market makers in pool certificates sold under this subsection.

Reports.

"(4)(A) Not later than March 31 of each year, the Secretary shall transmit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report on the secondary market operations under this subsection during the preceding calendar year.

"(B) Each report under subparagraph (A) shall include—

"(i) the number and the total dollar amount of loans sold in the secondary market and the distribution of such loans by size of loan, size of lender, geographic location of lender, interest rate, maturity, lender servicing fees, whether the interest rate is fixed or variable, and premium paid;

"(ii) the number and dollar amount of loans resold in the secondary market and the distribution of such loans by size of loan, interest rate, and premiums;

"(iii) the number and total dollar amount of pools formed;

"(iv) the number and total dollar amount of loans in each pool;

"(v) the dollar amount, interest rate, and terms on each loan in each pool, and whether the interest rate is fixed or variable;

"(vi) the number, face value, interest rate, and terms of the pool certificates issued for each pool;

"(vii) to the maximum extent possible, the use by the lender of the proceeds of sales of loans in the secondary market for additional lending to farmers; and

"(viii) an analysis of the information reported in clauses (i) through (vii) to assess farmers' access to capital at reasonable rates and terms as a result of secondary market operations.".

7 USC 1988 note.

(b) REGULATIONS.—Within 180 days after the date of the enactment of this Act, the Secretary shall develop and promulgate final regulations to implement this section and the amendment made by this section.

7 USC 1988 note.

(c) POOL CERTIFICATES NOT TO BE ISSUED UNTIL FINAL REGULATIONS TAKE EFFECT.—The Secretary of Agriculture shall not implement paragraph (2) of section 338(f) of the Consolidated Farm and Rural

Development Act, as added by subsection (a), until the final regulations governing the administration of such paragraph take effect.

TITLE VIII—MISCELLANEOUS

SEC. 801. OWNERSHIP REQUIREMENT UNDER THE CONSERVATION RESERVE PROGRAM.

Section 1235(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3835(a)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or" and

(3) by adding at the end thereof the following new subparagraph:

"(D) the ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law.".

SEC. 802. REPEAL OF PREAPPROVAL AND RELATED AUTHORITIES.

(a) APPROVAL OF AMENDMENTS TO FEDERAL LAND BANK CHARTERS.—Section 1.3 (12 U.S.C. 2011) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters of Federal land banks.".

(b) FEDERAL LAND BANK POWERS.—Section 1.4 (12 U.S.C. 2012) is amended—

(1) in paragraph (15), by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of";

(2) in paragraph (21), by striking out "as" and by inserting in lieu thereof "in accordance with generally accepted accounting principles, except as may be"; and

(3) in paragraph (22), by striking out "and approved by the Farm Credit Administration".

(c) LAND BANK STOCK.—Section 1.5 (12 U.S.C. 2013) is amended—

(1) in subsection (a), by striking out "with the approval of the Farm Credit Administration";

(2) in subsection (d), by striking out "and approved by the Farm Credit Administration"; and

(3) in subsection (f), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors of the bank".

(d) SECURITY FOR FEDERAL LAND BANK LOANS.—Section 1.9 (12 U.S.C. 2017) is amended—

(1) in the first sentence, by striking out "approved by" and inserting in lieu thereof "prescribed by regulations of"; and

(2) in the second sentence, by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of".

(e) FCA AUTHORITY OVER FEDERAL LAND BANK ASSOCIATIONS.—The last sentence of section 1.13 (12 U.S.C. 2031) is amended—

(1) by striking out "or by approving bylaws of the association,";

(2) by striking out "direct at any time changes in" and inserting in lieu thereof "approve amendments to"; and

(3) by striking out "as" and all that follows through "Act".

(f) LAND BANK RESERVES.—Section 1.17 (12 U.S.C. 2051) is amended—

(1) in subsection (a), by inserting "regulations of" before "the Farm Credit Administration"; and

(2) in subsection (b)—

(A) by striking out "(1)"; and

(B) by striking out "hereof, and (2) the approval of the Farm Credit Administration".

(g) ASSOCIATION RESERVES.—Section 1.18(a) (12 U.S.C. 2052(a)) is amended by inserting "regulations of" before "the Farm Credit Administration".

(h) FEDERAL INTERMEDIATE CREDIT BANK, ESTABLISHMENT.—Section 2.0 (12 U.S.C. 2017) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters of Federal intermediate credit banks.". 12 USC 2071.

(i) FEDERAL INTERMEDIATE CREDIT BANK, CORPORATE POWERS.—Section 2.1 (12 U.S.C. 2018) is amended— 12 USC 2072.

(1) in paragraph (13), by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of"; and

(2) in paragraph (18), by striking out "and approved by the Farm Credit Administration".

(j) FEDERAL INTERMEDIATE CREDIT BANK, STOCK.—Section 2.2 (12 U.S.C. 2019) is amended— 12 USC 2073.

(1) in subsection (a), by striking out "with the approval of the Farm Credit Administration";

(2) in subsection (d), by striking out "and approved by the Farm Credit Administration"; and

(3) in subsection (g)—

(A) in the first paragraph, by striking out ", with the approval of the Farm Credit Administration,";

(B) in the second paragraph, by striking out ", with approval of the Farm Credit Administration,"; and

(C) in the first sentence of the fourth paragraph, by striking out "under" and inserting in lieu thereof "in accordance with".

(k) NET EARNINGS.—The second sentence of section 2.6(c) (12 U.S.C. 2077(a)) is amended—

(1) by striking out "approved" and inserting in lieu thereof "established"; and

(2) by inserting after "Administration" the following "in regulations".

(l) PRODUCTION CREDIT ASSOCIATIONS, CHARTER.—The last sentence of section 2.10 (12 U.S.C. 2019) is amended— 12 USC 2091.

(1) by striking out "or by approval of bylaws of the association,"; and

(2) by striking out "direct" and all that follows through the period and inserting in lieu thereof "approve amendments to the charter of such association.".

(m) BANKS FOR COOPERATIVES, ESTABLISHEMNT.—Section 3.0 (12 U.S.C. 2121) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters and organizational certificates of banks for cooperatives.".

(n) Banks for Cooperatives, Corporation.—Section 3.1 (12 U.S.C. 2122) is amended by striking out "and approved by the Farm Credit Administration" each place it appears.

(o) Banks for Cooperatives, Stock.—Section 3.3 (12 U.S.C. 2124) is amended—

(1) in subsection (a), by striking out ", with the approval of the Farm Credit Administration,";

(2) in subsection (b), by striking out "with the approval of the Farm Credit Administration"; and

(3) in subsection (e), by striking out "and approved by the Farm Credit Administration".

12 USC 2126. (p) Banks for Cooperatives, Retirement of Stock.—Section 3.5 (12 U.S.C. 2125) is amended by striking out "with approval of the Farm Credit Administration".

(q) Ownership of Stock.—Section 3.9(a) (12 U.S.C. 2130(a)) is amended—

(1) in the first sentence, by striking out "with the approval of the Farm Credit Administration";

(2) in the second sentence, by striking out ", with the approval of the Farm Credit Administration,"; and

(3) in the third sentence, by striking out "as may be approved by the Farm Credit Administration".

12 USC 2132. (r) Earnings and Reserves.—Section 3.11 (12 U.S.C. 2131) is amended—

(1) in subsection (b), by striking out "as may be approved by the Farm Credit Administration";

(2) in subsection (c), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors"; and

(3) in subsection (d), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors".

(s) Powers of the Farm Credit Administration.—Section 4.26 (12 U.S.C. 2212) is amended—

(1) by striking out "or by prescribing in the terms of the charter or by approval of the bylaws of the corporation";

(2) by striking out "direct at any time" and all that follows through the period at the end of the first sentence and inserting in lieu thereof "approve amendments consistent with this Act to charters or articles of service corporations."; and

(3) by striking out the second sentence.

(t) Supervision.—The heading of section 4.27 (12 U.S.C. 2213) is amended by striking out "Supervision" and inserting in lieu thereof "Regulation".

(u) District Elections.—Section 5.2 (12 U.S.C. 2223) is amended—

(1) in subsection (b)—

(A) by striking out "Farm Credit Administration" the first place it appears and inserting in lieu thereof "district election committee of the district where the election will be held"; and

(B) by striking out "Farm Credit Administration" each place it appears thereafter and inserting in lieu thereof "district election committee";

(2) in subsection (c)—

(A) by striking out "Farm Credit Administration" the first place it appears and inserting in lieu thereof "district election committee of the district where the election will be held";

(B) by striking out "Farm Credit Administration" each place it appears thereafter and inserting in lieu thereof "district election committee"; and

(C) by striking out "(b)" and inserting in lieu thereof "(c)"; and

(3) by redesignating subsections (b), (c), and (d), as subsections (c), (d), and (e), respectively, and inserting after subsection (a) the following:

"(b) Each district board shall designate a district election committee. No member of such district election committee shall be a candidate for election to the district board. The responsibilities and authorities of the district election committee, delegated by the district board, shall be those set forth in this section.".

(v) FARM CREDIT ADMINISTRATION, POWERS.—Section 5.17 (12 U.S.C. 2251) is amended— 12 USC 2252.

(1) in subsection (a)—

(A) in paragraph (2), by striking out "amend or modify" and inserting in lieu thereof "approve amendments to"; and

(B) in paragraph (5), by striking out "that meet standards and criteria" and all that follows through "refunds by Farm Credit System institutions"; and

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following:

"(b) The Farm Credit Administration shall not have authority, either direct or indirect, to approve bylaws, or any amendments or modifications or changes to bylaws, of System institutions.".

(w) TRANSITION RULES RELATING TO AMENDMENT OF CERTAIN FCA APPROVAL AUTHORITIES.—Part D of title V (12 U.S.C. 2001 note, et seq.) is amended by adding at the end thereof the following new section:

"SEC. 5.45. TRANSITION RULES RELATING TO AMENDMENT OF CERTAIN FCA APPROVAL AUTHORITIES.

12 USC 2275a.

"(a) IN GENERAL.—Any approvals granted by the Farm Credit Administration before the date of the enactment of this section shall remain in effect on and after such date.

"(b) AUTHORITY TO ISSUE REGULATIONS.—

"(1) IN GENERAL.—Any approval authority of the Farm Credit Administration that, under the amendments made by section 802 of the Agricultural Credit Act of 1987, became an authority to issue regulations may be exercised only until the earlier of the date the Farm Credit Administration issues final regulations under such authority, or 1 year after the date of the enactment of this section.

"(2) ENFORCEMENT ACTIONS.—At the close of the 1-year period referred to in paragraph (1), the Farm Credit Administration shall not take any enforcement action against any System institution with respect to any provision so amended, until the Farm Credit Administration issues final regulations under such provision.

"(c) EFFECT OF SECTION.—This section shall not affect the authority of the Farm Credit Administration to exercise any other approval authority either on a case-by-case basis or through regulation, as provided in section 5.17(a)(5).".

SEC. 803. SALE OF RURAL DEVELOPMENT NOTES.

Section 1001 of the Omnibus Budget Reconciliation Act of 1986 (7 U.S.C. 1929a note) is amended by adding at the end thereof the following new subsections:

"(f) RIGHT OF FIRST REFUSAL.—

"(1) IN GENERAL.—Before conducting a sale of a portfolio of notes or other obligations under this section, the Secretary of Agriculture shall—

"(A) determine whether the issuer of any unsold note or other obligation desires to purchase the note or other obligation; and

"(B) if so, hold open for 30 days, an offer to sell the note or other obligation to the issuer at a price to be determined under paragraph (2).

"(2) DETERMINATION OF OFFERING PRICE.—

"(A) AUTHORITY.—The Secretary of Agriculture shall determine, in accordance with subparagraph (B), the price at which a note or other obligation shall be offered for sale under this subsection.

"(B) PRICE.—Such price shall be determined by discounting the payment stream of such note or other obligation at the yield on the then most recent sale of the portfolio, adjusted for changes in market interest rates, servicing and sales expenses, and the maturity and interest rate of such note.

"(3) PROHIBITIONS.—

"(A) PURCHASE OF OBLIGATION NOT TIED TO PURCHASE OF OTHER OBLIGATIONS.—The Secretary of Agriculture shall not require the issuer of any unsold note or other obligation to be offered for sale under this subsection to purchase any other such note or other obligation as a condition of the sale of any such note or other obligation to the issuer.

"(B) OFFER TO BE MADE WITHOUT REGARD TO FINANCING.—The Secretary shall offer notes or other obligations for sale to the issuers thereof under this subsection without regard to the manner in which such issuers intend to finance the purchase of such notes or other obligations. However, the price of sale to any issuer using tax exempt financing shall be determined using a yield reflective of the Schedule of Certified Interest Rates as published monthly by the Secretary of the Treasury.

"(g) APPLICABILITY OF PROHIBITION ON CURTAILMENT OR LIMITATION OF SERVICE.—Section 306(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(b)) shall be applicable to all notes or other obligations sold or intended to be sold under this section.".

SEC. 804. OTHER CONFORMING AMENDMENTS.

(a) JURISDICTION AND ENFORCEMENT; PENALTIES.—

(1) JURISDICTION AND ENFORCEMENT.—Section 5.31 (12 U.S.C. 2267) is amended by adding at the end thereof the following: "For purposes of this section, any directive issued under section 4.3(b)(2), 4.3A(e), or 4.14A(i) shall be treated as an effective and outstanding order issued under section 5.25 that has become final.".

(2) PENALTIES.—Section 5.32 (12 U.S.C. 2268) is amended by adding at the end thereof the following:

"(h) For purposes of this section, any directive issued under section 4.3(b)(2), 4.3A(e), or 4.14A(i) shall be treated as an order that has become final and was issued under section 5.25.".

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 4.3(b) (12 U.S.C. 2154(b)(2)) is amended—

(A) by striking out "(A)"; and

(B) by striking out subparagraph (B).

(b) AMENDMENT TO PART HEADING.—The part heading of part C of title IV is amended to read as follows:

"PART C—RIGHTS OF BORROWERS; LOAN RESTRUCTURING".

SEC. 805. TECHNICAL AMENDMENTS.

(a) Section 1.2 is amended by striking out "the regulation" and inserting in lieu thereof "regulation". 12 USC 2002.

(b) Section 1.15(12) is amended by striking out "or delegated to". 12 USC 2033.

(c) Section 1.20 is amended by striking out "by or other" and inserting in lieu thereof "by other". 12 USC 2054.

(d) Section 2.1(18) is amended by striking out the comma at the end and inserting in lieu thereof a period. 12 USC 2072.

(e) Section 2.2 is amended— 12 USC 2073.

(1) in subsection (d), by striking out "be issued to" the first place it appears;

(2) in subsection (f)—

(A) by striking out "other"; and

(B) by inserting "of" after "with regard to the payment";

(3) in the second sentence of the fourth undesignated paragraph of subsection (g)—

(A) by striking out "other" the first place it appears; and

(B) by inserting "the" before "Farm Credit Administration"; and

(4) in subsection (h), by striking out "the Farm Credit Administration or".

(f) Section 2.6 is amended— 12 USC 2077.

(1) in subsection (c), by striking out the last sentence; and

(2) by redesignating subsections (c) and (d), as subsections (a) and (b), respectively.

(g) The last sentence of section 2.10 is amended by inserting "the" before "Farm Credit Administration" the second place it appears. 12 USC 2091.

(h) Section 2.13 is amended— 12 USC 2094.

(1) in subsection (c), by striking out "to other"; and

(2) in subsection (d)—

(A) by striking out "other" the first place it appears; and

(B) by inserting a comma after "noncumulative)".

(i) The section heading for section 2.15 is amended by striking out the comma and inserting in lieu thereof a semicolon. 12 USC 2096.

(j) Section 2.17 is amended by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period at the end. 12 USC 2098.

(k) Section 3.3(d) is amended by striking out "by" the first place it appears. 12 USC 2124.

(l) Section 3.4 is amended by striking out "other than stock held by the Farm Credit Administration,". 12 USC 2125.

(m) Section 3.8 is amended— 12 USC 2129.

(1) by redesignating subsection (1) as subsection (a);

(2) by redesignating paragraphs (a), (b), (c), and (d) of the subsection redesignated by paragraph (1) of this subsection, as paragraphs (1), (2), (3), and (4), respectively;

(3) by redesignating clauses (1), (2), and (3) of the paragraph redesignated as paragraph (4) by paragraph (2) of this subsection, as clauses (A), (B), and (C), respectively;

(4) in the clause redesignated as clause (C) by paragraph (4), by striking out "(2)" and inserting in lieu thereof "(B)".

12 USC 2132. (n) Section 3.11 is amended—

(1) in subsection (b)—

(A) by striking out "(c) and (d)" and inserting in lieu thereof "(b) and (c)"; and

(B) by striking out the last sentence;

(2) in subsection (c)—

(A) by striking out "(b) of this section, whichever is applicable," and inserting in lieu thereof "(a)"; and

(B) by striking out "(d)" and inserting in lieu thereof "(c)";

(3) in subsection (d), by striking out "(b) whichever is applicable," and inserting in lieu thereof "(a)";

(4) in subsection (g)—

(A) by striking out "or (b)"; and

(B) by striking out "For any year that a bank for cooperatives is subject to Federal income tax, it" and inserting in lieu thereof "A bank for cooperatives"; and

(5) by redesignating subsections (b), (c), (d), (e), (f), and (g), as subsections (a), (b), (c), (d), (e), and (f), respectively.

12 USC 2133. (o) Section 3.12 is amended by inserting "the" before "Farm Credit Administration".

12 USC 2134. (p) Section 3.13 is amended by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period at the end.

12 USC 2154. (q) Section 4.3(c) is amended by striking out "direct of fully guaranteed" and inserting in lieu thereof "direct or fully guaranteed".

12 USC 2183. (r) Section 4.12(b) is amended by striking out "court, shall" and inserting in lieu thereof "court shall,".

12 USC 2202. (s) Section 4.14 is amended—

(1) by striking out "committee(s)" and inserting in lieu thereof "committees";

(2) by striking out "4.13" and inserting in lieu thereof "4.13B"; and

(3) by striking out "reviews" and inserting in lieu thereof "review".

(t) Title IV is amended—

(1) by inserting above and before section 4.15 the following:

"PART D—ACTIVITIES OF INSTITUTIONS OF THE SYSTEM"; and

12 USC 2211. (2) by redesignating part D as part E.

12 USC 2218, 2219. (u) Title IV is amended by redesignating parts E and F, as parts G and H, respectively.

12 USC 2221. (v) Section 5.0 is amended by striking out "5.17(2)" and inserting in lieu thereof "5.17(a)(2)".

12 USC 2243. (w) The section heading of section 5.9 is amended by striking out "; CIVIL PROCEEDINGS".

12 USC 2245. (x) Section 5.11 is amended by striking out the last sentence.

(y) Section 5.16 is amended by transferring the 4 sentences immediately following paragraph (4) to just before the last sentence of such section. 12 USC 2251.

(z) Section 5.17(a) is amended— 12 USC 2252.

(1) by striking out paragraph (13); and

(2) by redesignating paragraphs (14) and (15), as paragraphs (13) and (14), respectively.

(aa) Section 5.28 is amended— 12 USC 2264.

(1) by inserting "(a)" before "Whenever" the first place it appears; and

(2) in subsection (e), by striking out "(d)(3)" and inserting in lieu thereof "(d)".

(bb) Section 5.29 is amended— 12 USC 2265.

(1) in subsection (a)—

(A) by striking out "interest" and inserting in lieu thereof "interests";

(B) by striking out "the investors in the" and inserting in lieu thereof "investors in"; and

(C) by inserting "the" before "Farm Credit System" the third place it appears.

(2) in subsection (b), by striking out "in Farm Credit System obligations" and inserting in lieu thereof "of the institution's shareholders or the investors in Farm Credit System obligations or may threaten to impair public confidence in the institution or the Farm Credit System".

(cc) Section 5.30 is amended by striking out "subsection (g)" and inserting in lieu thereof "section". 12 USC 2266.

(dd) Section 5.32(f) is amended by striking out "sections 5.31 and 5.32" and inserting in lieu thereof "section 5.31 and this section". 12 USC 2268.

(ee) Section 5.37 is amended by striking out "claims,". 12 USC 2273.

(ff) Section 5.41 is amended—

(1) by striking out subsection (a); and 12 USC 393.

(2) by striking out "(b)".

TITLE IX—REGULATIONS

SEC. 901. EFFECTIVE DATES.

12 USC 2001 note.

(a) Issuance of Regulations.—

(1) Authority.—The Farm Credit Administration Board shall issue such regulations as the Board considers necessary for the orderly and efficient implementation of the provisions of, and the amendments made by, this Act relating to the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

(2) Timing.—To the extent the Farm Credit Administration is required to issue regulations to implement this Act and the amendments made by this Act, the Farm Credit Administration shall issue such regulations as expeditiously as possible, and, except as otherwise provided in this Act, not later than 180 days after the date of the enactment of this Act.

(b) Temporary Retention of Certain Regulations.—

(1) In general.—Except as otherwise provided in this subsection, the regulations issued by the Farm Credit Administration before the date of the enactment of this Act under provisions amended by this Act shall remain in effect, notwithstanding such amendments, until the Farm Credit Administration issues

regulations to implement such amendments, but in no event later than 180 days after such date of enactment.

(2) CERTAIN REGULATIONS RELATING TO BORROWERS' RIGHTS.—The regulations implementing, interpreting, or applying part C of title IV (12 U.S.C. 2201) (other than section 4.13(a)) (in effect immediately before the date of the enactment of this Act), to the extent that such regulations are not contrary to this Act, and the amendments made by this title, shall remain in effect until January 1, 1989.

(3) REGULATIONS RELATING TO DISCLOSURE BY BANKS AND ASSOCIATIONS.—Any regulation issued or approved by the Farm Credit Administration that implements, interprets, or applies section 4.13(a) (12 U.S.C. 2201(a)) (in effect immediately before the date of the enactment of this Act) shall remain in effect for 120 days after such date of enactment.

Approved January 6, 1988.

LEGISLATIVE HISTORY—H.R. 3030 (S. 1665):

HOUSE REPORTS: No. 100-295, Pt. 1 (Comm. on Agriculture) and No. 100-490 (Comm. of Conference).

SENATE REPORTS: No. 100-230 accompanying S. 1665 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 133 (1987):
- Sept. 21, Oct. 6, considered and passed House.
- Dec. 1, 2, S. 1665 considered in Senate.
- Dec. 2, 4, H.R. 3030 considered and passed Senate, amended, in lieu of S. 1665.
- Dec. 18, House agreed to conference report.
- Dec. 19, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
- Jan. 6, Presidential statement.

○

Public Law 100-234
100th Congress

An Act

To provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes.

Jan. 6, 1988
[H.R. 3479]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Notice to Lessees Numbered 5 Gas Royalty Act of 1987.
Contracts.

(a) That this Act may be referred to as the "Notice to Lessees Numbered 5 Gas Royalty Act of 1987".

(b) FINDINGS.—The Congress finds that—

(1) effective on June 1, 1977, in Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases Numbered 5 (NTL-5) (42 Fed. Reg. 22,610), the Secretary of the Interior established the method of calculating the amount of royalties to be paid to the United States on natural gas production from Federal and Indian oil and gas leases.

(2) NTL-5 was a duly promulgated rule of the Department of the Interior within the meaning of the Administrative Procedure Act;

(3) under the NTL-5 method of calculation, the base value for royalty purposes of certain gas production was the greater of the price received under the gas sales contract or the highest applicable ceiling rate then established by the Federal Power Commission. The applicable ceiling rate was subsequently interpreted to be the maximum lawful price established under the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.);

(4) although between 1982 and 1986 gas prices in many areas declined below the maximum lawful prices established under the Natural Gas Policy Act of 1978, the continued application of NTL-5 required some royalties to be paid on the basis of a ceiling rate higher than the market value for the gas;

(5) effective August 1, 1986, the Secretary of the Interior modified the method of calculating certain future Federal and Indian gas royalty payments. This modification, published in the Federal Register on July 25, 1986 (51 Fed. Reg. 26,759) was a duly promulgated regulation of the Department of the Interior. The modification left the original provisions of NTL-5 in effect for gas sales prior to August 1, 1986, since the Secretary found that retroactive modification of NTL-5 would have resulted in inconsistent royalty enforcement and would have undermined the policy of strict compliance with lawful Federal royalty valuation rules and the need to ensure that Federal lessees and other payors rely upon rules until such time as the rules are lawfully changed (51 Fed. Reg. 26,759);

(6) in January 1987, the Department of the Interior proposed to reconsider its position and proposed to modify NTL-5 retroactively;

(7) there is a trust responsibility of the United States for the administration of Indian oil and gas resources as reaffirmed in

sections 2 (a)(4) and (b)(4) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 (a)(4) and (b)(4)); and

(8) the failure to adjust the method of calculating royalty payments resulting from changes in the gas market created various problems in valuation, produced inequitable situations for many lessees and payors whose gas market price was well below the National Gas Policy Act ceiling prices, and created uncertainty associated with the collection of royalty revenues. Uniform application of National Gas Policy Act ceiling prices was inequitable given market conditions during this period. For these reasons, it is necessary and appropriate for the Congress to provide for certain adjustments through legislation.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(a) SECRETARY.—The term "Secretary" means the Secretary of the Interior or his designee.

(b) NTL-5.—The term "NTL-5" means the Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases published May 4, 1977 (42 Fed. Reg. 22,610).

(c) OTHER TERMS.—All other terms carry the same meanings as provided in section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. Sec. 1702).

SEC. 3. VALUATION FOR ROYALTY PURPOSES OF CERTAIN GAS PRODUCTION FROM FEDERAL AND INDIAN LANDS.

(a) APPLICABILITY.—The provisions of this section shall be used in determining the value for royalty purposes of any gas production from Federal onshore or Indian oil and gas leases during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2, section II.A.2 or section VI of NTL-5.

(b) ROYALTY CALCULATION FOR CERTAIN FEDERAL ONSHORE AND INDIAN OIL AND GAS LEASES.—If the gas referred to in subsection (a) of this section was produced from a Federal onshore or Indian lease, the value of production, for the purpose of computing royalty, shall be the reasonable value of the product as determined consistent with the lease terms and the regulations codified at part 206 of title 30, Code of Federal Regulations, in effect at the time of production. In establishing the reasonable value, due consideration shall be given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices, and to other relevant matters. Under no circumstances shall the value of production of any of said substances for the purposes of computing royalty be deemed to be less than the gross proceeds accruing to the lessee from the sale thereof or less than the value computed on such reasonable unit value as shall have been determined by the Secretary. In the absence of good reason to the contrary, value computed on the basis of the highest price per thousand cubic feet or gallon paid or offered at the time of production in a fair and open market for the major portion of like-quality gas, or other products produced and sold from the field or areas where the leased lands are situated will be considered to be a reasonable value. In addition, if the gas was produced from an Indian lease, the reasonable value shall be determined consistent with the Secretary's trust responsibility, the lease terms, and the regulations codified at section 211.13 or section 212.16 of title 25, Code of Federal Regulations, as applicable, in effect at the time of production.

(c) WRITTEN DOCUMENTATION.—In order for the Secretary to make royalty value determinations under this section, there must be written documentation which (1) has been determined to be adequate by the Secretary, (2) was in existence at or near the time of sale, (3) shows the actual price received, and (4) may include, but is not limited to, a gas sales contract, purchase statement, receipt, minerals management service oil and gas records, or other written documentation.

(d) EXCEPTION.—This section shall not apply to any gas for which, in the Secretary's judgment, the lessee or royalty payor received less than the highest applicable price under the Natural Gas Policy Act due to a failure by the lessee or payor to collect amounts which the purchaser would have been required to pay under a gas sales contract providing for that price and not as a result of market conditions or considerations.

SEC. 4. PROCEDURES.

Federal Register, publication.

(a) CASE-BY-CASE AUDIT FOR CERTAIN FEDERAL ONSHORE OIL AND GAS LEASES.—The Secretary shall publish in the Federal Register and send to each lessee or royalty payor of record for any Federal onshore oil and gas lease a notice of enactment of this Act informing such lessees and royalty payors of the provisions of this Act. Such notice shall include a description of the process whereby underpayments, if any, by lessees will be sought and the terms and conditions for lessees to obtaining refunds, if any, based on royalty calculations under this Act. Any lessee that has reason to believe that it is entitled to a refund under this Act shall provide written notice to the Secretary in a form prescribed by the Secretary specifying the Federal onshore oil and gas lease or leases involved. The Secretary, and any State in accordance with delegations of authority under section 205 or cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732, 1735), shall conduct a case-by-case audit of royalties for such leases and any other Federal onshore lease which is examined under existing law to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due a lessee. In addition to those leases for which the lessee has provided written notice to the Secretary pursuant to this subsection, priority shall be given to auditing those leases for which there is the greatest likelihood of underpayment of royalties.

Federal Register, publication.

(b) CASE-BY-CASE AUDIT ON INDIAN LEASES.—The Secretary shall publish in the Federal Register and send to each lessee or royalty payor of record for any Indian oil and gas lease a notice of enactment of this Act informing such lessees and royalty payors of the provisions of this Act. Such notice shall include a description of the process whereby underpayments, if any, by lessees will be sought and the terms and conditions for lessees to obtain refunds, if any, based on royalty calculations under this Act. Any lessee that has reason to believe that it is entitled to a refund under this Act shall provide written notice to the Secretary in a form prescribed by the Secretary specifying the Indian oil and gas lease or leases involved. The Secretary, and any Tribe in accordance with cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732), shall conduct a case-by-case audit of royalties for such leases and other Indian oil and gas leases on which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2, section II.A.2, or section VI of NTL-5 to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due a lessee. In addition to those leases for which the lessee has provided written notice to the Secretary pursuant to this subsection, priority shall be given to auditing those leases for which there is the greatest likelihood of underpayment of royalties.

(c) The Secretary shall demand payment of any underpayment which is determined to be owed to the Federal or Indian lessor as a result of the case-by-case review required in this section.

(d) MMS NOTICE.—The Secretary shall provide a notice under this section to each lessee under a Federal onshore or Indian oil and gas lease on which an audit was performed in accordance with this section. The notice shall contain each of the following:

(1) A statement of the amount of the royalty payments made in accordance with the provisions of NTL-5.

(2) A statement of additional royalty payment, if any, to be made by a lessee or the amount of refund, if any, to which the lessee is entitled under this Act and a description of the means by which such refund will be provided.

(e) REPORT TO INDIAN TRIBES.—The Secretary shall provide a report to each Indian Tribe holding an Indian oil and gas lease on which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2, section II.A.2, or section VI of NTL-5. The report to each Tribe shall contain information for each such lease held by the Tribe stating the difference between royalties computed in accordance with NTL-5 and royalties computed in accordance with subsection 3(b) of this Act.

SEC. 5. REFUND OF ROYALTIES PREVIOUSLY PAID.

(a) REFUND FOR FEDERAL ONSHORE OIL AND GAS LEASES.—

(1) If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor on a Federal onshore lease has paid, prior to October 1, 1987, more than the value determined under subsection 3(b) of this Act for any gas within the coverage of subsection 3(a) of this Act, the Secretary shall refund the Federal share of such overpayment from moneys received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191), which would otherwise be deposited to miscellaneous receipts in the Treasury, in accordance with procedures established by the Secretary.

State and local governments.

(2) The portion of any excess amount, as determined under paragraph (1), previously paid to a State under applicable law from royalties paid under a Federal onshore oil and gas lease or group of leases subject to a unit agreement shall be recouped from the next subsequent disbursements to that State. If the total amount of such recoupments for any month exceeds ten per centum of the total disbursement to that State for that month from mineral lease revenues, the Secretary shall recoup amounts in excess of that level from disbursements to the State in the next month subject to the same limitation. The Secretary shall pay any difference between the amounts required to be paid to a State as a result of this paragraph and the amounts available to be paid to the State from current royalty revenues

from moneys received under section 35 of the Minerals Lands Leasing Act of 1920, as amended (30 U.S.C. 191), which would otherwise be deposited to miscellaneous receipts.

(b) REFUND FOR INDIAN LEASES.—If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor has paid, prior to October 1, 1987, more than the value determined under subsection 3(b) of this Act for any gas within the coverage of subsection 3(a) of this Act and produced from an Indian lease, the Secretary shall refund the amount paid in excess of the value determined under subsection 3(b) from monies received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191) which would otherwise be deposited to miscellaneous receipts in the Treasury. The Secretary shall not recoup any portion of any such refund from the Indian lessor.

(c) The total amount of refunds made under this section shall not exceed two million dollars ($2,000,000).

SEC. 6. RECORDKEEPING REQUIREMENTS.

Notwithstanding the requirements of section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713), and any regulations promulgated pursuant thereto, lessees and other payors are required to maintain records related to the value of gas production to which this Act applies for the period January 1, 1982 through July 31, 1986, until the Secretary gives notice that maintenance of such records no longer is required.

SEC. 7. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to affect the right of any Indian, Indian Tribe, or lessee to bring any action in a court of competent jurisdiction.

Approved January 6, 1988.

LEGISLATIVE HISTORY—H.R. 3479:

HOUSE REPORTS: No. 100-377 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-234 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
- Nov. 3, considered and passed House.
- Dec. 9, considered and passed Senate, amended.
- Dec. 18, House concurred in Senate amendment with amendment and disagreed with other amendment.
- Dec. 21, Senate concurred in House amendment and receded from other amendment.

○

PUBLIC LAW 100-235—JAN. 8, 1988

COMPUTER SECURITY ACT OF 1987

19-139 0 - 88 - (235)

Public Law 100-235
100th Congress

An Act

Jan. 8, 1988
[H.R. 145]

To provide for a computer standards program within the National Bureau of Standards, to provide for Government-wide computer security, and to provide for the training in security matters of persons who are involved in the management, operation, and use of Federal computer systems, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Computer Security Act of 1987.
Classified information.
40 USC 759 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Security Act of 1987".

40 USC 759 note.

SEC. 2. PURPOSE.

(a) In General.—The Congress declares that improving the security and privacy of sensitive information in Federal computer systems is in the public interest, and hereby creates a means for establishing minimum acceptable security practices for such systems, without limiting the scope of security measures already planned or in use.

(b) Specific Purposes.—The purposes of this Act are—

(1) by amending the Act of March 3, 1901, to assign to the National Bureau of Standards responsibility for developing standards and guidelines for Federal computer systems, including responsibility for developing standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems, drawing on the technical advice and assistance (including work products) of the National Security Agency, where appropriate;

(2) to provide for promulgation of such standards and guidelines by amending section 111(d) of the Federal Property and Administrative Services Act of 1949;

(3) to require establishment of security plans by all operators of Federal computer systems that contain sensitive information; and

(4) to require mandatory periodic training for all persons involved in management, use, or operation of Federal computer systems that contain sensitive information.

SEC. 3. ESTABLISHMENT OF COMPUTER STANDARDS PROGRAM.

The Act of March 3, 1901 (15 U.S.C. 271-278h), is amended—

15 USC 272.

(1) in section 2(f), by striking out "and" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof: "; and", and by inserting after such paragraph the following:

"(20) the study of computer systems (as that term is defined in section 20(d) of this Act) and their use to control machinery and processes.";

15 USC 278h.

(2) by redesignating section 20 as section 22, and by inserting after section 19 the following new sections:

15 USC 278g-3.

"Sec. 20. (a) The National Bureau of Standards shall—

"(1) have the mission of developing standards, guidelines, and associated methods and techniques for computer systems;

"(2) except as described in paragraph (3) of this subsection (relating to security standards), develop uniform standards and guidelines for Federal computer systems, except those systems excluded by section 2315 of title 10, United States Code, or section 3502(2) of title 44, United States Code;

"(3) have responsibility within the Federal Government for developing technical, management, physical, and administrative standards and guidelines for the cost-effective security and privacy of sensitive information in Federal computer systems except—

"(A) those systems excluded by section 2315 of title 10, United States Code, or section 3502(2) of title 44, United States Code; and

"(B) those systems which are protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy,

the primary purpose of which standards and guidelines shall be to control loss and unauthorized modification or disclosure of sensitive information in such systems and to prevent computer-related fraud and misuse;

"(4) submit standards and guidelines developed pursuant to paragraphs (2) and (3) of this subsection, along with recommendations as to the extent to which these should be made compulsory and binding, to the Secretary of Commerce for promulgation under section 111(d) of the Federal Property and Administrative Services Act of 1949;

"(5) develop guidelines for use by operators of Federal computer systems that contain sensitive information in training their employees in security awareness and accepted security practice, as required by section 5 of the Computer Security Act of 1987; and

"(6) develop validation procedures for, and evaluate the effectiveness of, standards and guidelines developed pursuant to paragraphs (1), (2), and (3) of this subsection through research and liaison with other government and private agencies.

"(b) In fulfilling subsection (a) of this section, the National Bureau of Standards is authorized—

"(1) to assist the private sector, upon request, in using and applying the results of the programs and activities under this section;

"(2) to make recommendations, as appropriate, to the Administrator of General Services on policies and regulations proposed pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949;

"(3) as requested, to provide to operators of Federal computer systems technical assistance in implementing the standards and guidelines promulgated pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949;

Regulations.

"(4) to assist, as appropriate, the Office of Personnel Management in developing regulations pertaining to training, as required by section 5 of the Computer Security Act of 1987;

"(5) to perform research and to conduct studies, as needed, to determine the nature and extent of the vulnerabilities of, and to devise techniques for the cost-effective security and privacy of sensitive information in Federal computer systems; and

"(6) to coordinate closely with other agencies and offices (including, but not limited to, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, the Office of Technology Assessment, and the Office of Management and Budget)—

"(A) to assure maximum use of all existing and planned programs, materials, studies, and reports relating to computer systems security and privacy, in order to avoid unnecessary and costly duplication of effort; and

"(B) to assure, to the maximum extent feasible, that standards developed pursuant to subsection (a) (3) and (5) are consistent and compatible with standards and procedures developed for the protection of information in Federal computer systems which is authorized under criteria established by Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

"(c) For the purposes of—

"(1) developing standards and guidelines for the protection of sensitive information in Federal computer systems under subsections (a)(1) and (a)(3), and

"(2) performing research and conducting studies under subsection (b)(5),

the National Bureau of Standards shall draw upon computer system technical security guidelines developed by the National Security Agency to the extent that the National Bureau of Standards determines that such guidelines are consistent with the requirements for protecting sensitive information in Federal computer systems.

"(d) As used in this section—

"(1) the term 'computer system'—

"(A) means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception, of data or information; and

"(B) includes—

"(i) computers;

"(ii) ancillary equipment;

"(iii) software, firmware, and similar procedures;

"(iv) services, including support services; and

"(v) related resources as defined by regulations issued by the Administrator for General Services pursuant to section 111 of the Federal Property and Administrative Services Act of 1949;

"(2) the term 'Federal computer system'—

"(A) means a computer system operated by a Federal agency or by a contractor of a Federal agency or other organization that processes information (using a computer system) on behalf of the Federal Government to accomplish a Federal function; and

"(B) includes automatic data processing equipment as that term is defined in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949;

"(3) the term 'operator of a Federal computer system' means a Federal agency, contractor of a Federal agency, or other organization that processes information using a computer system on behalf of the Federal Government to accomplish a Federal function;

"(4) the term 'sensitive information' means any information, the loss, misuse, or unauthorized access to or modification of which could adversely affect the national interest or the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; and

"(5) the term 'Federal agency' has the meaning given such term by section 3(b) of the Federal Property and Administrative Services Act of 1949.

15 USC 278g-4.

"SEC. 21. (a) There is hereby established a Computer System Security and Privacy Advisory Board within the Department of Commerce. The Secretary of Commerce shall appoint the chairman of the Board. The Board shall be composed of twelve additional members appointed by the Secretary of Commerce as follows:

"(1) four members from outside the Federal Government who are eminent in the computer or telecommunications industry, at least one of whom is representative of small or medium sized companies in such industries;

"(2) four members from outside the Federal Government who are eminent in the fields of computer or telecommunications technology, or related disciplines, but who are not employed by or representative of a producer of computer or telecommunications equipment; and

"(3) four members from the Federal Government who have computer systems management experience, including experience in computer systems security and privacy, at least one of whom shall be from the National Security Agency.

"(b) The duties of the Board shall be—

"(1) to identify emerging managerial, technical, administrative, and physical safeguard issues relative to computer systems security and privacy;

"(2) to advise the Bureau of Standards and the Secretary of Commerce on security and privacy issues pertaining to Federal computer systems; and

Reports.

"(3) to report its findings to the Secretary of Commerce, the Director of the Office of Management and Budget, the Director of the National Security Agency, and the appropriate committees of the Congress.

"(c) The term of office of each member of the Board shall be four years, except that—

"(1) of the initial members, three shall be appointed for terms of one year, three shall be appointed for terms of two years, three shall be appointed for terms of three years, and three shall be appointed for terms of four years; and

"(2) any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed.

"(d) The Board shall not act in the absence of a quorum, which shall consist of seven members.

"(e) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of such committees or while otherwise performing duties at the request of the Board

Chairman while away from their homes or a regular place of business, may be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(f) To provide the staff services necessary to assist the Board in carrying out its functions, the Board may utilize personnel from the National Bureau of Standards or any other agency of the Federal Government with the consent of the head of the agency.

"(g) As used in this section, the terms 'computer system' and 'Federal computer system' have the meanings given in section 20(d) of this Act."; and

(3) by adding at the end thereof the following new section:

National Bureau of Standards Act. 15 USC 271 note.

"SEC. 23. This Act may be cited as the National Bureau of Standards Act.".

SEC. 4. AMENDMENT TO BROOKS ACT.

Section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d)) is amended to read as follows:

"(d)(1) The Secretary of Commerce shall, on the basis of standards and guidelines developed by the National Bureau of Standards pursuant to section 20(a) (2) and (3) of the National Bureau of Standards Act, promulgate standards and guidelines pertaining to Federal computer systems, making such standards compulsory and binding to the extent to which the Secretary determines necessary to improve the efficiency of operation or security and privacy of Federal computer systems. The President may disapprove or modify such standards and guidelines if he determines such action to be in the public interest. The President's authority to disapprove or modify such standards and guidelines may not be delegated. Notice of such disapproval or modification shall be submitted promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the Federal Register. Upon receiving notice of such disapproval or modification, the Secretary of Commerce shall immediately rescind or modify such standards or guidelines as directed by the President.

President of U.S.

Federal Register, publication.

"(2) The head of a Federal agency may employ standards for the cost-effective security and privacy of sensitive information in a Federal computer system within or under the supervision of that agency that are more stringent than the standards promulgated by the Secretary of Commerce, if such standards contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Secretary of Commerce.

"(3) The standards determined to be compulsory and binding may be waived by the Secretary of Commerce in writing upon a determination that compliance would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or cause a major adverse financial impact on the operator which is not offset by Government-wide savings. The Secretary may delegate to the head of one or more Federal agencies authority to waive such standards to the extent to which the Secretary determines such action to be necessary and desirable to allow for timely and effective implementation of Federal computer systems standards. The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44, United States Code. Notice of each such waiver and delegation shall be transmitted promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental

Federal Register, publication.

Affairs of the Senate and shall be published promptly in the Federal Register.

Regulations.

"(4) The Administrator shall revise the Federal information resources management regulations (41 CFR ch. 201) to be consistent with the standards and guidelines promulgated by the Secretary of Commerce under this subsection.

"(5) As used in this subsection, the terms 'Federal computer system' and 'operator of a Federal computer system' have the meanings given in section 20(d) of the National Bureau of Standards Act.".

40 USC 759 note.

SEC. 5. FEDERAL COMPUTER SYSTEM SECURITY TRAINING.

(a) IN GENERAL.—Each Federal agency shall provide for the mandatory periodic training in computer security awareness and accepted computer security practice of all employees who are involved with the management, use, or operation of each Federal computer system within or under the supervision of that agency. Such training shall be—

(1) provided in accordance with the guidelines developed pursuant to section 20(a)(5) of the National Bureau of Standards Act (as added by section 3 of this Act), and in accordance with the regulations issued under subsection (c) of this section for Federal civilian employees; or

(2) provided by an alternative training program approved by the head of that agency on the basis of a determination that the alternative training program is at least as effective in accomplishing the objectives of such guidelines and regulations.

(b) TRAINING OBJECTIVES.—Training under this section shall be started within 60 days after the issuance of the regulations described in subsection (c). Such training shall be designed—

(1) to enhance employees' awareness of the threats to and vulnerability of computer systems; and

(2) to encourage the use of improved computer security practices.

(c) REGULATIONS.—Within six months after the date of the enactment of this Act, the Director of the Office of Personnel Management shall issue regulations prescribing the procedures and scope of the training to be provided Federal civilian employees under subsection (a) and the manner in which such training is to be carried out.

40 USC 759 note.

SEC. 6. ADDITIONAL RESPONSIBILITIES FOR COMPUTER SYSTEMS SECURITY AND PRIVACY.

(a) IDENTIFICATION OF SYSTEMS THAT CONTAIN SENSITIVE INFORMATION.—Within 6 months after the date of enactment of this Act, each Federal agency shall identify each Federal computer system, and system under development, which is within or under the supervision of that agency and which contains sensitive information.

(b) SECURITY PLAN.—Within one year after the date of enactment of this Act, each such agency shall, consistent with the standards, guidelines, policies, and regulations prescribed pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949, establish a plan for the security and privacy of each Federal computer system identified by that agency pursuant to subsection (a) that is commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of the information contained in such system. Copies of each such plan shall be transmitted to the National Bureau of Standards and the National Security Agency for advice and comment. A summary of such plan shall be included in the agency's five-year plan required by section 3505 of title 44, United States Code. Such plan shall be subject to disapproval by the Director of the Office of Management and Budget. Such plan shall be revised annually as necessary.

40 USC 759 note.

SEC. 7. DEFINITIONS.

As used in this Act, the terms "computer system", "Federal computer system", "operator of a Federal computer system", "sensitive information", and "Federal agency" have the meanings given in section 20(d) of the National Bureau of Standards Act (as added by section 3 of this Act).

40 USC 759 note.

SEC. 8. RULES OF CONSTRUCTION OF ACT.

Nothing in this Act, or in any amendment made by this Act, shall be construed—

(1) to constitute authority to withhold information sought pursuant to section 552 of title 5, United States Code; or

Public information.

(2) to authorize any Federal agency to limit, restrict, regulate, or control the collection, maintenance, disclosure, use, transfer, or sale of any information (regardless of the medium in which the information may be maintained) that is—

(A) privately-owned information;

(B) disclosable under section 552 of title 5, United States Code, or other law requiring or authorizing the public disclosure of information; or

(C) public domain information.

Approved January 8, 1988.

LEGISLATIVE HISTORY—H.R. 145:

HOUSE REPORTS: No. 100-153, Pt. 1 (Comm. on Science, Space, and Technology) and Pt. 2 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 22, considered and passed House.
Dec. 21, considered and passed Senate.

O

Public Law 100-236
100th Congress

An Act

To amend title 28, United States Code, to provide for the selection of the court of appeals to decide multiple appeals filed with respect to the same agency order.

Jan. 8, 1988
[H.R. 1162]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SELECTION OF COURT FOR MULTIPLE APPEALS.

Section 2112(a) of title 28, United States Code, is amended by striking out the last three sentences and inserting in lieu thereof the following: "If proceedings are instituted in two or more courts of appeals with respect to the same order, the following shall apply:

"(1) If within ten days after issuance of the order the agency, board, commission, or officer concerned receives, from the persons instituting the proceedings, the petition for review with respect to proceedings in at least two courts of appeals, the agency, board, commission, or officer shall proceed in accordance with paragraph (3) of this subsection. If within ten days after the issuance of the order the agency, board, commission, or officer concerned receives, from the persons instituting the proceedings, the petition for review with respect to proceedings in only one court of appeals, the agency, board, commission, or officer shall file the record in that court notwithstanding the institution in any other court of appeals of proceedings for review of that order. In all other cases in which proceedings have been instituted in two or more courts of appeals with respect to the same order, the agency, board, commission, or officer concerned shall file the record in the court in which proceedings with respect to the order were first instituted.

"(2) For purposes of paragraph (1) of this subsection, a copy of the petition or other pleading which institutes proceedings in a court of appeals and which is stamped by the court with the date of filing shall constitute the petition for review. Each agency, board, commission, or officer, as the case may be, shall designate by rule the office and the officer who must receive petitions for review under paragraph (1).

"(3) If an agency, board, commission, or officer receives two or more petitions for review of an order in accordance with the first sentence of paragraph (1) of this subsection, the agency, board, commission, or officer shall, promptly after the expiration of the ten-day period specified in that sentence, so notify the judicial panel on multidistrict litigation authorized by section 1407 of this title, in such form as that panel shall prescribe. The judicial panel on multidistrict litigation shall, by means of random selection, designate one court of appeals, from among the courts of appeals in which petitions for review have been filed and received within the ten-day period specified in the first sentence of paragraph (1), in which the record is to be filed, and shall issue an order consolidating the petitions for review in that court of appeals. The judicial panel on multidistrict litigation shall, after providing notice to the public and an opportunity for the submission of comments, prescribe rules with respect to the consolidation of proceedings under this paragraph. The agency, board, commission, or officer concerned shall file the record in the court of appeals designated pursuant to this paragraph.

"(4) Any court of appeals in which proceedings with respect to an order of an agency, board, commission, or officer have been instituted may, to the extent authorized by law, stay the effective date of the order. Any such stay may thereafter be modified, revoked, or extended by a court of appeals designated pursuant to paragraph (3) with respect to that order or by any other court of appeals to which the proceedings are transferred.

"(5) All courts in which proceedings are instituted with respect to the same order, other than the court in which the record is filed pursuant to this subsection, shall transfer those proceedings to the court in which the record is so filed. For the convenience of the parties in the interest of justice, the court in which the record is filed may thereafter transfer all the proceedings with respect to that order to any other court of appeals.".

SEC. 2. CONFORMING AMENDMENT.

Section 509(b) of the Federal Water Pollution Control Act (33 U.S.C. 1369(b)) is amended by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

28 USC 2112 note.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act take effect 180 days after the date of the enactment of this Act, except that the judicial panel on multidistrict litigation may issue rules pursuant to subsection (a)(3) of section 2112 of title 28, United States Code (as added by section 1), on or after such date of enactment.

Approved January 8, 1988.

LEGISLATIVE HISTORY—H.R. 1162 (S. 1134):

HOUSE REPORTS: No. 100-72 (Comm. on the Judiciary).
SENATE REPORTS: No. 100-263 accompanying S. 1134 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 133 (1987):
May 27, considered and passed House.
Dec. 19, considered and passed Senate.

O

Public Law 100-237
100th Congress

An Act

To improve the distribution procedures for agricultural commodities and their products donated for the purposes of assistance through the Department of Agriculture, and for other purposes.

Jan. 8, 1988
[H.R. 1340]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Commodity Distribution Reform Act and WIC Amendments of 1987.
7 USC 612c note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commodity Distribution Reform Act and WIC Amendments of 1987".

7 USC 612c note.

SEC. 2. STATEMENT OF PURPOSE; SENSE OF CONGRESS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this Act to improve the manner in which agricultural commodities acquired by the Department of Agriculture are distributed to recipient agencies, the quality of the commodities that are distributed, and the degree to which such distribution reponds to the needs of the recipient agencies.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the distribution of commodities and products—

(1) should be improved as an effective means of removing agricultural surpluses from the market and providing nutritious high-quality foods to recipient agencies;

(2) is inextricably linked to the agricultural support and surplus removal programs; and

(3) is an important mission of the Secretary of Agriculture.

7 USC 612c note.

SEC. 3. COMMODITY DISTRIBUTION PROGRAM REFORMS.

(a) COMMODITIES SPECIFICATIONS.—

(1) DEVELOPMENT.—In developing specifications for commodities acquired through price support, surplus removal, and direct purchase programs of the Department of Agriculture that are donated for use for programs or institutions described in paragraph (2), the Secretary shall—

(A) consult with the advisory council established under paragraph (3);

(B) consider both the results of the information received from recipient agencies under subsection (f)(2) and the results of an ongoing field testing program under subsection (g) in determining which commodities and products, and in which form the commodities and products, should be provided to recipient agencies; and

(C) give significant weight to the recommendations of the advisory council established under paragraph (3) in ensuring that commodities and products are—

(i) of the quality, size, and form most usable by recipient agencies; and

(ii) to the maximum extent practicable, consistent with the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services.

(2) APPLICABILITY.—Paragraph (1) shall apply to—

(A) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(B) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

(C) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(D) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(E) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

(F) to the extent practicable—

(i) the temporary emergency food assistance program established under the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note); and

(ii) programs under which food is donated to charitable institutions.

(3) ADVISORY COUNCIL.—(A) The Secretary shall establish an advisory council on the distribution of donated commodities to recipient agencies. The Secretary shall appoint not less than nine and not more than 15 members to the council, including—

(i) representatives of recipient agencies;

(ii) representatives of food processors and food distributors;

(iii) representatives of agricultural organizations;

(iv) representatives of State distribution agency directors; and

(v) representatives of State advisory committees.

(B) The council shall meet not less than semiannually with appropriate officials of the Department of Agriculture and shall provide guidance to the Secretary on regulations and policy development with respect to specifications for commodities.

(C) Members of the council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the committee.

Reports.

(D) The council shall report annually to the Secretary of Agriculture, the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Termination date.

(E) The council shall expire on September 30, 1992.

(b) DUTIES OF SECRETARY WITH RESPECT TO PROVISION OF COMMODITIES.—With respect to the provision of commodities to recipient agencies, the Secretary shall—

(1) before the end of the 270-day period beginning on the date of the enactment of this Act—

(A) implement a system to provide recipient agencies with options with respect to package sizes and forms of such commodities, based on information received from such agencies under subsection (f)(2), taking into account the duty of the Secretary—

(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

(ii) to purchase surplus agriculture commodities through section 32 of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.); and

(iii) to make direct purchases of agricultural commodities and other foods for distribution to recipient agencies under—

(I) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(V) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

State and local governments.

(B) implement procedures to monitor the manner in which State distribution agencies carry out their responsibilities;

(2) provide technical assistance to recipient agencies on the use of such commodities, including handling, storage, and menu planning and shall distribute to all recipient agencies suggested recipes for the use of donated commodities and products (the recipe cards shall be distributed as soon as practicable after the date of enactment of this Act and updated on a regular basis taking into consideration the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services, as in effect at the time of the update of the recipe files);

State and local governments.

(3) before the end of the 120-day period beginning on the date of the enactment of this Act, implement a system under which the Secretary shall—

(A) make available to State agencies summaries of the specifications with respect to such commodities and products; and

(B) require State agencies to make such summaries available to recipient agencies on request;

State and local governments.

(4) implement a system for the dissemination to recipient agencies and to State distribution agencies—

(A) not less than 60 days before each distribution of commodities by the Secretary is scheduled to begin, of information relating to the types and quantities of such commodities that are to be distributed; or

(B) in the case of emergency purchases and purchases of perishable fruits and vegetables, of as much advance notification as is consistent with the need to ensure that high-quality commodities are distributed;

State and local governments.

(5) before the expiration of the 90-day period beginning on the date of the enactment of this Act, establish procedures for the replacement of commodities received by recipient agencies that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1), including a requirement that the appropriate State distribution agency be notified promptly of the receipt of commodities that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1);

(6) monitor the condition of commodities designated for donation to recipient agencies that are being stored by or for the Secretary to ensure that high quality is maintained;

State and local governments.

(7) establish a value for donated commodities and products to be used by State agencies in the allocation or charging of commodities against entitlements; and

State and local governments.

(8) require that each State distribution agency shall receive donated commodities not more than 90 days after such commodities are ordered by such agency, unless such agency specifies a longer delivery period.

Contracts.

(c) QUALIFICATIONS FOR PURCHASE OF COMMODITIES.—

(1) OFFERS FOR EQUAL OR LESS POUNDAGE.—Subject to compliance by the Secretary with surplus removal responsibilities under other provisions of law, the Secretary may not refuse any offer in response to an invitation to bid with respect to a contract for the purchase of entitlement commodities (provided in standard order sizes) solely on the basis that such offer provides less than the total amount of poundage for a destination specified in such invitation.

(2) OTHER QUALIFICATIONS.—The Secretary may not enter into a contract for the purchase of entitlement commodities unless the Secretary considers the previous history and current patterns of the bidding party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption.

Regulations.

(d) DUTIES OF STATE DISTRIBUTION AGENCIES.—Before the expiration of the 270-day period beginning on the date of the enactment of this Act, the Secretary shall by regulation require each State distribution agency to—

(1) evaluate its warehousing and distribution systems for donated commodities;

(2) implement the most cost-effective and efficient system for providing warehousing and distribution services to recipient agencies;

(3) use commercial facilities for providing warehousing and distribution services to recipient agencies unless the State applies to the Secretary for approval to use other facilities, showing that other facilities are more cost effective and efficient;

(4) consider the preparation and storage capabilities of recipient agencies when ordering donated commodities, including capabilities of such agencies to handle commodity product forms, quality, packaging, and quantities; and

Contracts.

(5) in the case of any such agency that enters into a contract with respect to processing of agricultural commodities and their products for recipient agencies—

(A) test the product of such processing with the recipient agencies before entering into a contract for such processing; and

(B) develop a system for monitoring product acceptability.

(e) REGULATIONS.—

State and local governments.

(1) IN GENERAL.—The Secretary shall provide by regulation for—

(A) whenever fees are charged to local recipient agencies, the establishment of mandatory criteria for such fees based on national standards and industry charges (taking into account regional differences in such charges) to be used by State distribution agencies for storage and deliveries of commodities;

(B) minimum performance standards to be followed by State agencies responsible for intrastate distribution of donated commodities and products;

(C) procedures for allocating donated commodities among the States; and

(D) delivery schedules for the distribution of commodities and products that are consistent with the needs of eligible recipient agencies, taking into account the duty of the Secretary—

(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

(ii) to purchase surplus agricultural commodities through section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c); and

(iii) to make direct purchases of agricultural commodities and other foods for distribution to recipient agencies under—

(I) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and

(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(V) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a).

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary shall promulgate—

(A) regulations as required by paragraph (1)(D) before the end of the 90-day period beginning on the date of enactment of this Act; and

(B) regulations as required by subparagraphs (A), (B), and (C) of paragraph (1) before the end of the 270-day period beginning on such date.

(f) REVIEW OF PROVISION OF COMMODITIES.—

(1) IN GENERAL.—Before the expiration of the 270-day period beginning on the date of the enactment of this Act, the Secretary shall establish procedures to provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of recipient agencies.

(2) INFORMATION FROM RECIPIENT AGENCIES.—Before the expiration of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall establish procedures to ensure that information is received from recipient agencies at least semiannually with respect to the types and forms of commodities that are most useful to persons participating in programs operated by recipient agencies.

(g) TESTING FOR ACCEPTABILITY.—The Secretary shall establish an ongoing field testing program for present and anticipated commodity and product purchases to test product acceptability with program participants. Test results shall be taken into consideration in deciding which commodities and products, and in what form the commodities and products, should be provided to recipient agencies.

(h) BUY AMERICAN PROVISION.—

(1) IN GENERAL.—The Secretary shall require that recipient agencies purchase, whenever possible, only food products that are produced in the United States.

(2) WAIVER.—The Secretary may waive the requirement established in paragraph (1)—

(A) in the case of recipient agencies that have unusual or ethnic preferences in food products; or

(B) for such other circumstances as the Secretary considers appropriate.

(3) EXCEPTION.—The requirement established in paragraph (1) shall not apply to recipient agencies in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands.

(i) UNIFORM INTERPRETATION.—The Secretary shall take such actions as are necessary to ensure that regional offices of the Department of Agriculture interpret uniformly across the United States policies and regulations issued to implement this section.

(j) PER MEAL VALUE OF DONATED FOODS.—Section 6(e) of the National School Lunch Act (42 U.S.C. 1755(e)) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end the following new paragraph:

State and local governments. Children and youth.

"(2) Each State agency shall offer to each school food authority under its jurisdiction that participates in the school lunch program and receives commodities, agricultural commodities and their products, the per meal value of which is not less than the national average value of donated foods established under paragraph (1). Each such offer shall include the full range of such commodities and products that are available from the Secretary to the extent that quantities requested are sufficient to allow efficient delivery to and within the State.".

(k) REPORT.—Not later than January 1, 1989, the Secretary shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the implementation and operation of this section.

SEC. 4. FOOD BANK DEMONSTRATION PROJECT.

State and local governments.
Disadvantaged persons.
7 USC 612c note.

(a) Demonstration Project.—The Secretary shall carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

(b) Recordkeeping and Monitoring.—Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) Determination of Quantities, Varieties, and Types of Commodities.—The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

(d) Effective Period.—This section shall be effective for the period beginning on the date of enactment of this Act and ending on December 31, 1990.

(e) Progress Reports.—The Secretary shall submit annual progress reports to Congress beginning on July 1, 1988, and a final report on July 1, 1990, regarding each demonstration project carried out under this section. Such reports shall include analyses and evaluations of the provision and redistribution of agricultural commodities and food products under the demonstration projects. In addition, the Secretary shall include in the final report any recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks and the feasibility of expanding such method of provisions and redistribution of agricultural commodities and food products to other community food banks.

SEC. 5. EXTENSION OF ELIGIBILITY OF CERTAIN SCHOOL DISTRICTS TO RECEIVE CASH OR COMMODITY LETTERS OF CREDIT ASSISTANCE FOR SCHOOL LUNCH PROGRAMS.

Children and youth.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by adding at the end the following new subsection:

"(e)(1) Upon request to the Secretary, any school district that on January 1, 1987, was receiving all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program for the duration beginning July 1, 1987, and ending December 31, 1990.

"(2) Any school district that elects under paragraph (1) to receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive bonus commodities in the same manner as if such school district was receiving all entitlement commodities for its school lunch program.".

SEC. 6. EXTENSION OF NATIONAL DONATED COMMODITY PROCESSING PROGRAMS.

Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)(A)) is amended by striking out "June 30, 1987," and inserting in lieu thereof "September 30, 1990,".

7 USC 612c note.

SEC. 7. ASSESSMENT AND REPORT TO CONGRESS.

(a) Assessment.—The Comptroller General of the United States shall monitor and assess the implementation by the Secretary of the provisions of this Act.

(b) Report.—Before the expiration of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report of the findings of the assessment conducted as required by subsection (a).

Children and youth.
State and local governments.

SEC. 8. FUNDS FOR NUTRITION SERVICES AND ADMINISTRATION.

(a) In General.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) In addition to the amounts otherwise made available under paragraphs (1) and (2), each State agency may convert funds initially allocated to the State agency for program food purchases to nutrition services and administration funds for the cost of the State agency and local agencies associated with increases in the number of persons served, if the State agency has implemented a competitive bidding, rebate, direct distribution, or home delivery system as described in its approved Plan of Operation and Administration.

"(B) The Secretary shall—

"(i) project each such State agency's level of participation for the fiscal year, excluding anticipated increases due to use during the fiscal year of any of the cost-saving strategies identified in subparagraph (A) of this paragraph; and

"(ii) compute, with an adjustment for the anticipated effects of inflation, each such State agency's average administrative grant per participant for the preceding fiscal year.

"(C) Each such State agency may convert funds at a rate equal to the amount established by the Secretary under subparagraph (B)(ii) of this paragraph for each food package distributed to each additional participant above the participation level projected by the Secretary under subparagraph (B)(i) of this paragraph, up to the level of increased participation estimated in its approved Plan of Operation and Administration".

(b) State Plan or Plan Amendment.—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by, in paragraph (1)(C)—

(1) striking out "and" at the end of clause (vii);

(2) redesignating clause (viii) as clause (ix); and

(3) adding the following new clause:

"(viii) if the State agency chooses to request the funds conversion authority established in clause (h)(5) of this section, an estimate of the increased participation which will result from its cost-saving initiative, including an explanation of how the estimate was developed; and".

State and local governments.
Reports.
42 USC 1786 note.

(c) STUDY OF NUTRITION SERVICES AND ADMINISTRATION FUNDING.—The Secretary shall conduct a study of the appropriateness of the percentage of the annual appropriation for the program required by paragraph (h)(1) of this section to be made available for State and local agency costs for nutrition services and administration, and shall report the results of this study to the Congress not later than March 1, 1989. Such study shall include an analysis of the impact in future years on per participant administrative costs if a substantial number of States implement competitive bidding, rebate, direct distribution, or home delivery systems and shall examine the impact of the percentage provided for nutrition services and administration on the quality of such services.

(d) EFFECTIVE DATE.—The amendment made by subsections (a), (b), and (c) shall take effect October 1, 1987.

SEC. 9. COORDINATION OF WIC PROGRAM WITH MEDICAID COUNSELING.

Section 17(f)(1)(C)(iii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)(C)(iii)) is amended by striking out "and maternal and child health care programs" and inserting in lieu thereof "maternal and child health care, and medicaid programs".

SEC. 10. STUDY OF MEDICAID SAVINGS FOR NEWBORNS FROM WIC PROGRAM.

State and local governments.
42 USC 1786 note.

(a) STUDY.—The Secretary of Agriculture in consultation with the Secretary of Health and Human Services shall conduct a national study of savings in the amount of assistance provided to families with newborns under State plans for medical assistance approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and State indigent health care programs, during the first 60-day period after birth, as the result of the participation of mothers of newborns before birth in the special supplemental food program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(b) REPORT.—Not later than February 1, 1990, the Secretary shall submit to Congress a report that describes the results of the study conducted under subsection (a).

(c) FUNDING.—This section shall be carried out using funds made available under section 17(g)(3) of the Child Nutrition Act of 1966.

SEC. 11. SUPPLYING INFANT FORMULA FOR THE WIC PROGRAM.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end thereof the following new paragraph:

"(16) To be eligible to participate in the program authorized by this section, a manufacturer of infant formula that supplies formula for the program shall—

"(A) register with the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.); and

"(B) before bidding for a State contract to supply infant formula for the program, certify with the State health department that the formula complies with such Act and regulations issued pursuant to such Act.".

State and local governments.
Contracts.

SEC. 12. OVERSPENDING AND UNDERSPENDING UNDER THE WIC PROGRAM.

Section 17(i)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)) is amended—

(1) in subparagraph (A)—

(A) by inserting "and subject to subparagraphs (B) and (C)" after "paragraph (2)"; and

(B) by striking out "or" at the end of clause (i) and inserting in lieu thereof "and"; and

(2) by adding at the end thereof the following new subparagraph:

State and local governments.

"(C) The total amount of funds transferred from any fiscal year under clauses (i) and (ii) of subparagraph (A) shall not exceed 1 percent of the amount of the funds allocated to a State agency for such fiscal year.".

7 USC 612c note.

SEC. 13. DEFINITIONS.

For purposes of this Act:

(1) The term "donated commodities" means agricultural commodities and their products that are donated by the Secretary to recipient agencies.

(2) The term "entitlement commodities" means agricultural commodities and their products that are donated and charged by the Secretary against entitlements established under programs authorized by statute to receive such commodities.

(3) The term "recipient agency" means—

(A) a school, school food service authority, or other agency authorized under the National School Lunch Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to operate breakfast programs, lunch programs, child care food programs, summer food service programs, or similar programs and to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

(B) a nutrition program for the elderly authorized under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

(C) an agency or organization distributing commodities under the commodity supplemental food program established in section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(D) any charitable institution, summer camp, or assistance agency for the food distribution program on Indian reservations authorized under section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase; or

(E) an agency or organization distributing commodities under a program established in section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note).

(4) The term "State distribution agency" means a State agency responsible for the intrastate distribution of donated commodities.

(5) The term "Secretary" means Secretary of Agriculture, unless the context specifies otherwise.

SEC. 14. GENERAL EFFECTIVE DATE.

7 USC 612c note.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

Approved January 8, 1988.

LEGISLATIVE HISTORY—H.R. 1340 (S. 305):

HOUSE REPORTS: No. 100-216, Pt. 1 (Comm. on Agriculture) and Pt. 2 (Comm. on Education and Labor).
SENATE REPORTS: No. 100-127 accompanying S. 305 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Aug. 3, considered and passed House.
Aug. 5, considered and passed Senate, amended, in lieu of S. 305.
Dec. 17, House concurred in Senate amendment with amendment.
Dec. 19, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Jan. 8, Presidential statement.

○

PUBLIC LAW 100-238—JAN. 8, 1988

FEDERAL EMPLOYEES' RETIREMENT SYSTEM—TECHNICAL CORRECTIONS

19-139 0 - 88 - (238)

Public Law 100-238
100th Congress

An Act

Jan. 8, 1988
[H.R. 3395]

Making technical corrections relating to the Federal Employees' Retirement System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS RELATING TO THE CIVIL SERVICE RETIREMENT SYSTEM AND THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM

SEC. 101. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 5, United States Code.

SEC. 102. DEPOSITS FOR "COVERED SERVICE" AFTER 1986 FOR EMPLOYEES UNDER CSRS OFFSET PROVISIONS.

Section 8334(c) is amended by striking the period at the end of the last sentence and inserting in lieu thereof the following: ", and, with respect to any such service performed after December 31, 1986, be equal to the amount that would have been deducted from the employee's basic pay under subsection (k) of this section if the employee's pay had been subject to that subsection during such period.".

SEC. 103. AMENDMENTS RELATING TO LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS.

(a) MAXIMUM ENTRY AGES.—

(1) IN GENERAL.—Section 3307 is amended—

(A) in subsection (d), by striking "may, with the concurrence of such agent as the President may designate," and inserting in lieu thereof "may"; and

(B) by adding at the end the following:

"(e) The head of an agency may determine and fix the maximum age limit for an original appointment to a position as a firefighter or law enforcement officer, as defined by section 8401 (14) or (17), respectively, of this title.".

(2) CLARIFYING AMENDMENTS.—Paragraphs (14)(A)(ii) and (17) of section 8401 are amended by striking "are required to be" each place those words appear and inserting in lieu thereof "should be".

(b) DEFINITION UNDER THE LIFE INSURANCE PROGRAM.—Section 8704(c)(2) is amended by inserting "or 8401(17)" after "8331(20)".

(c) AMENDMENTS TO DEFINITIONS.—

(1) LAW ENFORCEMENT OFFICERS.—Section 8401(17) is amended—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(B) by inserting after subparagraph (A) the following:

"(B) an employee of the Department of the Interior or the Department of the Treasury (excluding any employee under subparagraph (A)) who occupies a position that, but for the enactment of the Federal Employees' Retirement System Act of 1986, would be subject to the District of Columbia Police and Firefighters' Retirement System, as determined by the Secretary of the Interior or the Secretary of the Treasury, as appropriate;"; and

(C) by amending subparagraph (C), as so redesignated by subparagraph (A), to read as follows:

"(C) an employee who is transferred directly to a supervisory or administrative position after performing duties described in subparagraph (A) and (B) for at least 3 years; and".

(2) FIREFIGHTERS.—Section 8401(14)(B) is amended by striking "for at least 10 years" and inserting in lieu thereof "for at least 3 years".

(d) COORDINATION OF FERS WITH THE DISTRICT OF COLUMBIA POLICE AND FIREFIGHTERS' RETIREMENT SYSTEM FOR EMPLOYEES OF THE PARK POLICE AND THE SECRET SERVICE.—

(1) IN GENERAL.—Section 4-607(1) of title 4 of the District of Columbia Code is amended by striking the period and inserting in lieu thereof the following: ", but does not include an officer or member of the United States Park Police force, or of the United States Secret Service Division, whose service is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986, and who is not excluded from coverage under chapter 84 of title 5, United States Code, by operation of section 8402 of such title.".

(2) CONFORMING AMENDMENT.—Section 8401(11)(i)(II) is amended by striking "(other than an employee of the United States Park Police, or the United States Secret Service, whose civilian service after December 31, 1983, is such employment)".

(e) OFFSETS TO PREVENT FULL DOUBLE COVERAGE FOR EMPLOYEES OF THE PARK POLICE AND THE SECRET SERVICE.—Notwithstanding any other provision of law, in the case of an employee of the United States Secret Service or the United States Park Police whose pay is simultaneously subject to a deposit requirement under the District of Columbia Police and Firefighters' Retirement and Disability System and the contribution requirement under section 3101(a) of the Internal Revenue Code of 1986— 5 USC 8334 note.

(1) any deposits under the District of Columbia Police and Firefighters' Retirement and Disability System shall be adjusted in a manner consistent with section 8334(k) of title 5, United States Code (relating to offsets in deductions from pay to reflect OASDI contributions); and

(2) any benefits payable under the District of Columbia Police and Firefighters' Retirement and Disability System based on the service of any such employee shall be adjusted in a manner consistent with section 8349 of title 5, United States Code (relating to offsets to reflect benefits under title II of the Social Security Act).

(f) EFFECTIVE DATE.—This section, and the amendments made by this section, shall be effective as of January 1, 1987. 5 USC 3307 note.

SEC. 104. MILITARY SERVICE DEPOSITS BY SURVIVORS.

(a) Section 8422(e) is amended by adding at the end the following:

"(5) For the purpose of survivor annuities, deposits authorized by this subsection may also be made by a survivor of an employee or Member.".

(b) Section 8411(c)(4)(A) is amended by striking "subsection (f)(4)" and inserting in lieu thereof "section 8422(e)(5)".

SEC. 105. DEPOSITS AND REFUNDS RELATING TO CERTAIN SERVICE UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) DEPOSIT FOR SERVICE COVERED BY REFUND PERMITTED ONLY IF REFUND WAS PURSUANT TO APPLICATION FILED BEFORE BECOMING SUBJECT TO FERS.—Section 8411(f)(1) is amended by adding at the end the following: "A deposit under this paragraph may be made only with respect to a refund received pursuant to an application filed with the Office before the date on which the employee or Member first becomes subject to this chapter.".

(b) LUMP-SUM CREDIT FOR CERTAIN CSRS SERVICE SOUGHT AFTER BECOMING SUBJECT TO FERS IS PAYABLE TO THE EXTENT THAT IT EXCEEDS 1.3 PERCENT OF BASIC PAY.—The last sentence of section 8342(a), as added by section 207(h) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 596) is amended to read as follows: "In applying this subsection to an employee or Member who becomes subject to chapter 84 (other than by an election under title III of the Federal Employees' Retirement System Act of 1986) and who, while subject to such chapter, files an application with the Office for a payment under this subsection—

"(i) entitlement to payment of the lump-sum credit shall be determined without regard to paragraph (1) or (3) if, or to the extent that, such lump-sum credit relates to service of a type described in clauses (i) through (iii) of section 302(a)(1)(C) of the Federal Employees' Retirement System Act of 1986; and

"(ii) if, or to the extent that, the lump-sum credit so relates to service of a type referred to in clause (i), it shall (notwithstanding section 8331(8)) consist of—

"(I) the amount by which any unrefunded amount described in section 8331(8) (A) or (B) relating to such service, exceeds 1.3 percent of basic pay for such service; and

"(II) interest on the amount payable under subclause (I), computed in a manner consistent with applicable provisions of section 8331(8).".

5 USC 8331 note.

SEC. 106. OPTION FOR CERTAIN EMPLOYEES TO ELECT FERS COVERAGE.

Section 301(a) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 599) is amended by adding at the end the following:

"(3)(A) Except as provided in subparagraph (B), any individual—

"(i) who is excluded from the operation of subchapter III of chapter 83 of title 5, United States Code, under subsection (g), (i), (j), or (l) of section 8347 of such title, and

"(ii) with respect to whom chapter 84 of title 5, United States Code, does not apply because of section 8402(b)(2) of such title,

shall, for purposes of an election under paragraph (1) or (2), be treated as if such individual were subject to subchapter III of chapter 83 of title 5, United States Code.

"(B) An election under this paragraph may not be made by any individual who would be excluded from the operation of chapter 84 of title 5, United States Code, under section 8402(c) of such title (relating to exclusions based on the temporary or intermittent nature of one's employment).".

5 USC 8331 note.

SEC. 107. CERTAIN CSRS SERVICE CREDITABLE TO DETERMINE ELIGIBILITY FOR 1.1 PERCENT ACCRUAL RATE.

Section 302(a)(1)(D) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 602) is amended—

(1) by striking "and" at the end of subclause (IV);

(2) by striking the period at the end of subclause (V) and inserting in lieu thereof "; and"; and

(3) by adding after subclause (V) the following:

"(VI) the provision of subsection (g) of section 8415 which relates to the minimum period of service required to qualify for the higher accrual rate under such subsection.".

SEC. 108. AMENDMENTS RELATING TO MISCELLANEOUS PROVISIONS OF LAW EXTENDING COVERAGE OR BENEFITS UNDER CERTAIN FEDERAL PROGRAMS TO INDIVIDUALS NOT OTHERWISE ELIGIBLE.

(a) TERMINATION OF CERTAIN SPECIAL ELIGIBILITY PROVISIONS.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8347 is amended by adding at the end the following:

"(o) Any provision of law outside of this subchapter which provides coverage, service credit, or any other benefit under this subchapter to any individuals who (based on their being employed by an entity other than the Government) would not otherwise be eligible for any such coverage, credit, or benefit, shall not apply with respect to any individual appointed, transferred, or otherwise commencing that type of employment on or after October 1, 1988.".

(2) LIFE INSURANCE.—

(A) IN GENERAL.—Section 87 of title 5, United States Code, is amended by inserting after section 8712 the following:

5 USC 8713.

"§ 8713. Effect of other statutes

"Any provision of law outside of this chapter which provides coverage or any other benefit under this chapter to any individuals who (based on their being employed by an entity other than the Government) would not otherwise be eligible for any such coverage or benefit shall not apply with respect to any individual appointed, transferred, or otherwise commencing that type of employment on or after October 1, 1988.".

(B) CHAPTER ANALYSIS.—The analysis for chapter 87 of title 5, United States Code, is amended by inserting after the item relating to section 8712 the following:

"8713. Effect of other statutes.".

(3) HEALTH INSURANCE.—

(A) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended by adding at the end the following:

5 USC 8914.

"§ 8914. Effect of other statutes

"Any provision of law outside of this chapter which provides coverage or any other benefit under this chapter to any individuals who (based on their being employed by an entity other than the Government) would not otherwise be eligible for any such coverage or benefit shall not apply with respect to any individual appointed, of title 5, United States Code, under section 8402(c) of such title (relating to exclusions based on the temporary or intermittent nature of one's employment).".

SEC. 107. CERTAIN CSRS SERVICE CREDITABLE TO DETERMINE ELIGIBILITY FOR 1.1 PERCENT ACCRUAL RATE. 5 USC 8331 note.

Section 302(a)(1)(D) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 602) is amended—

(1) by striking "and" at the end of subclause (IV);

(2) by striking the period at the end of subclause (V) and inserting in lieu thereof "; and"; and

(3) by adding after subclause (V) the following:

"(VI) the provision of subsection (g) of section 8415 which relates to the minimum period of service required to qualify for the higher accrual rate under such subsection.".

SEC. 108. AMENDMENTS RELATING TO MISCELLANEOUS PROVISIONS OF LAW EXTENDING COVERAGE OR BENEFITS UNDER CERTAIN FEDERAL PROGRAMS TO INDIVIDUALS NOT OTHERWISE ELIGIBLE.

(a) TERMINATION OF CERTAIN SPECIAL ELIGIBILITY PROVISIONS.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8347 is amended by adding at the end the following:

"(o) Any provision of law outside of this subchapter which provides coverage, service credit, or any other benefit under this subchapter to any individuals who (based on their being employed by an entity other than the Government) would not otherwise be eligible for any such coverage, credit, or benefit, shall not apply with respect to any individual appointed, transferred, or otherwise commencing that type of employment on or after October 1, 1988.".

(2) LIFE INSURANCE.—

(A) IN GENERAL.—Section 87 of title 5, United States Code, is amended by inserting after section 8712 the following:

"§ 8713. Effect of other statutes 5 USC 8713.

"Any provision of law outside of this chapter which provides coverage or any other benefit under this chapter to any individuals who (based on their being employed by an entity other than the Government) would not otherwise be eligible for any such coverage or benefit shall not apply with respect to any individual appointed, transferred, or otherwise commencing that type of employment on or after October 1, 1988.".

(B) CHAPTER ANALYSIS.—The analysis for chapter 87 of title 5, United States Code, is amended by inserting after the item relating to section 8712 the following:

"8713. Effect of other statutes.".

(3) HEALTH INSURANCE.—

(A) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended by adding at the end the following:

"§ 8914. Effect of other statutes 5 USC 8914.

"Any provision of law outside of this chapter which provides coverage or any other benefit under this chapter to any individuals who (based on their being employed by an entity other than the Government) would not otherwise be eligible for any such coverage or benefit shall not apply with respect to any individual appointed, transferred, or otherwise commencing that type of employment on or after October 1, 1988.".

(B) CHAPTER ANALYSIS.—The analysis for chapter 89 of title 5, United States Code, is amended by adding at the end the following:

"8914. Effect of other statutes.".

(b) EXTENSION OF OFFSET PROVISIONS UNDER CHAPTER 83.—

(1) CONTRIBUTIONS.—Section 8334(k) is amended by adding at the end the following:

"(4) In administering paragraphs (1) through (3)—

"(A) the term 'an individual described in section 8402(b)(2) of this title' shall be considered to include any individual—

"(i) who is subject to this subchapter as a result of a provision of law described in section 8347(o), and

"(ii) whose employment (as described in section 8347(o)) is also employment for purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986; and

"(B) the term 'Federal wages', as applied with respect to any individual to whom this subsection applies as a result of subparagraph (A), means basic pay for any employment referred to in subparagraph (A)(ii).".

(2) BENEFITS.—Section 8349 is amended by adding at the end the following:

"(d) In administering subsections (a) through (c)—

"(1) the terms 'an individual under section 8402(b)(2)' and 'an individual described in section 8402(b)(2)' shall each be considered to include any individual—

"(A) who is subject to this subchapter as a result of any provision of law described in section 8347(o), and

"(B) whose employment (as described in section 8347(o)) is also employment for purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986; and

"(2) the term 'Federal service', as applied with respect to any individual to whom this section applies as a result of paragraph (1), means any employment referred to in paragraph (1)(B) performed after December 31, 1983.".

5 USC 8334 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as of January 1, 1987.

District of Columbia.

SEC. 109. CONTINUED COVERAGE UNDER CERTAIN FEDERAL EMPLOYEE BENEFIT PROGRAMS FOR CERTAIN EMPLOYEES OF SAINT ELIZABETHS HOSPITAL.

(a) IN GENERAL.—Section 207 of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 594) is amended by adding at the end the following:

5 USC 8331 note.

"(o) An employee of Saint Elizabeths Hospital who is appointed to a position in the government of the District of Columbia on October 1, 1987, pursuant to the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (Public Law 98-621; 98 Stat. 3369 and following) shall, for purposes of chapters 83, 87, and 89 of title 5, United States Code, be treated in the same way as an individual first employed by the government of the District of Columbia before October 1, 1987.".

(b) The amendment made by this section shall be effective as of October 1, 1987.

SEC. 110. CREDITABILITY UNDER CSRS OF CERTAIN SERVICE PERFORMED UNDER A PERSONAL SERVICE CONTRACT WITH THE UNITED STATES.

5 USC 8332 note.

(a) IN GENERAL.—

(1) CONDITIONS FOR RECEIVING CREDIT.—Subject to the making of a deposit under section 8334(c) of title 5, United States Code, upon application to the Office of Personnel Management within 2 years after the date of the enactment of this Act, any individual who is an employee (as defined by section 8331(1) or 8401(11) of such title) on such date shall be allowed credit under subchapter III of chapter 83 of such title for any service if such service was performed—

(A) before November 5, 1985; and

(B) under a personal service contract with the United States, except as provided in paragraph (3).

(2) CERTIFICATION.—

(A) IN GENERAL.—The Office shall, with respect to any service for which credit is sought under this subsection, accept the certification of the head of the agency which was party to the contract referred to in paragraph (1)(B), but only if such certification—

(i) states that the agency had intended, through such contract, that the individual involved (or that persons like the individual involved) be considered as having been appointed to a position in which such individual would be subject to subchapter III of chapter 83 of title 5, United States Code; and

(ii) indicates the period of service which was performed under the contract by the individual involved, and includes copies of appropriate records or other documentation to support the determination as to the length of such period.

(B) FINALITY.—A decision by an agency head concerning whether or not to make a certification under this paragraph in any particular instance shall be at the sole discretion of the agency head, and shall not be subject to administrative or judicial review.

(3) EXCEPTION.—Nothing in this subsection shall apply with respect to any service performed under—

(A) a contract for which any appropriations, allocations, or funds were used under section 636(a)(3) of the Foreign Assistance Act of 1961;

(B) a contract entered into under section 10(a)(5) of the Peace Corps Act;

(C) a contract under which the services of an individual may be terminated by a person other than the individual or the Government; or

(D) a contract for a single transaction or a contract under which services are paid for in a single payment.

(b) APPLICABILITY TO ANNUITANTS.—

(1) IN GENERAL.—In the case of any individual who—

(A) performed service for which credit is allowable under subsection (a), and

(B) retired on an annuity payable under subchapter III of chapter 83 of title 5, United States Code, after January 23, 1980, and before the date of the enactment of this Act,

any annuity under such subchapter based on the service of such individual shall be redetermined to take into account the amendment made by subsection (a) if application therefor is made, and the deposit requirement under such subsection is met, within 2 years after the date of the enactment of this Act.

(2) AMOUNTS TO WHICH APPLICABLE.—Any change in an annuity resulting from a redetermination under paragraph (1) shall be effective with respect to payments accruing for months beginning after the date of the enactment of this Act.

SEC. 111. EXCLUSION OF FOREIGN NATIONAL EMPLOYEES UNDER CSRS FROM PARTICIPATING IN THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—Section 8351 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) A member of the Foreign Service described in section 103(6) of the Foreign Service Act of 1980 shall be ineligible to make any election under this section.".

5 USC 8351 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as of March 31, 1987. Any refund which becomes payable as a result of the preceding sentence shall, to the extent that such refund involves an individual's contributions to the Thrift Savings Fund (established under section 8437 of title 5, United States Code), be adjusted to reflect any earnings attributable thereto.

SEC. 112. FOREIGN NATIONAL EMPLOYEES APPOINTED AFTER DECEMBER 1987 EXCLUDED FROM CSRS.

Section 8331(1) is amended—

(1) by striking "or" at the end of clause (x);

(2) by striking the period at the end of clause (xi) and inserting in lieu thereof "; or"; and

(3) by adding after clause (xi) the following:

"(xii) a member of the Foreign Service (as described in section 103(6) of the Foreign Service Act of 1980), appointed after December 31, 1987.".

SEC. 113. EXCLUSION OF FOREIGN NATIONAL EMPLOYEES FROM FERS.

(a) NO ELECTION TO CONVERT FROM CSRS.—

(1) IN GENERAL.—Section 301(a) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 599) is amended by adding at the end the following:

5 USC 8331 note.

"(4) A member of the Foreign Service described in section 103(6) of the Foreign Service Act of 1980 shall be ineligible to make any election under this subsection.".

5 USC 8331 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as of June 30, 1987. Any refund which becomes payable as a result of the preceding sentence shall, to the extent that such refund involves an individual's contributions to the Thrift Savings Fund (established under section 8437 of title 5, United States Code), be adjusted to reflect any earnings attributable thereto.

(b) EXCLUSION FROM FERS.—

(1) IN GENERAL.—Section 8401(11) is amended—

(A) by striking "or" at the end of clause (i)(III);

(B) by inserting "or" after the semicolon in clause (ii); and

(C) by adding at the end the following:

"(iii) a member of the Foreign Service described in section 103(6) of the Foreign Service Act of 1980;".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective as of January 1, 1987. Any refund which becomes payable as a result of the preceding sentence shall, to the extent that such refund involves an individual's contributions to the Thrift Savings Fund (established under section 8437 of title 5, United States Code), be adjusted to reflect any earnings attributable thereto.

5 USC 8401 note.

SEC. 114. EXCLUSION OF CERTAIN ONE-TIME GOVERNMENT CONTRIBUTIONS TO THRIFT SAVINGS PLAN.

Section 8432(d) is amended by adding at the end the following: "However, no contribution made under subsection (c)(3) shall be subject to, or taken into account, for purposes of the preceding sentence.".

SEC. 115. GOVERNMENT'S 1 PERCENT THRIFT CONTRIBUTION NOT FORFEITABLE FOR DEATH IN SERVICE.

Section 8432(g) is amended—

(1) in paragraph (1), by striking "Except as provided in paragraphs (2) and (3)," and inserting in lieu thereof "Except as otherwise provided in this subsection,"; and

(2) by adding at the end the following:

"(4) Nothing in paragraph (2) or (3) shall cause the forfeiture of any contributions made for the benefit of an employee, Member, or Congressional employee under subsection (c)(1), or any earnings attributable thereto, if such employee, Member, or Congressional employee is not separated from Government employment as of date of death.".

SEC. 116. CLARIFICATION RELATING TO AMOUNTS SUBJECT TO LEGAL PROCESS FOR CHILD SUPPORT OR ALIMONY.

Section 8437(e)(3) is amended by adding at the end the following: "For the purposes of this paragraph, an amount contributed for the benefit of an individual under section 8432(c)(1) (including any earnings attributable thereto) shall not be considered part of the balance in such individual's account unless such amount is nonforfeitable, as determined under applicable provisions of section 8432(g).".

SEC. 117. CLARIFICATION RELATING TO SOURCE OF FUNDING FOR ADMINISTRATIVE EXPENSES OF THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—Section 8437 is amended—

(1) in subsection (d), by inserting a period after "earnings in such Fund" and by striking the matter thereafter; and

(2) in subsection (e)(1), by inserting "subsection (d) and" before "paragraphs (2) and (3),".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act.

5 USC 8437 note.

5 USC 8331 note.

SEC. 118. EXCLUSION FROM AGE-BASED REDUCTION UNDER CHAPTER 83 FOR CSRS PORTION OF ANNUITY MADE SUBJECT TO REDUCTION UNDER CHAPTER 84 FOLLOWING AN ELECTION INTO FERS.

Section 302(a)(4) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 603) is amended by adding at the end the following: "Notwithstanding the preceding sentence, in computing accrued benefits under this paragraph for an individual retiring under section 8412(g) or 8413(b) of title 5, United States Code, section 8339(h) of such title (relating to reductions based on age at date of separation) shall not apply.".

5 USC 8331 note.

SEC. 119 INTEREST ON REFUNDS OF CERTAIN EXCESS CONTRIBUTIONS BY INDIVIDUALS MAKING ELECTIONS UNDER TITLE III OF THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986.

(a) FOR INDIVIDUALS ELECTING FERS COVERAGE.—Section 302(c)(2) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 605), as amended by section 302(a) of the Federal Employees' Retirement System Technical Corrections Act of 1986 (Public Law 99-556; 100 Stat. 3136), is amended to read as follows:

"(2) In accordance with regulations prescribed by the Office of Personnel Management, a refund under this subsection shall be payable upon written application therefor filed with the Office and shall include interest at the rate provided in section 8334(e)(3) of title 5, United States Code. Interest on the refund shall accrue monthly and shall be compounded annually.".

(b) FOR INDIVIDUALS ELECTING COVERAGE UNDER CSRS WITH OFFSETS FOR SOCIAL SECURITY.—The last sentence of section 303(a) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 605), as added by section 302(b) of the Federal Employees' Retirement System Technical Corrections Act of 1986 (Public Law 99-556; 100 Stat. 3136), is amended to read as follows: "A refund under this subsection shall be computed with interest in accordance with section 302(c)(2) and regulations prescribed by the Office of Personnel Management.".

5 USC 8331 note.

District of Columbia.

SEC. 120. EFFECTIVE DATE OF FINAL MERIT INCREASE UNDER THE PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM FOR EMPLOYEES OF SAINT ELIZABETHS HOSPITAL.

(a) IN GENERAL.—Notwithstanding any other provision of law, the effective date of any merit increase under section 5404 of title 5, United States Code, during calendar year 1987 shall, in the case of any individual employed in or under Saint Elizabeths Hospital on September 1, 1987, be considered to be the first day of the first applicable pay period commencing on or after September 1 (rather than October 1) of such year.

(b) DEFINITION.—For purposes of this section, "Saint Elizabeths Hospital" refers to the institution identified under section 3(1) of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (Public Law 98-621; 98 Stat. 3371).

SEC. 121. DEADLINE FOR AGENCY CONTRIBUTIONS TO THRIFT SAVINGS PLAN.

(a) THE 1-PERCENT CONTRIBUTION.—Section 8432(c)(1)(A) is amended—

(1) by striking "At the end of" and inserting in lieu thereof "At the time prescribed by the Executive Director, but no later than 12 days after the end of"; and

(2) by striking "at the end of each succeeding pay period," and inserting in lieu thereof "within such time as the Executive Director may prescribe with respect to succeeding pay periods (but no later than 12 days after the end of each such pay period),".

(b) AMOUNTS BASED ON INDIVIDUAL CONTRIBUTIONS.—The second sentence of section 8432(c)(2)(A) is amended by striking "at the end of such pay period." and inserting in lieu thereof "within such time as the Executive Director may prescribe, but no later than 12 days after the end of each such pay period.".

SEC. 122. AMENDMENTS RELATING TO DISABILITY ANNUITIES.

(a) INITIAL DISABILITY ANNUITY OFFSET TO BE BASED ON ACTUAL SOCIAL SECURITY DISABILITY INSURANCE BENEFIT; AMOUNT OF OFFSET NOT SUBJECT TO ADJUSTMENT UNTIL AFTER THE FIRST YEAR.—Section 8452(a)(2)(B)(i) of title 5, United States Code, is amended to read as follows:

"(B)(i) For purposes of this paragraph, the assumed disability insurance benefit of an annuitant for any month shall be equal to—

"(I) the amount of the disability insurance benefit to which the annuitant is entitled under section 223 of the Social Security Act for the month in which the annuity under this subchapter commences, or is restored, or, if no entitlement to such disability insurance benefits exists for such month, the first month thereafter for which the annuitant is entitled both to an annuity under this subchapter and disability insurance benefits under section 223 of the Social Security Act, adjusted by

"(II) all adjustments made under section 8462(b) after the end of the period referred to in paragraph (1)(A)(i) (or, if later, after the end of the month preceding the first month for which the annuitant is entitled both to an annuity under this subchapter and disability insurance benefits under section 223 of the Social Security Act) and before the start of the month involved (without regard to whether the annuitant's annuity was affected by any of those adjustments).".

(b) REVISED METHOD FOR REDETERMINING A DISABILITY ANNUITY AT AGE 62.—Section 8452(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) Except as provided in subsection (d), if an annuitant is entitled to an annuity under this subchapter as of the day before the date of the sixty-second anniversary of the annuitant's birth (hereinafter in this section referred to as the annuitant's 'redetermination date'), such annuity shall be redetermined by the Office in accordance with paragraph (2). Effective as of the annuitant's redetermination date, the annuity (as so redetermined) shall be in lieu of any annuity to which such annuitant would otherwise be entitled under this subchapter.

"(2)(A) An annuity redetermined under this subsection shall be equal to the amount of the annuity to which the annuitant would be entitled under section 8415, taking into account the provisions of subparagraph (B).

"(B) In performing a computation under this paragraph—

"(i) creditable service of an annuitant shall be increased by including any period (or periods) before the annuitant's redetermination date during which the annuitant was entitled to an annuity under this subchapter; and

"(ii) the average pay which would otherwise be used shall be adjusted to reflect all adjustments made under section 8462(b) with respect to any period (or periods) referred to in clause (i) (without regard to whether the annuitant's annuity was affected by any of those adjustments).".

(c) METHOD FOR APPLYING COST-OF-LIVING ADJUSTMENTS TO CERTAIN DISABILITY ANNUITY PROVISIONS.—

(1) MINIMUM DISABILITY ANNUITY AMOUNT SUBJECT TO ADJUSTMENT AFTER THE FIRST YEAR.—Section 8452 is amended—

(A) by redesignating subsection (d) as subsection (d)(1); and

(B) by adding after subsection (d)(1), as so redesignated, the following:

"(2) In applying this subsection with respect to any annuitant, the amount of an annuity so computed under section 8415 shall be adjusted under section 8462 (including subsection (c) thereof)—

"(A) to the same extent, and otherwise in the same manner, as if it were an annuity—

"(i) subject to adjustment under such section; and

"(ii) with a commencement date coinciding with the date the annuitant's annuity commenced or was restored under this subchapter, as the case may be; and

"(B) whether the amount actually payable to the annuitant under this section in any month is determined under this subsection or otherwise.".

(2) DISABILITY ANNUITY COLAS.—

(A) IN GENERAL.—Section 8452(a)(1)(B) of title 5, United States Code, is amended to read as follows:

"(B) An annuity computed under this paragraph—

"(i) shall not, during any period referred to in subparagraph (A)(i), be adjusted under section 8462; but

"(ii) shall, after the end of any period referred to in subparagraph (A)(i), be adjusted to reflect all adjustments made under section 8462(b) after the end of the period referred to in subparagraph (A)(i), whether the amount actually payable to the annuitant under this section in any month is determined under this subsection or otherwise.".

(B) CLARIFYING AMENDMENT.—Section 8452(a) of title 5, United States Code, is amended by adding at the end the following:

"(3) Section 8462 shall apply with respect to amounts under this subsection only as provided in paragraphs (1) and (2).".

5 USC 8452 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective as of January 1, 1987, as if they had been enacted as part of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 514 and following).

SEC. 123. CLARIFYING AMENDMENTS RELATING TO FUNDING.

FUND BALANCE.—Section 8331(18) is amended by adding at the end the following:

"but does not include any amount attributable to—

"(i) the Federal Employees' Retirement System; or

"(ii) contributions made under the Federal Employees' Retirement Contribution Temporary Adjustment Act of

1983 by or on behalf of any individual who became subject to the Federal Employees' Retirement System;".

SEC. 124. CONCURRENT ENTITLEMENT TO BENEFITS UNDER CHAPTER 81 AND CHAPTER 83 OR 84 OF TITLE 5, UNITED STATES CODE.

(a) IN GENERAL.—

(1) AMENDMENTS.—

(A) CSRS.—Section 8337 is amended by striking subsections (f) and (g) and inserting in lieu thereof the following:

"(f)(1) An individual is not entitled to receive—

"(A) an annuity under this subchapter, and

"(B) compensation for injury to, or disability of, such individual under subchapter I of chapter 81, other than compensation payable under section 8107,

covering the same period of time.

"(2) An individual is not entitled to receive an annuity under this subchapter and a concurrent benefit under subchapter I of chapter 81 on account of the death of the same person.

"(3) Paragraphs (1) and (2) do not bar the right of a claimant to the greater benefit conferred by either this subchapter or subchapter I of chapter 81.

"(g) If an individual is entitled to an annuity under this subchapter, and the individual receives a lump-sum payment for compensation under section 8135 based on the disability or death of the same person, so much of the compensation as has been paid for a period extended beyond the date payment of the annuity commences, as determined by the Department of Labor, shall be refunded to that Department for credit to the Employees' Compensation Fund. Before the individual may receive the annuity, the individual shall—

"(1) refund to the Department of Labor the amount representing the commuted compensation payments for the extended period; or

"(2) authorize the deduction of the amount from the annuity.

Deductions from the annuity may be made from accrued or accruing payments. The amounts deducted and withheld from the annuity shall be transmitted to the Department of Labor for reimbursement to the Employees' Compensation Fund. When the Department of Labor finds that the financial circumstances of an individual entitled to an annuity under this subchapter warrant deferred refunding, deductions from the annuity may be prorated against and paid from accruing payments in such manner as the Department determines appropriate.".

(B) FERS.—Subchapter VI of chapter 84 is amended by inserting after section 8464 the following:

"§ 8464a. Relationship between annuity and workers' compensation

5 USC 8464a.

"(a)(1) An individual is not entitled to receive—

"(A) an annuity under subchapter II or V, and

"(B) compensation for injury to, or disability of, such individual under subchapter I of chapter 81, other than compensation payable under section 8107,

covering the same period of time.

"(2) An individual is not entitled to receive an annuity under subchapter IV and a concurrent benefit under subchapter I of chapter 81 on account of the death of the same person.

"(3) Paragraphs (1) and (2) do not bar the right of a claimant to the greater benefit conferred by either this chapter or subchapter I of chapter 81.

"(b) If an individual is entitled to an annuity under subchapter II, IV, or V, and the individual receives a lump-sum payment for compensation under section 8135 based on the disability or death of the same person, so much of the compensation as has been paid for a period extended beyond the date payment of the annuity commences, as determined by the Department of Labor, shall be refunded to that Department for credit to the Employees' Compensation Fund. Before the individual may receive the annuity, the individual shall—

"(1) refund to the Department of Labor the amount representing the commuted compensation payments for the extended period; or

"(2) authorize the deduction of the amount from the annuity.

Deductions from the annuity may be made from accrued or accruing payments. The amounts deducted and withheld from the annuity shall be transmitted to the Department of Labor for reimbursement to the Employees' Compensation Fund. When the Department of Labor finds that the financial circumstances of an individual entitled to an annuity under subchapter II, IV, or V warrant deferred refunding, deductions from the annuity may be prorated against and paid from accruing payments in such manner as the Department determines appropriate.".

(2) CHAPTER ANALYSIS.—The analysis for chapter 84 is amended by inserting after the item relating to section 8464 the following:

"8464a. Relationship between annuity and workers' compensation.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subchapter V of chapter 84 is amended—

(A) by striking section 8456; and

(B) by redesignating section 8457 as section 8456.

(2) The analysis for chapter 84 is amended—

(A) by striking the item relating to section 8456; and

(B) by striking "8457" and inserting in lieu thereof "8456".

5 USC 8337 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective as of January 1, 1987, and shall apply with respect to benefits payable based on a death or disability occurring on or after that date.

(2) EXCEPTION.—The amendment made by subsection (a)(1)(A) shall take effect on the date of the enactment of this Act and shall apply with respect to benefits payable based on a death or disability occurring on or after that date.

5 USC 8432 note.

SEC. 125. ELIGIBILITY OF CERTAIN INDIVIDUALS TO PARTICIPATE IN THE THRIFT SAVINGS PLAN.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "Executive Director" means the Executive Director under section 8474 of title 5, United States Code; and

(2) the term "Thrift Savings Plan" refers to the program under subchapter III of chapter 84 of title 5, United States Code.

(b) REGULATIONS.—

(1) IN GENERAL.—The Executive Director shall prescribe regulations relating to participation in the Thrift Savings Plan by an individual described in subsection (c).

(2) SPECIFIC MATTERS TO BE INCLUDED.—Under the regulations—

(A) in computing a percentage of basic pay to determine an amount to be contributed to the Thrift Savings Fund, the rate of basic pay to be used shall be the same as that used in computing any amount which the individual involved is otherwise required, as a condition for participating in the Civil Service Retirement System or the Federal Employees' Retirement System (as the case may be), to contribute to the Civil Service Retirement and Disability Fund; and

(B) an employing authority which would not otherwise make contributions to the Thrift Savings Fund shall be allowed, with respect to any individual under subsection (c) who is serving under such authority, and at the sole discretion of such authority, to make any contributions on behalf of such individual which would be permitted or required under the provisions of section 8432(c) of title 5, United States Code, if such authority were the individual's employing agency under such provisions.

(c) APPLICABILITY.—This section applies with respect to—

(1) any individual participating in the Civil Service Retirement System or the Federal Employees' Retirement System as—

(A) an individual who has entered on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees (as defined by section 8331(1) or 8401(11) of title 5, United States Code);

(B) an individual assigned from a Federal agency to a State or local government under subchapter VI of chapter 33 of title 5, United States Code; or

(C) an individual appointed or otherwise assigned to one of the cooperative extension services, as defined by section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5)); and

(2) any individual who is participating in the Civil Service Retirement System as a result of a provision of law described in section 8347(o).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the regulations prescribed under this section shall become effective in accordance with the provisions of such regulations.

(2) EXCEPTION.—The regulations prescribed under this section shall, with respect to individuals under subsection (c)(1)(C), be effective as of January 1, 1987.

SEC. 126. SPECIAL PAY OF VETERANS' ADMINISTRATION PHYSICIANS INCLUDED IN AVERAGE SALARY UNDER FERS.

Section 4118(f) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking "81 or 83" and inserting in lieu thereof "81, 83, or 84"; and

(2) in paragraph (2)—

(A) in the first sentence, by striking "chapter 83 of title 5" and inserting in lieu thereof "chapter 83 or 84 of title 5, as the case may be";

(B) in the second sentence, by striking "section 8331(4)" and all that follows thereafter through "; or" and inserting in lieu thereof the following: "section 8331(4) or 8401(3) of such title (as applicable) only—

"(A) for the purposes of computing benefits paid under section 8337, 8341 (d) or (e), 8442(b), 8443, or 8451 of such title; or"; and

(C) in subparagraph (B), by inserting "if" at the beginning thereof.

5 USC 8341 note.

SEC. 127. APPLICATION DEADLINE FOR CERTAIN FORMER SPOUSES.

Section 4(b)(1)(B) of the Civil Service Retirement Spouse Equity Act of 1984 (Public Law 98-615; 98 Stat. 3205), as amended by section 201(b)(1)(C) of the Federal Employees Benefits Improvement Act of 1986 (Public Law 99-251; 100 Stat. 22), is amended—

(1) in clause (i), by inserting ", and before May 8, 1987" before the semicolon; and

(2) by amending clause (iv) to read as follows:

"(iv) the former spouse files an application for the survivor annuity with the Office on or before May 7, 1989; and"; and

(3) by amending clause (v) by striking out "at the time of filing such application" and inserting in lieu thereof "on May 7, 1987".

5 USC 8334 note.

SEC. 128. REFUNDS OF CERTAIN EXCESS DEDUCTIONS TAKEN AFTER 1983 TO OFFSET EMPLOYEES UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) REFUND ELIGIBILITY.—An individual shall upon written application to the Office of Personnel Management, receive a refund under subsection (b), if such individual—

(1) was subject to section 8334(a)(1) of title 5, United States Code, for any period of service after December 31, 1983, because of an election under section 208(a)(1)(B) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note);

(2) is not eligible to make an election under section 301(b) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 599); and

(3) becomes subject to section 8334(k) of title 5, United States Code.

(b) REFUND COMPUTATION.—An individual eligible for a refund under subsection (a) shall receive a refund—

(1) for the period beginning on January 1, 1984, and ending on December 31, 1986, for the amount by which—

(A) the total amount deducted from such individual's basic pay under section 8334(a)(1) of title 5, United States Code, for service described in subsection (a)(1) of this section, exceeds

(B) 1.3 percent of such individual's total basic pay for such period; and

(2) for the period beginning on January 1, 1987, and ending on the day before such individual becomes subject to section 8334(k) of title 5, United States Code, for the amount by which—

(A) the total amount deducted from such individual's basic pay under section 8334(a)(1) of title 5, United States Code, for service described in subsection (a)(1) of this section, exceeds

(B) the total amount which would have been deducted if such individual's basic pay had instead been subject to section 8334(k) of title 5, United States Code, during such period.

(c) INTEREST COMPUTATION.—A refund under this section shall be computed with interest in accordance with section 8334(e) of title 5, United States Code, and regulations prescribed by the Office of Personnel Management.

SEC. 129. ADJUSTMENTS IN METHODS OF ANNUITY PAYMENTS FOR YEARS WITH ZERO OR NEGATIVE INFLATION.

Section 8434(a)(2) (C) and (D) of title 5, United States Code, is amended to read as follows:

"(C) a method described in subparagraph (A) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year;

"(D) a method described in subparagraph (B) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year; and".

SEC. 130. COVERAGE UNDER THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM FOR INDIVIDUALS SUBJECT TO THE FOREIGN SERVICE PENSION SYSTEM WHO ENTER FEDERAL EMPLOYMENT OTHER THAN THE FOREIGN SERVICE.

Section 8402 of title 5, United States Code, is amended—

(1) in the matter following subparagraph (B) of paragraph (2) of subsection (b) by inserting "subsection (d) of this section or" before "title III"; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) Paragraph (2) of subsection (b) shall not apply to an individual who becomes subject to subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 (relating to the Foreign Service Pension System) pursuant to an election and who subsequently enters a position in which, but for such paragraph (2), he would be subject to this chapter.".

SEC. 131. ANNUITY COMPUTATIONS FOR THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

(a) SURVIVOR REDUCTION COMPUTATION.—Section 8419(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out ", shall be reduced" and inserting in lieu thereof "or one-half of the annuity, if jointly designated for this purpose by the employee or Member and the spouse of the employee or Member under procedures prescribed by the Office of Personnel Management, shall be reduced"; and

(2) in paragraph (2)(A) by striking out ", shall be reduced" and inserting in lieu thereof "or one-half of the annuity, if jointly designated for this purpose by the employee or Member and the

spouse of the employee or Member under procedures prescribed by the Office of Personnel Management, shall be reduced".

(b) SURVIVOR BENEFITS.—Section 8442 of title 5, United States Code, is amended—

(1) in subsection (a)(1) by inserting after "with respect to the annuitant," the following: "(or one-half thereof, if designated for this purpose under section 8419 of this title),"; and

(2) in subsection (g)(1) by inserting after "paragraph (2)" the following: "(or one-half thereof if designated for this purpose under section 8419 of this title)".

SEC. 132. LOANS FROM EMPLOYEES' CONTRIBUTION TO THE THRIFT SAVINGS FUND.

Section 8433(i)(3) of title 5, United States Code, is amended to read as follows:

"(3) Loans under this subsection shall be available to all employees and Members on a reasonably equivalent basis, and shall be subject to such other conditions as the Board may by regulation prescribe. The restrictions of section 8477(c)(1) of this title shall not apply to loans made under this subsection.".

SEC. 133. FIDUCIARY RESPONSIBILITIES AND LIABILITIES IN MANAGEMENT OF THRIFT SAVINGS FUND.

(a) FIDUCIARY RESPONSIBILITIES AND LIABILITIES.—Section 8477(e) of title 5, United States Code, is amended—

(1) in paragraph (1)(A) by inserting before the period at the end of the first sentence a comma and "except as provided in paragraphs (3) and (4) of this subsection";

(2) in paragraph (1)(B) by striking out "Internal Revenue Code of 1954" and inserting in lieu thereof "Internal Revenue Code of 1986";

(3) in paragraph (1)(D) by inserting "only" before "if" in the matter preceding clause (i);

(4) by redesignating paragraphs (4) and (5) as paragraphs (7) and (8), respectively; and

(5) by striking out paragraphs (2) and (3) and inserting in lieu thereof:

"(2) No civil action may be maintained against any fiduciary with respect to the responsibilities, liabilities, and penalties authorized or provided for in this section except in accordance with paragraphs (3) and (4).

"(3) A civil action may be brought in the district courts of the United States—

"(A) by the Secretary of Labor against any fiduciary other than a Member of the Board or the Executive Director of the Board—

"(i) to determine and enforce a liability under paragraph (1)(A);

"(ii) to collect any civil penalty under paragraph (1)(B);

"(iii) to enjoin any act or practice which violates any provision of subsection (b) or (c);

"(iv) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

"(v) to enjoin any act or practice which violates subsection (g)(2) or (h) of section 8472 of this title;

"(B) by any participant, beneficiary, or fiduciary against any fiduciary—

"(i) to enjoin any act or practice which violates any provision of subsection (b) or (c);

"(ii) to obtain any other appropriate equitable relief to redress a violation of any such provision;

"(iii) to enjoin any act or practice which violates subsection (g)(2) or (h) of section 8472 of this title; or

"(C) by any participant or beneficiary—

"(i) to recover benefits of such participant or beneficiary under the provisions of subchapter III of this chapter, to enforce any right of such participant or beneficiary under such provisions, or to clarify any such right to future benefits under such provisions; or

Claims.

"(ii) to enforce any claim otherwise cognizable under sections 1346(b) and 2671 through 2680 of title 28, if the remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for injury or loss of property caused by the negligent or wrongful act or omission of any fiduciary while acting within the scope of his duties or employment is exclusive of any other civil action or proceeding by the participant or beneficiary for recovery of money by reason of the same subject matter against the fiduciary (or the estate of such fiduciary) whose act or omission gave rise to such action or proceeding, whether or not such action or proceeding is based on an alleged violation of subsection (b) or (c).

"(4)(A) In all civil actions under paragraph (3)(A), attorneys appointed by the Secretary may represent the Secretary (except as provided in section 518(a) of title 28), however all such litigation shall be subject to the direction and control of the Attorney General.

"(B) The Attorney General shall defend any civil action or proceeding brought in any court against any fiduciary referred to in paragraph (3)(C)(ii) (or the estate of such fiduciary) for any such injury. Any fiduciary against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such fiduciary (or an attested copy thereof) to the Executive Director of the Board, who shall promptly furnish copies of the pleading and process to the Attorney General and the United States Attorney for the district wherein the action or proceeding is brought.

"(C) Upon certification by the Attorney General that a fiduciary described in paragraph (3)(C)(ii) was acting in the scope of such fiduciary's duties or employment as a fiduciary at the time of the occurrence or omission out of which the action arose, any such civil action or proceeding commenced in a State court shall be—

"(i) removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division in which it is pending; and

"(ii) deemed a tort action brought against the United States under the provisions of title 28 and all references thereto.

Claims.

"(D) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect. To the extent section 2672 of title 28 provides that persons other than the Attorney General or his designee may compromise and settle claims, and that payment of such claims may be made from agency appropriations, such provisions shall not apply to claims based upon an alleged violation of subsection (b) or (c).

Claims.

"(E) For the purposes of paragraph (3)(C)(ii) the provisions of sections 2680(h) of title 28 shall not apply to any claim based upon an alleged violation of subsection (b) or (c).

Claims.

"(F) Notwithstanding sections 1346(b) and 2671 through 2680 of title 28, whenever an award, compromise, or settlement is made under such sections upon any claim based upon an alleged violation of subsection (b) or (c), payment of such award, compromise, or settlement shall be made to the appropriate account within the Thrift Savings Fund, or where there is no such appropriate account, to the participant or beneficiary bringing the claim.

"(G) For purposes of paragraph (3)(C)(ii), fiduciary includes only the Members of the Board and the Board's Executive Director.

"(5) Any relief awarded against a Member of the Board or the Executive Director of the Board in a civil action authorized by paragraphs (3) and (4) may not include any monetary damages or any other recovery of money.

"(6) An action may not be commenced under paragraph (3) (A) or (B) with respect to a fiduciary's breach of any responsibility, duty, or obligation under subsection (b) or a violation of subsection (c) after the earlier of—

"(A) 6 years after (i) the date of the last action which constituted a part of the breach or violation, or (ii) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

Fraud.

"(B) 3 years after the earliest date on which the plaintiff had actual knowledge of the breach or violation, except that, in the case of fraud or concealment, such action may be commenced not later than 6 years after the date of discovery of such breach or violation.".

5 USC 8477 note.

(b) Effective Date.—The provisions of section 8477(e) (1), (2), (3), (4), (5), and (6) of title 5, United States Code (as amended by subsection (a) of this section), shall apply to any civil action or proceeding arising from any act or omission occurring on or after October 1, 1986.

5 USC 8477 and note.

(c) Repeal.—The provisions of subsection (a) (and the amendments to section 8477(e) of title 5, United States Code, contained therein) and subsection (b) of this section are repealed effective on December 31, 1990. On and after December 31, 1990, the provisions of section 8477(e) of title 5, United States Code, shall be in effect as such provisions were in effect on the date immediately preceding the date of enactment of this section.

SEC. 134. AMENDMENTS CONCERNING REEMPLOYED ANNUITANTS.

(a) Amendment to Chapter 84 of Title 5, United States Code.—Section 8468 is amended to read as follows:

5 USC 8468.

"§ 8468. Annuities and pay on reemployment

"(a) If an annuitant, except a disability annuitant whose annuity is terminated because of the annuitant's recovery or restoration of earning capacity, becomes employed in an appointive or elective position, an amount equal to the annuity allocable to the period of actual employment shall be deducted from the annuitant's pay, except for lump-sum leave payment purposes under section 5551. Unless the annuitant's appointment is on an intermittent basis or is to a position as a justice or judge (as defined by section 451 of title

28) or as an employee subject to another retirement system for Government employees, or unless the annuitant is serving as President, deductions for the Fund shall be withheld from the annuitant's pay under section 8422(a) and contributions under section 8423 shall be made. The deductions and contributions referred to in the preceding provisions of this subsection shall be deposited in the Treasury of the United States to the credit of the Fund. The annuitant's lump-sum credit may not be reduced by annuity paid during the reemployment.

"(b)(1)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, the annuitant's annuity on termination of reemployment shall be increased by an annuity computed under section 8415 (a) through (f) as may apply based on the period of reemployment and the basic pay, before deduction, averaged during the reemployment.

"(B)(i) If the annuitant is receiving a reduced annuity as provided in section 8419, the increase in annuity payable under subparagraph (A) is reduced by 10 percent and the survivor annuity or combination of survivor annuities payable under section 8442 or 8445 (or both) is increased by 50 percent of the increase in annuity payable under subparagraph (A), unless, at the time of claiming the increase payable under subparagraph (A), the annuitant notifies the Office in writing that the annuitant does not desire the survivor annuity to be increased.

"(ii) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for not less than 1 year of full-time service (or the equivalent thereof, in the case of full-time employment), the survivor annuity payable is increased as though the reemployment had otherwise terminated.

"(2)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, the annuitant may elect, instead of the benefit provided by paragraph (1), to have such annuitant's rights redetermined under this chapter.

"(B) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for at least 5 years of full-time service (or the equivalent thereof in the case of part-time employment), any person entitled to a survivor annuity under section 8442 or 8445 based on the service of such annuitant shall be permitted to elect, in accordance with regulations prescribed by the Office of Personnel Management, to have such person's rights under subchapter IV redetermined. A redetermined survivor annuity elected under this subparagraph shall be in lieu of an increased annuity which would otherwise be payable in accordance with paragraph (1)(B)(ii).

"(3) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for a period of less than 1 year, or on a part-time basis for periods equivalent to less than 1 year of full-time service, the total amount withheld under section 8422(a) from the annuitant's basic pay for the period or periods involved shall, upon written application to the Office, be payable to the annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8424(d)).

"(c) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service.

"(d) If an annuitant becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, the annuitant may, at any time prior to resignation or retirement from regular active service as such a justice or judge, apply for and be paid, in accordance with section 8424(a), the amount (if any) by which the lump-sum credit exceeds the total annuity paid, notwithstanding the time limitation contained in such section for filing an application for payment.

"(e) A reference in this section to an 'annuity' shall not be considered to include any amount payable from a source other than the Fund.".

5 USC 8331 note.

(b) AMENDMENT TO FERSA.—Section 302(a)(12) of the Federal Employees' Retirement System Act of 1986 is amended to read as follows:

"(12)(A)(i) If the electing individual is a reemployed annuitant under section 8344 of title 5, United States Code, under conditions allowing the annuity to continue during reemployment, payment of the annuitant's annuity shall continue after the effective date of the election, and an amount equal to the annuity allocable to the period of actual employment shall continue to be deducted from the annuitant's pay and deposited as provided in subsection (a) of such section. Deductions from pay under section 8422(a) of such title and contributions under section 8423 of such title shall begin effective on the effective date of the election.

"(ii) Notwithstanding any provision of section 301, an election under such section shall not be available to any reemployed annuitant who would be excluded from the operation of chapter 84 of title 5, United States Code, under section 8402(c) of such title (relating to exclusions based on the temporary or intermittent nature of one's employment).

"(B) If the annuitant serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, such annuitant's annuity, on termination of reemployment, shall be increased by an annuity computed—

"(i) with respect to reemployment service before the effective date of the election, under section 8339 (a), (b), (d), (e), (h), (i), and (n) of title 5, United States Code, as may apply based on the reemployment in which such annuitant was engaged before such effective date; and

"(ii) with respect to reemployment service on or after the effective date of the election, under section 8415 (a) through (f) of such title, as may apply based on the reemployment in which such annuitant was engaged on or after such effective date;

with the 'average pay' used in any computation under clause (i) or (ii) being determined (based on rates of pay in effect during the period of reemployment, whether before, on, or after the effective date of the election) in the same way as provided for in paragraph (6). If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of title 5, United States Code, the increase in annuity payable under this subparagraph is reduced by 10 percent and the survivor annuity payable under section 8341(b) of such title is increased by 55 percent of the increase in annuity payable under this subparagraph, unless, at the time of claiming the increase payable under this subparagraph, the annuitant notifies the Office of Personnel Management in writing that such annuitant does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, after having been reemployed for at least 1 full year (or the equivalent thereof, in the case of part-time employment), any survivor annuity payable under section 8341(b) of such title based on the service of such annuitant is increased as though the reemployment had otherwise terminated. In applying paragraph (7) to an amount under this subparagraph, any portion of such amount attributable to clause (i) shall be adjusted under subparagraph (A) of such paragraph, and any portion of such amount attributable to clause (ii) shall be adjusted under subparagraph (B) of such paragraph.

"(C)(i) If the annuitant serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, such annuitant may elect, instead of the benefit provided by subparagraph (B), to have such annuitant's rights redetermined, effective upon separation from employment. If the annuitant so elects, the redetermined annuity will become payable as if such annuitant were retiring for the first time based on the separation from reemployment service, and the provisions of this section concerning computation of annuity (other than any provision of this paragraph) shall apply.

Regulations.

"(ii) If the annuitant dies while still reemployed, after having been reemployed for at least 5 full years (or the equivalent thereof, in the case of part-time employment), any person entitled to a survivor annuity under section 8341(b) of title 5, United States Code, based on the service of such annuitant shall be permitted to elect to have such person's rights redetermined in accordance with regulations which the Office shall prescribe. Redetermined benefits elected under this clause shall be in lieu of any increased benefits which would otherwise be payable in accordance with the next to last sentence of subparagraph (B).

"(D) If the annuitant serves on a full-time basis for less than 1 year (or the equivalent thereof, in the case of part-time employment), any amounts withheld under section 8422(a) of title 5, United States Code, from such annuitant's pay for the period (or periods) involved shall, upon written application to the Office, be payable to such annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8342(c) of such title).

"(E) For purposes of determining the period of an annuitant's reemployment service under this paragraph, a period of reemployment service shall not be taken into account unless—

"(i) with respect to service performed before the effective date of the election under section 301, it is service which, if performed for at least 1 full year, would have allowed such annuitant to elect under section 8344(a) of title 5, United States Code, to have deductions withheld from pay; or

"(ii) with respect to service performed on or after the effective date of the election under section 301, it is service with respect to which deductions from pay would be required to be withheld under the second sentence of section 8468(a) of title 5, United States Code.".

(c) TECHNICAL AMENDMENT.—Section 302(a)(4) of the Federal Employees' Retirement System Act of 1986 is amended by striking out all before "benefits" and inserting "Accrued".

5 USC 8331 note.

(d) EFFECTIVE DATE.—

5 USC 8468 note.

(1) GENERALLY.—The amendments made by this section shall take effect on the date of the enactment of this Act, and as provided in paragraph (2), shall apply with respect to any individual who becomes a reemployed annuitant on or after such date.

(2) EXCEPTION.—The amendment made by subsection (b) shall apply with respect to any election made by a reemployed annuitant on or after the date of the enactment of this Act.

Texas.

SEC. 135. DESIGNATION OF UNITED STATES POST OFFICE BUILDING.

The United States Post Office Building located at 809 Nueces Bay Boulevard, Corpus Christi, Texas, shall be designated and hereafter known as the "Dr. Hector Perez Garcia Post Office Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "Dr. Hector Perez Garcia Post Office Building".

SEC. 136. CONTINUED COVERAGE FOR CERTAIN EMPLOYEES AND ANNUITANTS OF THE ALASKA RAILROAD IN FEDERAL HEALTH BENEFITS PLANS AND LIFE INSURANCE PLANS.

(a) AMENDMENT TO ALASKA RAILROAD TRANSFER ACT OF 1982.—Section 607 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1206) is amended by adding at the end thereof the following new subsection:

"(e)(1) Any person described under the provisions of paragraph (2) may elect life insurance coverage under chapter 87 of title 5, United States Code, and enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with the provisions of this subsection.

"(2) The provisions of paragraph (1) shall apply to any person who—

"(A)(i) retired from the State-owned railroad during the period beginning on or after January 4, 1985 through the date of enactment of this subsection; and

"(ii)(I) was covered under a life insurance policy pursuant to chapter 87 of title 5, United States Code, on January 4, 1985, for the purpose of electing life insurance coverage under the provisions of paragraph (1); or

"(II) was enrolled in a health benefits plan pursuant to chapter 89 of title 5, United States Code, on January 4, 1985, for the purpose of enrolling in a health benefits plan under the provisions of paragraph (1); or

"(B)(i) on the date of enactment of this subsection is an employee of the State-owned railroad; and

"(ii)(I) has 26 years or more of service (in the civil service as a Federal employee or as an employee of the State-owned railroad, combined) on the date of retirement from the State-owned railroad; and

"(II)(aa) was covered under a life insurance policy pursuant to chapter 87 of title 5, United States Code, on January 4, 1985, for the purpose of electing life insurance coverage under the provisions of paragraph (1); or

"(bb) was enrolled in a health benefits plan pursuant to chapter 89 of title 5, United States Code, on January 4, 1985, for the purpose of enrolling in a health benefits plan under the provisions of paragraph (1).

"(3) For purposes of this section, any person described under the provisions of paragraph (2) shall be deemed to have been covered under a life insurance policy under chapter 87 of title 5, United States Code, and to have been enrolled in a health benefits plan under chapter 89 of title 5, United States Code, during the period beginning on January 5, 1985 through the date of retirement of any such person.

"(4) The provisions of paragraph (1) shall not apply to any person described under paragraph (2)(B), until the date such person retires from the State-owned railroad.".

45 USC 1206 note.

(b) ADMINISTRATIVE PROVISIONS.—Within 180 days after the date of enactment of this section, the Director of the Office of Personnel Management shall notify any person described under the provisions of section 607(e)(2)(A) of such Act, for the purpose of the election of a life insurance policy or the enrollment in a health benefits plan pursuant to the provisions of section 607(e)(1) of the Alaska Railroad Transfer Act of 1982 (as amended by subsection (a) of this section).

Alaska.

SEC. 137. Section 5402 of title 39, United States Code, is amended—

(1) in subsection (f) by striking out "January 1, 1989" and inserting in lieu thereof "January 1, 1999"; and

(2) by adding at the end thereof the following new subsection:

Mail.
Aircraft and air carriers.

"(g)(1) The Postal Service, in selecting carriers of non-priority bypass mail to any point served by more than one carrier in the State of Alaska, shall, at a minimum, require that any such carrier shall—

"(A) hold a certificate of public convenience and necessity issued under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371);

"(B) operate at least 3 scheduled flights each week to such point;

"(C) exhibit an adherence to such scheduled flights to the best of the abilities of such carrier; and

"(D) have provided scheduled service within the State of Alaska for at least 12 months before being selected as a carrier of non-priority bypass mail.

"(2) The Postal Service—

"(A) may provide direct mainline non-priority bypass mail service to any bush point in the State of Alaska, without regard to paragraph (1)(B), if such service is equal to or better than interline service in cost and quality; and

"(B) shall deduct the non-priority bypass mail poundage flown on direct mainline flights to bush points within the State of Alaska by any carrier, from such carrier's allocation of the total poundage of non-priority bypass mail transported to the nearest appropriate Postal Service hub point in any month.

"(3)(A) The Postal Service shall determine the bypass mail bush points and hub points described under paragraph (2)(B) after consultation with the State of Alaska and the affected local communities and air carriers.

"(B) Any changes in the determinations of the Postal Service under subparagraph (A) shall be made—

"(i) after consultation with the State of Alaska and the affected local communities and air carriers; and

"(ii) after giving 12 months public notice before any such change takes effect.

TITLE II—FOREIGN SERVICE RETIREMENT

PART A—GENERAL PROVISIONS

SEC. 201. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment or repeal to a section or other provision, the reference shall be considered to be made to a section or other provision of the Foreign Service Act of 1980 (22 U.S.C. 4041 et seq.).

SEC. 202. FORMER SPOUSES MARRIED BETWEEN 9 MONTHS AND 10 YEARS.

(a) IN GENERAL.—Subchapter I of chapter 8 (22 U.S.C. 4041 et seq.) is amended by adding after section 829 the following new section:

22 USC 4069-1.

"SEC. 830. QUALIFIED FORMER WIVES AND HUSBANDS.—(a) Notwithstanding section 4(h) of the Civil Service Retirement Spouse Equity Act of 1984, section 827 of this Act shall apply with respect to section 8339(j), section 8341(e), and section 8341(h) of title 5, United States Code, and section 4 (except for subsection (b)) of the Civil Service Retirement Spouse Equity Act of 1984 to the extent that those sections apply to a qualified former wife or husband. For the purposes of this section any reference in the Civil Service Retirement Spouse Equity Act of 1984 to the effective date of that Act shall be deemed to be a reference to the effective date of this section.

"(b)(1) Payments pursuant to this section which would otherwise be made to a participant or former participant based upon his service shall be paid (in whole or in part) by the Secretary of State to another person if and to the extent expressly provided for in the terms of any court order or spousal agreement. Any payment under this paragraph to a person bars recovery by any other person.

"(2) Paragraph (1) shall only apply to payments made by the Secretary of State under this chapter after the date of receipt by the Secretary of State of written notice of such court order or spousal agreement and such additional information and documentation as the Secretary of State may prescribe.

"(c) For the purposes of this section, the term 'qualified former wife or husband' means a former wife or husband of an individual if—

"(1) such individual performed at least 18 months of civilian service creditable under this chapter; and

"(2) the former wife or husband was married to such individual for at least 9 months but not more than 10 years.

Regulations.
Effective date.

"(d) Regulations issued pursuant to section 827 to implement this section shall be submitted to the Committee on Post Office and Civil Service and the Committee on Foreign Affairs of the House of Representatives and the Committee on Governmental Affairs and the Committee on Foreign Relations of the Senate. Such regulations shall not take effect until 60 days after the date on which such regulations are submitted to the Congress.".

(b) CONFORMING AMENDMENT.—The table of contents in section 2 of the Foreign Service Act of 1980 is amended by inserting after the item relating to section 829 the following:

"Sec. 830. Qualified former wives and husbands.".

SEC. 203. ELECTION TO PROVIDE SURVIVOR ANNUITY FOR CERTAIN SPOUSES ACQUIRED BEFORE THE EFFECTIVE DATE OF THE FOREIGN SERVICE ACT OF 1980.

22 USC 4046 note.

(a) ELECTION.—A former participant who married his or her current spouse before the effective date of the Foreign Service Act of 1980 and who married such spouse after retirement under the Foreign Service Retirement and Disability System and who was unable to provide a survivor annuity for such spouse because—

(1) the participant was married at the time of retirement and elected not to provide a survivor annuity for that spouse at the time of retirement, or

(2) subject to subsection (e), the participant failed to notify the Secretary of State of the participant's post-retirement marriage within one year after the marriage,

may make the election described in subsection (b).

(b) ELECTION DESCRIBED.—

(1) The election referred to in subsection (a) is an election in writing—

(A) to provide for a survivor annuity for such spouse under section 806(g) of the Foreign Service Act of 1980 (22 U.S.C. 4046(g));

(B) to have his or her annuity reduced under section 806(b)(2) of such Act; and

(C) to deposit in the Foreign Service Retirement and Disability Fund an amount determined by the Secretary of State, as nearly as may be administratively feasible, to reflect the amount by which such participant's annuity would have been reduced had the election been continuously in effect since the annuity commenced, plus interest computed under paragraph (2).

(2) For the purposes of paragraph (1), the annual rate of interest shall be 6 percent for each year during which the annuity would have been reduced if the election had been in effect on and after the date the annuity commenced.

(c) OFFSET.—If the participant does not make the deposit referred to in subsection (b)(1)(C), the Secretary of State shall collect such amount by offset against such participant's annuity, up to a maximum of 25 percent of the net annuity otherwise payable to such participant. Such participant is deemed to consent to such offset.

(d) NOTICE.—The Secretary of State shall provide for notice to the general public of the right to make an election under this section.

(e) PROOF OF ATTEMPTED ELECTION.—In any case in which subsection (a)(2) applies, the retired employee or Member shall provide the Secretary of State with such documentation as the Secretary of State shall decide is appropriate, to show that such participant attempted to elect a reduced annuity with survivor benefit for his or her current spouse and that such election was rejected by the Secretary of State because it was untimely filed.

(f) DEPOSIT.—A deposit required by this subsection may be made by the surviving spouse of the participant.

(g) LIMITATION.—The election authorized in subsection (a) may only be made within one year after the date of enactment of this title in accordance with procedures prescribed by the Secretary of State.

(h) DEFINITIONS.—For the purposes of this section, the terms "participant" and "surviving spouse" have the same meaning given such terms in subchapter I of chapter 8 of the Foreign Service Act of 1980.

SEC. 204. BENEFITS FOR CERTAIN FORMER SPOUSES OF MEMBERS OF THE FOREIGN SERVICE.

(a) IN GENERAL.—Subchapter I of chapter 8 (22 U.S.C. 3901 et seq.), as amended by section 202 of this title, is amended by inserting after section 830 the following:

22 USC 4069a-1.

"SEC. 831. RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES.

"(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

"(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

"(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

"(b) A former spouse shall not be entitled to benefits under this section if—

"(1) the former spouse remarries before age 55; or

"(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

"(c)(1) The entitlement of a former spouse to benefits under this section—

"(A) shall commence on the later of—

"(i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this chapter; or

"(ii) the first day of the month in which the divorce or annulment involved becomes final; and

"(B) shall terminate on the earlier of—

"(i) the last day of the month before the former spouse dies or remarries before 55 years of age; or

"(ii) the date of the benefits of the participant terminates.

"(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

"(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

"(B) the amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

"(3) Benefits under this section shall be treated the same as an annuity under section 814(a)(7) for purposes of section 806(h) or any comparable provision of law.

"(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

"(B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.

"(d) For the purpose of this section, the term 'benefits' means—

"(1) with respect to a participant or former participant subject to this subchapter, the annuity of the participant or former participant; and

"(2) with respect to a participant or former participant subject to subchapter II, the benefits of the participant or former participant under that subchapter.

"(e) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

"SEC. 832. SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES. 22 USC 4069b-1.

"(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

"(1) the full amount of the participant's or former participant's annuity, as computed under this chapter; or

"(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

"(b) If an election has been made with respect to such former spouse under section 2109 or 806(f), then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

"(c) A former spouse shall not be entitled to a survivor annuity under this section if—

"(1) the former spouse remarries before age 55; or

"(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

"(d)(1) The entitlement of a former spouse to a survivor annuity under this section—

"(A) shall commence—

"(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on such date; and

"(ii) in the case of any other former spouse, beginning on the later of—

"(I) the date that the participant or former participant to whom the former spouse was married dies; or

"(II) the effective date of this section; and

"(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

"(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

"(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

"(e) The Secretary shall—

Regulations.

"(1) as soon as possible, but not later than 60 days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and

"(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

"(f) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

22 USC 4069c-1.

"SEC. 833. HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES.

"(a) Except as provided in subsection (c)(1), any individual—

"(1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;

"(2) who, at any time during the 18-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

"(3) who was married to such employee for not less than 10 years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

Regulations.

"(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the 6-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

"(A) files an election for such enrollment; and

"(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

"(2) The Secretary shall, as soon as possible, take all steps practicable—

"(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

"(B) to notify each such former spouse of that individual's rights under this section.

"(3) The Secretary shall waive the 6-month limitation set forth in paragraph (1) in any case in which the Secretary determines that the circumstances so warrant.

"(c)(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

"(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

Regulations.

"(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

"(e) For purposes of this section the term 'health benefits plan' means an approved health benefits plan under chapter 89 of title 5, United States Code.".

(b) CONFORMING AMENDMENT.—The table of contents in section 2 of the Foreign Service Act of 1980 is amended by inserting after the item relating to section 830 the following:

"Sec. 831. Retirement benefits for certain former spouses.
"Sec. 832. Survivor benefits for certain former spouses.
"Sec. 833. Health benefits for certain former spouses.".

PART B—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

SEC. 211. DEFINITION OF SURVIVING SPOUSE.

Paragraph (13) of section 804 (22 U.S.C. 4044) is amended—

(1) by striking out ", in the case of death in service or marriage after retirement,";

(2) by striking out "one year" and inserting in lieu thereof "9 months"; and

(3) by inserting before the semicolon the following: ", except that the requirement for at least 9 months of marriage shall be deemed satisfied in any case in which the participant or annuitant dies within the applicable 9-month period, if—

"(A) the death of such participant or annuitant was accidental; or

"(B) the surviving spouse of such individual had been previously married to the individual and subsequently divorced and the aggregate time married is at least 9 months".

SEC. 212. CONTRIBUTIONS FOR PRIOR SERVICE.

Paragraph (1) of section 805(d) (22 U.S.C. 4045(d)) is amended—

(1) by striking out "equal to" and inserting in lieu thereof ". Special contributions for purposes of subparagraph (A) shall equal"; and

(2) by adding at the end thereof the following: "Special contributions for refunds under subparagraph (B) shall equal the amount of the refund received by the participant.".

SEC. 213. COMPUTATION OF ANNUITIES.

(a) Joint Election to Waive Survivor Annuity With Respect to a Former Spouse.—Subparagraph (C) of section 806(b)(1) (22 U.S.C 4046(b)(1)) is amended by striking out "12-month" and inserting in lieu thereof "24-month".

(b) Recall Service.—Paragraph (2) of section 806(i) (22 U.S.C. 4046 (i)) is amended by striking out "section 814(b)" and inserting in lieu thereof "this subchapter".

SEC. 214. SURVIVOR BENEFITS FOR CHILDREN.

(a) Survivor Benefits for Children.—Section 806 of chapter 8 (22 U.S.C. 4046) (as amended by section 213 of this Act) is amended—

(1) in subsection (c), by inserting "or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant" after "survived by a spouse" each place it appears; and

(2) in subsection (d), by amending the first sentence to read as follows: "On the death of the surviving spouse or former spouse or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though the spouse, former spouse, or child had not survived the participant.".

(b) Death in Service.—Section 809 (22 U.S.C. 4049) is amended—

(1) in subsection (c), by inserting "or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant," after "spouse"; and

(2) in subsection (d), by inserting "or a former spouse who is the natural or adoptive parent of a surviving child of the annuitant," after "spouse,".

SEC. 215. MINIMUM AGE REQUIREMENT.

(a) Disability Annuity.—Subsections (a) and (b) of section 808 (22 U.S.C. 4048) are each amended by striking out "65" each place it appears and inserting in lieu thereof "60".

(b) Death in Service.—Subsection (e) of section 809 (22 U.S.C. 4049) is amended by striking out "65" and inserting in lieu thereof "60".

SEC. 216. VOLUNTARY RETIREMENT.

Section 811 of chapter 8 (22 U.S.C. 4051) is amended by adding at the end thereof the following: "The Secretary shall withhold consent for retirement under this section by any participant who has not been a member of the Service for 5 years. Any participant who voluntarily separates from the Service before completing 5 years in the System and who, on the date of separation, would be eligible for an annuity, based on a voluntary separation, under section 8336 or 8338 of title 5, United States Code, if the participant had been covered under the Civil Service Retirement System rather than subject to this chapter while a member of the Service, may receive an annuity under section 8336 or 8338, notwithstanding section 8333(b) of title 5, United States Code, if all contributions transferred to the Fund under section 805(c)(1) of this Act, as well as all contributions withheld from the participant's pay or contributed by the employer, and deposited into the Fund during the period he or she was subject to this chapter, including interest on these amounts, are transferred to the Civil Service Retirement and Disability Fund effective on the date the participant separates from the Service.".

SEC. 217. FORMER SPOUSES.

(a) 5 Year Foreign Service Requirement.—Paragraph (1) of section 814(a) is amended by inserting "if such former spouse was married to the participant for at least 10 years during service of the participant which is creditable under this chapter with at least 5 of such years occurring while the participant was a member of the Foreign Service and" after "annuity". 22 USC 4054.

(b) Court Order Effective 24 Months After Marriage Is Dissolved.—Paragraph (4) of section 814(a) (22 U.S.C. 4054(a)) is amended by striking out "12" and inserting in lieu thereof "24".

(c) Monthly Rate of Annuity Not Applicable in Certain Situation.—

(1) Subsection (1) of section 806 (22 U.S.C. 4046) is repealed.

(2) Subsection (d) of section 814 (22 U.S.C. 4054) is repealed.

SEC. 218. LUMP SUM PAYMENTS.

(a) Requirements for Payment.—Subsection (a) of section 815 (22 U.S.C. 4055) is amended to read as follows:

"(a)(1) A participant is entitled to be paid a lump-sum credit if the participant—

"(A) is separated from the Service for at least 31 consecutive days, or is transferred to a position in which the participant is not subject to this chapter and remains in such a position for at least 31 consecutive days;

"(B) files an application with the Secretary of State for payment of the lump-sum credit;

"(C) is not reemployed in a position in which the participant is subject to this chapter at the time the participant files the application;

"(D) will not become eligible to receive an annuity under this subchapter within 31 days after filing the application; and

"(E) has notified any spouse or former spouse the participant may have of the application for payment in accordance with regulations prescribed by the Secretary of State.

Such regulations may provide for waiver of subparagraph (E) under circumstances described in section 806(b)(1)D).

"(2) Such lump-sum credit shall be paid to the participant and to any former spouse of the participant in accordance with subsection (i).".

SEC. 219. COST OF LIVING ADJUSTMENTS.

Paragraph (1) of section 826(c) (22 U.S.C. 4066(c)) is amended to read as follows:

"(1) The first increase (if any) made under this section to an annuity which is payable from the Fund to a participant or to the surviving spouse or former spouse of a deceased participant who died in service or a deceased annuitant whose annuity was not increased under this section, shall be equal to the product (adjusted to the nearest $1/10$ of 1 percent) of—

"(A) $1/12$ of the applicable percent change computed under subsection (b) of this section, multiplied by

"(B) the number of months (counting any portion of a month as a month)—

"(i) for which the annuity was payable from the Fund before the effective date of the increase, or

"(ii) in the case of a surviving spouse or former spouse of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.".

PART C—FOREIGN SERVICE PENSION SYSTEM

SEC. 241. DEFINITION OF LUMP-SUM CREDIT.

Section 852 of chapter 8 (22 U.S.C. 4071a) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), and (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) the term 'lump-sum credit' means the unrefunded amount consisting of—

"(A) retirement deductions made from the basic pay of a participant under section 856 of this chapter (or under section 204 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983);

"(B) amounts deposited by a participant under section 854 to obtain credit under this System for prior civilian or military service; and

"(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under section 819, as determined by the Secretary of the Treasury (compounded annually); but does not include interest—

"(i) if the service covered thereby aggregates 1 year or less; or

"(ii) for a fractional part of a month in the total service;".

SEC. 242. CONTRIBUTION FOR CREDITABLE SERVICE OF EMPLOYEE OF A MEMBER OR OFFICE OF THE CONGRESS.

The second sentence of subsection (e) of section 854 (22 U.S.C. 4071c) is amended—

(1) by striking out "matching"; and

(2) by inserting "determined under section 857(a)" after "participant)".

SEC. 243. CONFORMING AMENDMENT, HEALTH CARE.

Subsection (b) of section 904 (22 U.S.C. 4084) is amended by inserting "or Foreign Service Pension System" after "Foreign Service Retirement and Disability System".

PART D—SAVINGS PROVISIONS AND EFFECTIVE DATE

22 USC 4054 note.

SEC. 261. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect 90 days after the date of enactment of this title.

(b) EXCEPTIONS.—

(1) The amendments made by section 202 shall apply to any individual who, on or after the date of enactment of this title, is married to a participant or former participant.

(2) The amendment made by section 217(a) shall not apply with respect to the former spouse of a participant or former

participant who is subject to subchapter I of chapter 8 of the Foreign Service Act of 1980 if, on the date of enactment of this title, that former spouse—

(A) was the spouse of that participant or former participant; or

(B) is entitled to an annuity under section 814 of the Foreign Service Act of 1980 pursuant to the divorce or annulment of the marriage to that participant or former participant.

(c) DEFINITIONS.—For the purpose of this section, the terms "participant" and "former participant" have the same meaning as such terms in chapter 8 of the Foreign Service Act of 1980.

Approved January 8, 1988.

LEGISLATIVE HISTORY—H.R. 3395:

HOUSE REPORTS: No. 100-374 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 133 (1987):
    Oct. 19, considered and passed House.
    Dec. 19, considered and passed Senate, amended.
    Dec. 21, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
    Jan. 8, Presidential statement.

○

PUBLIC LAW 100-239—JAN. 11, 1988

COMMERCIAL FISHING INDUSTRY VESSEL ANTI-REFLAGGING ACT OF 1987

19-139 O - 88 - (239)

Public Law 100-239
100th Congress

An Act

Jan. 11, 1988
[H.R. 2598]

To limit the ability of foreign-built and foreign-rebuilt vessels to qualify for certain benefits under the Magnuson Fishery Conservation and Management Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987.
46 USC 2101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987".

SEC. 2. VESSELS OF THE UNITED STATES.

Section 3(27) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(27)) is amended to read as follows:

"(27) The term 'vessel of the United States' means—

"(A) any vessel documented under chapter 121 of title 46, United States Code;

"(B) any vessel numbered in accordance with chapter 123 of title 46, United States Code, and measuring less than 5 net tons;

"(C) any vessel numbered in accordance with chapter 123 of title 46, United States Code, and used exclusively for pleasure; or

"(D) any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.".

SEC. 3. RECONSTRUCTION REQUIREMENTS.

Title 46, United States Code, is amended as follows:

(1) Item 12101 of the analysis of chapter 121 is amended to read as follows:

"12101. Definitions and related terms in other laws.".

(2) The caption of section 12101 is amended to read as follows:

"§ 12101. Definitions and related terms in other laws.".

(3) Section 12101 is amended by—

(A) designating the existing text as subsection (b);

(B) striking paragraph (6); and

(C) inserting a new subsection (a) before subsection (b) (as designated by this section) as follows:

"(a) In this chapter—

"(1) 'fisheries' includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone.

"(2) 'rebuilt' has the same meaning as in the second proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883).".

(4) Section 12108(a) is amended by—

(A) at the end of paragraph (2)(B), strike "and";

(B) redesignating paragraph (3) as (4); and

(C) inserting after paragraph (2) a new paragraph (3) that reads as follows:

"(3) if rebuilt, was rebuilt in the United States; and".

(5) Section 12108(c)(2) is amended by striking "built in the United States" and substituting "built or rebuilt in the United States".

SEC. 4. SAVINGS CLAUSE.

46 USC 12108 note.

(a) Notwithstanding the requirements of section 12108(a) (2) and (3) of title 46, United States Code, a fishery license may be issued to a vessel that before July 28, 1987—

(1)(A) was documented under chapter 121 of that title; and

(B) was operated as a fish processing or fish tender vessel in the navigable waters of the United States or the exclusive economic zone;

Contracts.

(2) was a fish tender or fish processing vessel contracted to be purchased by a citizen of the United States, if the purchase is shown by contract or similarly reliable evidence acceptable to the Secretary to have been made for the purpose of using the vessel as a fish tender or fish processing vessel in the fisheries;

(3) was documented under chapter 121 of that title and—

(A) was rebuilt in a foreign country; or

(B) is subsequently rebuilt in the United States for use as a fish processing vessel; or

Contracts.

(4) was built in the United States and—

(A) is rebuilt in a foreign country under a contract entered into before 6 months after the date of enactment of this Act, and was purchased or contracted to be purchased before July 28, 1987 with the intent that the vessel be used in the fisheries, if that intent is evidenced by—

(i) the contract itself; or

Uniformed services.

(ii) a ruling letter by the Coast Guard before July 29, 1987 under 46 C.F.R. § 67.21-1 or § 67.27-3 pursuant to a ruling request evidencing that intent; or

(B) is purchased for use as a fish processing vessel under a contract entered into after July 27, 1987, if—

(i) a contract to rebuild the vessel for use as a fish processing vessel was entered into before September 1, 1987; and

(ii) that vessel is part of a specific business plan involving the conversion in foreign shipyards of a series of three vessels and rebuilding work on at least one of the vessels had begun before July 28, 1987.

(b) A vessel rebuilt under subsection (a) (3)(B) or (4) of this section must be redelivered to the owner before July 28, 1990. However, the Secretary may, on proof of circumstances beyond the control of the owner of a vessel affected by this section, extend the period for rebuilding in a foreign country permitted by this section.

(c)(1) Any fishery license or registry issued to a vessel built in a foreign country under this section shall be endorsed to restrict the vessel from catching, taking, or harvesting.

(2) Before being issued a fishery license, any vessel described in subsection (a)(2) of this section must be documented under an

application for documentation acceptable to the Secretary filed before July 28, 1987.

Aliens.

SEC. 5. MANNING REQUIREMENTS.

(a)(1) Section 8103(a) of title 46, United States Code, is amended by inserting "radio officer," after "chief engineer,".

(2) Section 8103(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Except as otherwise provided in this section, on a documented vessel—

"(A) each unlicensed seaman must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence; and

"(B) not more than 25 percent of the total number of unlicensed seamen on the vessel may be aliens lawfully admitted to the United States for permanent residence.

"(2) Paragraph (1) of this subsection does not apply to—

"(A) a yacht;

"(B) a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)); and

"(C) a fishing vessel fishing outside of the exclusive economic zone.

"(3) The Secretary may waive a citizenship requirement under this subsection, other than a requirement that applies to the master of a documented vessel, with respect to—

"(A) an offshore supply vessel or other similarly engaged vessel of less than 1,600 gross tons that operates from a foreign port;

"(B) a mobile offshore drilling unit or other vessel engaged in support of exploration, exploitation, or production of offshore mineral energy resources operating beyond the water above the outer Continental Shelf (as that term is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and

"(C) any other vessel if the Secretary determines, after an investigation, that qualified seamen who are citizens of the United States are not available.".

Effective date.
46 USC 8103 note.

(3) Paragraph (2) of this subsection is effective 30 days after the date of enactment of this Act.

(b) Subsection (c) and (d)(1) of section 8103 of title 46, United States Code, are each amended by striking "from the United States".

(c) Section 8103(e) of title 46, United States Code, is amended—

(1) by inserting "and the radio officer" after "the master"; and

(2) by striking "until the vessel's first return to a United States port at which" and substituting "until the vessel's return to a port at which in the most expeditious manner".

(d)(1) Section 8103 of title 46, United States Code, is amended by adding at the end the following:

"(i)(1) Except as provided in paragraph (3) of this subsection, each unlicensed seaman on a fishing, fish processing, or fish tender vessel that is engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone must be—

"(A) a citizen of the United States;

"(B) an alien lawfully admitted to the United States for permanent residence; or

"(C) any other alien allowed to be employed under the Immigration and Naturalization Act (8 U.S.C. 1101 et seq.).

"(2) Not more than 25 percent of the unlicensed seamen on a vessel subject to paragraph (1) of this subsection may be aliens referred to in clause (C) of that paragraph.

"(3) This subsection does not apply to a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)).".

(2) This subsection is effective 360 days after the day of the enactment of this Act. 46 USC 8103 note.

(e) Section 8702(b) of title 46, United States Code, is amended by striking "depart from a port of the United States" and substituting "operate".

(f)(1) Chapter 87 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 8704. Alien deemed to be employed in the United States

"An alien is deemed to be employed in the United States for purposes of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) if the alien is an unlicensed individual employed on a fishing, fish processing, or fish tender vessel that—

"(1) is a vessel of the United States engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone; and

"(2) is not engaged in fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).".

(2) The table of sections at the beginning of that chapter is amended by adding at the end the following new item:

"8704. Alien deemed to be employed in the United States.".

(3) With respect to an alien who is deemed to be employed in the United States under section 8704 of title 46, United States Code (as amended by this subsection), the term "date of the enactment of this section" as used in section 274A(i) of the Immigration and Nationality Act means the date 180 days after the enactment of this section. 46 USC 8704 note.

SEC. 6. CONFORMING PROVISIONS.

(a) Title 46, United States Code, is amended as follows:

(1) Section 2101 is amended by adding after paragraph 10 the following new paragraph:

"(10a) 'Exclusive Economic Zone' means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983.".

(2) Section 12106(b) is amended to read as follows:

"(b) Subject to the laws of the United States regulating the coastwise trade, only a vessel for which a coastwise license or an appropriately endorsed registry is issued may be employed in the coastwise trade.".

(3) Section 12106 is amended by inserting a new subsection (d) after subsection (c) as follows:

"(d) On application of the owner of a vessel that qualifies for a Great Lakes license under section 12107 or a fishery license under section 12108 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the Great Lakes trade or fisheries, as the case may be.".

(4) Section 12107(b) is amended—

(A) after the semicolon at the end of paragraph (1) by inserting "and";

(B) in paragraph (2) by striking "Canada; and" and substituting "Canada."; and

(C) by striking paragraph (3).

(5) Section 12107 is amended by inserting a new subsection (c) after subsection (b) as follows:

"(c) On application of the owner of a vessel that qualifies for a coastwise license under section 12106 or a fishery license under section 12108 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the coastwise trade or the fisheries, as the case may be.".

(6) Section 12108 is amended by adding a new subsection (d) after subsection (c) as follows:

"(d) On application of the owner of a vessel that qualifies for a coastwise license under section 12106 or a Great Lakes license under section 12107 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the coastwise trade or the Great Lakes trade, as the case may be.".

46 USC 12105 note.

(b) Notwithstanding the requirements of chapter 121 of title 46, United States Code, a vessel for which a coastwise, Great Lakes, or fishery license, or an appropriately endorsed registry, was issued before July 28, 1987, may continue to be employed in the specified trades for which it was qualified at the time the license or registry was issued for one year from date of enactment or until the certificate of documentation is renewed, whichever comes later. On renewal, the owner or master of a documented vessel shall make the vessel's certificate of documentation available as the law or Secretary may require for replacement with an appropriately endorsed certificate.

(c)(1) Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), is amended after "vessel" in the second proviso by striking "of more than five hundred gross tons".

46 USC app. 883 note.

(2) Paragraph (1) of this subsection does not apply to a vessel under contract to be purchased or rebuilt entered into before July 28, 1987, if that vessel is rebuilt before July 28, 1990.

46 USC 12108 note.

(3) The Secretary, on proof of circumstances beyond the control of the owner of a vessel affected by this section, may extend the period for rebuilding in a foreign country permitted by this section.

46 USC 12108 note.

(d) The terms in this Act have the same meaning as in subtitle II of title 46, United States Code (as amended by this Act).

SEC. 7. AMERICAN CONTROL OF VESSELS.

(a) Section 12102 of title 46, United States Code, is amended as follows:

(1) by inserting "(a)" before "A vessel";

(2) by adding at the end the following:

"(b)(1) A vessel owned by a corporation is not eligible for a fishery license under section 12108 of this title unless the controlling interest (as measured by a majority of voting shares in that corporation) is owned by individuals who are citizens of the United States. However, if the corporation is owned in whole or in part by other United States corporations, the controlling interest in those corporations, in the aggregate, must be owned by individuals who are citizens of the United States.

"(2) The Secretary shall apply the restrictions on controlling interest in section 2(b) of the Shipping Act, 1916 (46 App. U.S.C. 802(b)) when applying this subsection.".

46 USC 12102 note.

(b) Section 12102(b) of title 46, United States Code (as enacted by subsection (a) of this section) applies to vessels issued a fishery license after July 28, 1987. However, that section does not apply if before that date the vessel—

(1) was documented under chapter 121 of title 46 and operating as a fishing, fish processing, or fish tender vessel in the navigable waters of the United States or the Exclusive Economic Zone; or

(2) was contracted for purchase for use as a fishing, fish tender, or fish processing vessel in the navigable waters of the United States or the Exclusive Economic Zone, if the purchase is shown by the contract or similarly reliable evidence acceptable to the Secretary to have been made for the purpose of using the vessel in the fisheries.

SEC. 8. STUDIES.

(a) Section 4311(a) of the Revised Statutes of the United States (46 App. U.S.C. 251(a)) is amended by adding at the end the following: "The Secretary of Commerce may issue any regulations that the Secretary considers necessary to obtain information on the transportation of fish products by vessels of the United States for foreign fish processing vessels to points in the United States.".

Reports.

(b) Within 6 months after the date of enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, setting forth—

(1) an evaluation of the potential impact, on the development of the United States fishing industry, of the transportation of fish products by vessels of the United States from foreign fish processing vessels to points in the United States; and

(2) recommendations, if any, for legislation or other action to regulate that transportation of fish products in a manner most beneficial to the future development of the United States fishing industry.

Reports.

(c) Within 6 months after the date of enactment of this Act, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, a report discussing the trends in the development of fishery resources under the exclusive fishery management authority of the United States as specified in section 101 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811) and analyzing the effects of those trends on the United States fishing industry and the conservation and management of those resources. The Secretary shall include in the report—

(1) an evaluation of the extent to which the development of domestic harvesting and processing capacity has been or is likely to be affected, if at all, by this Act;

(2) an evaluation of the extent to which harvesting vessels currently engaged in joint venture operations with foreign ves-

sels have been or are likely to be affected, if at all, by this Act; and

(3) any other matters relating to fishery development, including recommendations for legislation or other action, that the Secretary considers appropriate.

SEC. 9. ISSUANCE OF CERTIFICATES OF DOCUMENTATION.

Notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for each of the following vessels:

(1) the Electra (United States official number 230024);
(2) the Barlovento (United States official number 231569);
(3) the Tie One On (United States official number 924056);
(4) the White Seal (United States official number 514961);
(5) the Laura Beth (United States official number 676614);
(6) the Rondo (Hawaiian Registration number 7678D);
(7) the Tropical Princess (Hawaiian Registration number 6557D); and
(8) the Port Pacer II (Wisconsin Registration number 1747KC).

Approved January 11, 1988.

LEGISLATIVE HISTORY—H.R. 2598:

CONGRESSIONAL RECORD, Vol. 133 (1987):
Nov. 9, considered and passed House.
Dec. 17, considered and passed Senate, amended.
Dec. 21, House concurred in Senate amendments with amendment.
Dec. 22, Senate concurred in House amendment.

○

Public Law 100-240
100th Congress

An Act

To amend the National Fish and Wildlife Foundation Establishment Act with respect to management requisition, and disposition of real property, reauthorization, and participation of foreign governments.

Jan. 11, 1988
[S. 1389]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSES OF THE FOUNDATION.

(a) IN GENERAL.—Section (2)(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end thereof the following:

"(3) to participate with, and otherwise assist, foreign governments, entities, and individuals in undertaking and conducting activities that will further the conservation and management of the fish, wildlife, and plant resources of other countries.".

(b) CONFORMING AMENDMENT.—Section 4(a)(2) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(a)(2)) is amended by inserting "and abroad" after "United States".

SEC. 2. ACQUISITION, MANAGEMENT, AND DISPOSAL OF REAL PROPERTY.

(a) IN GENERAL.—Section 4 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703) is amended by adding at the end thereof the following:

"(e) ACQUISITION, MANAGEMENT AND DISPOSAL OF REAL PROPERTY.—(1) The Foundation may only use Federal funds for the acquisition of interests in real property if—

"(A) the interest is a long-term property interest, and

"(B) the Director of the United States Fish and Wildlife Service (hereafter in this subsection referred to as the "Director") consents to the acquisition in writing.

"(2) The Foundation shall convey to the United States Fish and Wildlife Service for inclusion within the National Wildlife Refuge System any real property acquired by the Foundation in whole or in part with Federal funds if the Director, within one year after the date on which the property was acquired by the Foundation, requests the conveyance in writing.

"(3)(A) Subject to subparagraph (B), the Foundation may—

"(i) convey to another person any real property acquired in whole or in part with Federal funds and not conveyed under paragraph (2); and

"(ii) grant or otherwise provide Federal funds to another person for purposes of assisting that person to acquire real property in whole or in part with such funds.

"(B) The Foundation may only make a conveyance or provide Federal funds under subparagraph (A) if—

"(i) the conveyance or provision is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation and management of fish and wildlife and in a manner that will provide for appropriate public access and use; and

"(ii) the Director finds that conveyance or provision of Federal funds meets the requirements of clause (i) and consents to it in writing.

"(4) All real property acquired by the Foundation in whole or in part with Federal funds and held by it shall be administered for the conservation and management of fish and wildlife and in a manner that will provide for appropriate public access and use.

"(5) The Foundation shall convey at not less than fair-market value any real property acquired by it in whole or in part with Federal funds if the Foundation and the Director determine, in writing, that—

"(A) the land is no longer valuable for the purposes of fish and wildlife conservation or management, and

"(B) the purposes of the Foundation would be better served by the use of the Federal funds for other authorized activities of the Foundation.".

(b) CONFORMING AMENDMENTS.—(1) Section 4(c)(2) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(c)(2)) is amended by striking "therein;" and inserting in lieu thereof the following: "therein, subject to subsection (e);".

(2) Section 7(b) of such Act (16 U.S.C. 3706(b)) is amended by inserting before the period the following: "; and a description of all acquisition and disposal of real property that is subject to section 4(e).".

SEC. 3. REIMBURSEMENT FOR ADMINISTRATIVE SERVICES.

Section 5 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3704) is amended—

(1) by inserting "(a) PROVISION OF SERVICES.—" before "The Secretary";

(2) by striking out "Act," and all that follows thereafter and inserting "Act."; and

(3) by adding at the end thereof the following:

"(b) REIMBURSEMENT.—The Foundation may reimburse the Secretary for any administrative service provided under subsection (a). The Secretary shall deposit any reimbursement received under this subsection into the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709) is amended to read as follows:

"SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of the Interior for each of fiscal years 1988 through 1993, inclusive, not to exceed $5,000,000 to be made available to the Foundation—

"(1) to match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies; and

"(2) to provide administrative services under section 5.".

Approved January 11, 1988.

LEGISLATIVE HISTORY—S. 1389:

SENATE REPORTS: No. 100-255 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Dec. 18, considered and passed Senate.
Dec. 21, considered and passed House.

○

PUBLIC LAW 100-241—FEB. 3, 1988

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS OF 1987

19-139 O - 88 (241)

Public Law 100-241
100th Congress

An Act

Feb. 3, 1988
[H.R. 278]

To amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the Act, and for other purposes.

Alaska Native Claims Settlement Act Amendments of 1987.
Securities.
43 USC 1601 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Alaska Native Claims Settlement Act Amendments of 1987".

(b) Unless otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or subsection, the reference shall be considered to be made to a section or subsection of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 and following).

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

43 USC 1601 note.

SEC. 2. The Congress finds and declares that—

(1) the Alaska Native Claims Settlement Act was enacted in 1971 to achieve a fair and just settlement of all aboriginal land and hunting and fishing claims by Natives and Native groups of Alaska with maximum participation by Natives in decisions affecting their rights and property;

(2) the settlement enabled Natives to participate in the subsequent expansion of Alaska's economy, encouraged efforts to address serious health and welfare problems in Native villages, and sparked a resurgence of interest in the cultural heritage of the Native peoples of Alaska;

(3) despite these achievements and Congress's desire that the settlement be accomplished rapidly without litigation and in conformity with the real economic and social needs of Natives, the complexity of the land conveyance process and frequent and costly litigation have delayed implementation of the settlement and diminished its value;

(4) Natives have differing opinions as to whether the Native Corporation, as originally structured by the Alaska Native Claims Settlement Act, is well adapted to the reality of life in Native villages and to the continuation of traditional Native cultural values;

(5) to ensure the continued success of the settlement and to guarantee Natives continued participation in decisions affecting their rights and property, the Alaska Native Claims Settlement Act must be amended to enable the shareholders of each Native Corporation to structure the further implementation of the settlement in light of their particular circumstances and needs;

(6) among other things, the shareholders of each Native Corporation must be permitted to decide—

(A) when restrictions on alienation of stock issued as part of the settlement should be terminated, and

(B) whether Natives born after December 18, 1971, should participate in the settlement;

(7) by granting the shareholders of each Native Corporation options to structure the further implementation of the settlement, Congress is not expressing an opinion on the manner in which such shareholders choose to balance individual rights and communal rights;

(8) no provision of this Act shall—

(A) unless specifically provided, constitute a repeal or modification, implied or otherwise, of any provision of the Alaska Native Claims Settlement Act; or

(B) confer on, or deny to, any Native organization any degree of sovereign governmental authority over lands (including management, or regulation of the taking, of fish and wildlife) or persons in Alaska; and

(9) the Alaska Native Claims Settlement Act and this Act are Indian legislation enacted by Congress pursuant to its plenary authority under the Constitution of the United States to regulate Indian affairs.

NEW DEFINITIONS

SEC. 3. Section 3 (43 U.S.C. 1602) is amended—

(1) by inserting "group," after "individual," in subsection (h);

(2) by striking out "and" at the end of subsection (k);

(3) by striking out the period at the end of subsection (l) and inserting in lieu thereof a semicolon;

(4) by striking out "Native Group." in subsection (m) and inserting in lieu thereof "Group Corporation;"; and

(5) by adding at the end thereof the following new subsections:

"(n) 'Group Corporation' means an Alaska Native Group Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of a Native group in accordance with the terms of this Act;

"(o) 'Urban Corporation' means an Alaska Native Urban Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of an urban community of Natives in accordance with the terms of this Act;

"(p) 'Settlement Common Stock' means stock of a Native Corporation issued pursuant to section 7(g)(1) that carries with it the rights and restrictions listed in section 7(h)(1);

"(q) 'Replacement Common Stock' means stock of a Native Corporation issued in exchange for Settlement Common Stock pursuant to section 7(h)(3);

"(r) 'Descendant of a Native' means—

"(1) a lineal descendant of a Native or of an individual who would have been a Native if such individual were alive on December 18, 1971, or

"(2) an adoptee of a Native or of a descendant of a Native, whose adoption—

"(A) occurred prior to his or her majority, and

"(B) is recognized at law or in equity;

"(s) 'Alienability restrictions' means the restrictions imposed on Settlement Common Stock by section 7(h)(1)(B);

"(t) 'Settlement Trust' means a trust—

"(1) established and registered by a Native Corporation under the laws of the State of Alaska pursuant to a resolution of its shareholders, and

"(2) operated for the sole benefit of the holders of the corporation's Settlement Common Stock in accordance with section 39 and the laws of the State of Alaska.".

ISSUANCE OF STOCK

SEC. 4. Subsection (g) of section 7 (43 U.S.C. 1606(g)) is amended to read as follows:

"(g)(1) SETTLEMENT COMMON STOCK.—(A) The Regional Corporation shall be authorized to issue such number of shares of Settlement Common Stock (divided into such classes as may be specified in the articles of incorporation to reflect the provisions of this Act) as may be needed to issue one hundred shares of stock to each Native enrolled in the region pursuant to section 5.

"(B)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock to—

"(I) Natives born after December 18, 1971,

"(II) Natives who were eligible for enrollment pursuant to section 5 but were not so enrolled, or

"(III) Natives who have attained the age of 65,

for no consideration or for such consideration and upon such terms and conditions as may be specified in such amendment or in a resolution approved by the board of directors pursuant to authority expressly vested in the board by the amendment. The amendment to the articles of incorporation may specify which class of Settlement Common Stock shall be issued to the various groups of Natives.

"(ii) Not more than one hundred shares of Settlement Common Stock shall be issued to any one individual pursuant to clause (i).

"(iii) The amendment authorized by clause (i) may provide that Settlement Common Stock issued to a Native pursuant to such amendment (or stock issued in exchange for such Settlement Common Stock pursuant to subsection (h)(3) or section 37(d)) shall be deemed canceled upon the death of such Native. No compensation for this cancellation shall be paid to the estate of the deceased Native or to any person holding the stock.

"(iv) Settlement Common Stock issued pursuant to clause (i) shall not carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m) unless, prior to the issuance of such stock, a majority of the class of existing holders of Settlement Common Stock carrying such rights separately approve the granting of such rights. The articles of incorporation of the Regional Corporation shall be deemed to be amended to authorize such class vote.

"(C)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon each outstanding share of Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

"(ii) The amendment authorized by clause (i) may provide that shares of Settlement Common Stock issued as a dividend or other distribution shall constitute a separate class of stock with greater per share voting power than Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

"(2) OTHER FORMS OF STOCK.—(A) A Regional Corporation may amend its articles of incorporation to authorize the issuance of shares of stock other than Settlement Common Stock in accordance with the provisions of this paragraph. Such amendment may provide that—

"(i) preemptive rights of shareholders under the laws of the State shall not apply to the issuance of such shares, or

"(ii) issuance of such shares shall permanently preclude the corporation from—

"(I) conveying assets to a Settlement Trust, or

"(II) issuing shares of stock without adequate consideration as required under the laws of the State.

"(B) The amendment authorized by subparagraph (A) may provide that the stock to be issued shall be one or more of the following—

"(i) divided into classes and series within classes, with preferences, limitations, and relative rights, including, without limitation—

"(I) dividend rights,

"(II) voting rights, and

"(III) liquidation preferences;

"(ii) made subject to one or more of—

"(I) the restrictions on alienation described in clauses (i), (ii), and (iv) of subsection (h)(1)(B), and

"(II) the restriction described in paragraph (1)(B)(iii); and

"(iii) restricted in issuance to—

"(I) Natives who have attained the age of sixty-five;

"(II) other identifiable groups of Natives or identifiable groups of descendants of Natives defined in terms of general applicability and not in any way by reference to place of residence or family;

"(III) Settlement Trusts; or

"(IV) entities established for the sole benefit of Natives or descendants of Natives, in which the classes of beneficiaries are defined in terms of general applicability and not in any way by reference to place of residence, family, or position as an officer, director, or employee of a Native Corporation.

"(C) The amendment authorized by subparagraph (A) shall provide that the additional shares of stock shall be issued—

"(i) as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon all outstanding shares of stock of any class or series, or

"(ii) for such consideration as may be permitted by law (except that this requirement may be waived with respect to issuance of stock to the individuals or entities described in subparagraph (B)(iii)).

"(D) During any period in which alienability restrictions are in effect, no stock whose issuance is authorized by subparagraph (A) shall be—

"(i) issued to, or for the benefit of, a group of individuals composed only or principally of employees, officers, and directors of the corporation; or

"(ii) issued more than thirteen months after the date on which the vote of the shareholders on the amendment authorizing the issuance of such stock occurred if, as a result of the issuance, the outstanding shares of Settlement Common Stock will represent less than a majority of the total voting power of the corporation for the purpose of electing directors.

"(3) DISCLOSURE REQUIREMENTS.—(A) An amendment to the articles of incorporation of a Regional Corporation authorized by paragraph (2) shall specify—

"(i) the maximum number of shares of any class or series of stock that may be issued, and

"(ii) the maximum number of votes that may be held by such shares.

"(B)(i) If the board of directors of a Regional Corporation intends to propose an amendment pursuant to paragraph (2) which would authorize the issuance of classes or series of stock that, singly or in combination, could cause the outstanding shares of Settlement Common Stock to represent less than a majority of the total voting power of the corporation for the purposes of electing directors, the shareholders of such corporation shall be expressly so informed.

"(ii) Such information shall be transmitted to the shareholders in a separate disclosure statement or in another informational document in writing or in recorded sound form both in English and any Native language used by a shareholder of such corporation. Such statement or informational document shall be transmitted to the shareholders at least sixty days prior to the date on which such proposal is to be submitted for a vote.

"(iii) If not later than thirty days after issuance of such disclosure statement or informational document the board of directors receives a prepared concise statement setting forth arguments in opposition to the proposed amendment together with a request for distribution thereof signed by the holders of at least 10 per centum of the outstanding shares of Settlement Common Stock, the board shall either distribute such statement to the shareholders or provide to the requesting shareholders a list of all shareholder's names and addresses so that the requesting shareholders may distribute such statement.

"(4) SAVINGS.—(A)(i) No shares of stock issued pursuant to paragraphs (1)(C) and (2) shall carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m). No shares of stock issued pursuant to paragraph (1)(B) shall carry such rights unless authorized pursuant to paragraph (1)(B)(iv).

"(ii) Notwithstanding the issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2), a Regional Corporation shall apply the ratio last computed pursuant to subsection (m) prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 for purposes of distributing funds pursuant to subsections (j) and (m).

"(B) The issuance of additional shares of stock pursuant to paragraphs (1)(B), (1)(C), or (2) shall not affect the division and distribution of revenues pursuant to subsection (i).

"(C) No provision of this Act shall limit the right of a Regional Corporation to take an action authorized by the laws of the State unless such action is inconsistent with the provisions of this Act.".

SETTLEMENT COMMON STOCK

SEC. 5. Subsection (h) of section 7 (43 U.S.C. 1606(h)) is amended to read as follows:

"(h)(1) RIGHTS AND RESTRICTIONS.—(A) Except as otherwise expressly provided in this Act, Settlement Common Stock of a Regional Corporation shall—

"(i) carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to shareholders;

"(ii) permit the holder to receive dividends or other distributions from the corporation; and

"(iii) vest in the holder all rights of a shareholder in a business corporation organized under the laws of the State.

"(B) Except as otherwise provided in this subsection, Settlement Common Stock, inchoate rights thereto, and rights to dividends or distributions declared with respect thereto shall not be—

"(i) sold;

"(ii) pledged;

"(iii) subjected to a lien or judgment execution;

"(iv) assigned in present or future;

"(v) treated as an asset under—

"(I) title 11 of the United States Code or any successor statute,

"(II) any other insolvency or moratorium law, or

"(III) other laws generally affecting creditors' rights; or

"(vi) otherwise alienated.

"(C) Notwithstanding the restrictions set forth in subparagraph (B), Settlement Common Stock may be transferred to a Native or a descendant of a Native—

"(i) pursuant to a court decree of separation, divorce, or child support;

"(ii) by a holder who is a member of a professional organization, association, or board that limits his or her ability to practice his or her profession because he or she holds Settlement Common Stock; or

"(iii) as an inter vivos gift from a holder to his or her child, grandchild, great-grandchild, niece, or nephew.

"(2) INHERITANCE OF SETTLEMENT COMMON STOCK.—(A) Upon the death of a holder of Settlement Common Stock, ownership of such stock (unless canceled in accordance with subsection (g)(1)(B)(iii)) shall be transferred in accordance with the lawful will of such holder or pursuant to applicable laws of intestate succession. If the holder fails to dispose of his or her stock by will and has no heirs under applicable laws of intestate succession, the stock shall escheat to the issuing Regional Corporation and be canceled.

"(B) The issuing Regional Corporation shall have the right to purchase at fair value Settlement Common Stock transferred pursuant to applicable laws of intestate succession to a person not a Native or a descendant of a Native after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987 if—

"(i) the corporation—

"(I) amends its articles of incorporation to authorize such purchases, and

"(II) gives the person receiving such stock written notice of its intent to purchase within ninety days after the date that the corporation either determines the decedent's heirs in accordance with the laws of the State or receives notice that such heirs have been determined, whichever later occurs; and "(ii) the person receiving such stock fails to transfer the stock pursuant to paragraph (1)(C)(iii) within sixty days after receiving such written notice.

"(C) Settlement Common Stock of a Regional Corporation—

"(i) transferred by will or pursuant to applicable laws of intestate succession after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987, or

"(ii) transferred by any means prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987,

to a person not a Native or a descendant of a Native shall not carry voting rights. If at a later date such stock is lawfully transferred to a Native or a descendant of a Native, voting rights shall be automatically restored.

"(3) Replacement Common Stock.—(A) On the date on which alienability restrictions terminate in accordance with the provisions of section 37, all Settlement Common Stock previously issued by a Regional Corporation shall be deemed canceled, and shares of Replacement Common Stock of the appropriate class shall be issued to each shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

"(B)(i) Replacement Common Stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by subsection (g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be canceled in accordance with the requirements of that subsection.

"(ii) Prior to the termination of alienability restrictions, the board of directors of the corporation shall approve a resolution to provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) shall be exchanged either for—

"(I) a share of Replacement Common Stock that carries such right, or

"(II) a share of Replacement Common Stock that does not carry such right together with a separate, non-voting security that represents only such right.

"(iii) Replacement Common Stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

"(C) The articles of incorporation of the Regional Corporation shall be deemed amended to authorize the issuance of Replacement Common Stock and the security described in subparagraph (B)(ii)(II).

"(D) Prior to the date on which alienability restrictions terminate, a Regional Corporation may amend its articles of incorporation to impose upon Replacement Common Stock one or more of the following—

"(i) a restriction denying voting rights to any holder of Replacement Common Stock who is not a Native or a descendant of a Native;

"(ii) a restriction granting the Regional Corporation, or the Regional Corporation and members of the shareholder's immediate family who are Natives or descendants of Natives, the first right to purchase, on reasonable terms, the Replacement Common Stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; and

"(iii) any other term, restriction, limitation, or provision authorized by the laws of the State.

"(E) Replacement Common Stock shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.".

VILLAGE, URBAN, AND GROUP CORPORATIONS

SEC. 6. Subsection (c) of section 8 (43 U.S.C. 1607(c)) is amended to read as follows:

"(c) APPLICABILITY OF SECTION 7.—The provisions of subsections (g), (h), and (o) of section 7 shall apply in all respects to Village Corporations, Urban Corporations, and Group Corporations.".

PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

SEC. 7. The Alaska Native Claims Settlement Act is further amended by adding the following new section:

"PROCEDURES FOR CONSIDERING AMENDMENTS AND RESOLUTIONS

"SEC. 36. (a) COVERAGE.—Notwithstanding any provision of the articles of incorporation and bylaws of a Native Corporation or of the laws of the State, except those related to proxy statements and solicitations that are not inconsistent with this section— 43 USC 1629b.

"(1) an amendment to the articles of incorporation of a Native Corporation authorized by subsections (g) and (h) of section 7, subsection (d)(1)(B) of this section, or section 37;

"(2) a resolution authorized by section 38(a)(2);

"(3) a resolution to establish a Settlement Trust; or

"(4) a resolution to convey all or substantially all of the assets of a Native Corporation to a Settlement Trust pursuant to section 39(a)(1);

shall be considered in accordance with the provisions of this section.

"(b) BASIC PROCEDURE.—(1) An amendment or resolution described in subsection (a) may be approved by the board of directors of a Native Corporation in accordance with its bylaws. If the board approves the amendment or resolution, it shall direct that the amendment or resolution be submitted to a vote of the shareholders at the next annual meeting or at a special meeting (if the board, at its discretion, schedules such special meeting). One or more such amendments or resolutions may be submitted to the shareholders and voted upon at one meeting.

"(2)(A) A written notice (including a proxy statement if required under applicable law), setting forth the amendment or resolution approved pursuant to paragraph (1) (and, at the discretion of the board, a summary of the changes to be effected) together with any amendment or resolution submitted pursuant to subsection (c) and the statements described therein shall be sent, not less than fifty days nor more than sixty days prior to the meeting of the shareholders, by first-class mail or hand-delivered to each shareholder of record entitled to vote at his or her address as it appears in the records of the Native Corporation. The corporation may also communicate with its shareholders at any time and in any manner authorized by the laws of the State.

"(B) The board of directors may, but shall not be required to, appraise or otherwise determine the value of—

Cemeteries.

"(i) land conveyed to the corporation pursuant to section 14(h)(1) or any other land used as a cemetery;

"(ii) the surface estate of land that is both—

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 31 and following); and

"(II) used by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act); or

"(iii) land or interest in land which the board of directors believes to be only of speculative value;

in connection with any communication made to the shareholders pursuant to this subsection.

"(C) If the board of directors determines, for quorum purposes or otherwise, that a previously-noticed meeting must be postponed or adjourned, it may, by giving notice to the shareholders, set a new date for such meeting not more than forty-five days later than the original date without sending the shareholders a new written notice (or a new summary of changes to be effected). If the new date is more than forty-five days later than the original date, however, a new written notice (and a new summary of changes to be effected if such a summary was originally sent pursuant to subparagraph (A)), shall be sent or delivered to shareholders not less than thirty days nor more than forty-five days prior to the new date.

"(c) SHAREHOLDER PETITIONS.—(1)(A) With respect to an amendment authorized by section 7(g)(1)(B) or section 37(b) or an amendment authorizing the issuance of stock subject to the restrictions provided by section 7(g)(2)(B)(iii), the holders of shares representing at least 25 per centum of the total voting power of a Native Corporation may petition the board of directors to submit such amendment to a vote of the shareholders in accordance with the provisions of this section.

"(B) The requirements of the laws of the State relating to the solicitation of proxies shall govern solicitation of signatures for a petition described in subparagraph (A) except that the requirements of Federal law shall govern the solicitation of signatures for a petition that is to be submitted to a Native Corporation which at the time of such submission has issued a class of equity securities registered pursuant to the Securities Exchange Act of 1934. If a petition meets the applicable solicitation requirements and—

"(i) the board agrees with such petition, the board shall submit the amendment and either the proponents' statement or its own statement in support of the amendment to the shareholders for a vote, or

"(ii) the board disagrees with the petition for any reason, the board shall submit the amendment and the proponents' statement to the shareholders for a vote and may, at its discretion, submit an opposing statement or an alternative amendment.

"(2) Paragraph (1) shall not apply to a Native Corporation that on or before the date one year after the date of enactment of the Alaska

Native Claims Settlement Act Amendments of 1987 elects application of section 37(d) in lieu of section 37(b). Until December 18, 1991, paragraph (1) shall not apply to a Native Corporation that elects application of section 37(c) in lieu of section 37(b). Insofar as they are not inconsistent with this section, the laws of the State shall govern any shareholder right of petition for Native Corporations.

"(d) VOTING STANDARDS.—(1) An amendment or resolution described in subsection (a) shall be considered to be approved by the shareholders of a Native Corporation if it receives the affirmative vote of shares representing—

"(A) a majority of the total voting power of the corporation, or

"(B) a level of the total voting power of the corporation greater than a majority (but not greater than two-thirds of the total voting power of the corporation) if the corporation establishes such a level by an amendment to its articles of incorporation.

"(2) A Native Corporation in amending its articles of incorporation pursuant to section 7(g)(2) to authorize the issuance of a new class or series of stock may provide that a majority (or more than a majority) of the shares of such class or series must vote in favor of an amendment or resolution described in subsection (a) (other than an amendment authorized by section 37) in order for such amendment or resolution to be approved.

"(e) VOTING POWER.—For the purposes of this section, the determination of total voting power of a Native Corporation shall include all outstanding shares of stock that carry voting rights except shares that are not permitted to vote on the amendment or resolution in question because of restrictions in the articles of incorporation of the corporation.".

DURATION OF ALIENABILITY RESTRICTIONS

SEC. 8. The Alaska Native Claims Settlement Act is further amended by adding the following new section after section 36:

"DURATION OF ALIENABILITY RESTRICTIONS

"SEC. 37. (a) GENERAL RULE.—Alienability restrictions shall continue until terminated in accordance with the procedures established by this section. No such termination shall take effect until after December 18, 1991. 43 USC 1629c.

"(b) OPT-OUT PROCEDURE.—(1)(A) A Native Corporation may amend its articles of incorporation to terminate alienability restrictions in accordance with this subsection. Only one amendment to terminate alienability restrictions shall be considered and voted on prior to December 18, 1991. Rejection of the amendment shall not preclude consideration prior to December 18, 1991, of subsequent amendments to terminate alienability restrictions.

"(B) If an amendment to terminate alienability restrictions is considered, voted on, and rejected prior to December 18, 1991, then subsequent amendments to terminate alienability restrictions after December 18, 1991, shall be considered and voted on—

"(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not earlier than five years after the rejection of the most recently rejected amendment to terminate restrictions; or "(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not earlier than two years after the rejection of the most recently rejected amendment to terminate restrictions.

"(C) If no amendment to terminate alienability restrictions is considered and voted on prior to December 18, 1991, then amendments to terminate alienability restrictions after December 18, 1991, shall be considered and voted on—

"(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not more than once every five years; or

"(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not more than once every two years.

"(2) An amendment authorized by paragraph (1) shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which alienability restrictions shall terminate.

"(3) Dissenters rights may be granted by the corporation in connection with the rejection of an amendment to terminate alienability restrictions in accordance with section 38. Once dissenters rights have been so granted, they shall not be granted again in connection with subsequent amendments to terminate alienability restrictions.

"(c) RECAPITALIZATION PROCEDURE.—(1)(A) On or prior to December 18, 1991, a Native Corporation may amend its articles of incorporation to implement a recapitalization plan in accordance with this subsection. Rejection of an amendment or amendments to implement a recapitalization plan shall not preclude consideration prior to December 18, 1991, of a subsequent amendment or amendments to implement such a plan. Subsequent amendment or amendments shall be considered and voted on not earlier than one year after the date on which the most recent previous recapitalization plan was rejected. No recapitalization plan shall provide for the termination of alienability restrictions prior to December 18, 1991.

"(B) An amendment or amendments submitted pursuant to subparagraph (A) (and any subsequent amendment submitted pursuant to subparagraph (C)) may provide for the maintenance or extension of alienability restrictions for—

"(i) an indefinite period of time;

"(ii) a specified period of time not to exceed fifty years; or

"(iii) a period of time that shall end upon the occurrence of a specified event.

"(C) If an amendment or amendments approved pursuant to subparagraph (A) or this subparagraph maintains or extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of maintenance or extension then in force.

"(D) The board of directors may ask the shareholders to approve en bloc pursuant to a single vote a series of amendments (including an amendment to authorize the issuance of stock pursuant to section

7(g)) to implement a recapitalization plan that includes a provision maintaining alienability restrictions.

"(2)(A) If an amendment to the articles of incorporation of a Native Corporation maintaining or extending alienability restrictions for a specified period of time is approved pursuant to paragraph (1), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (1)(C).

"(B)(i) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (1)(B) to maintain or extend alienability restrictions for an indefinite period may later amend its articles to terminate such restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

"(ii) Rejection of an amendment described in clause (i) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

"(3) If a recapitalization plan approved pursuant to paragraph (1) distributes voting alienable common stock to each holder of shares of Settlement Common Stock (issued pursuant to section 7(g)(1)(A)) that carries aggregate dividend and liquidation rights equivalent to those carried by such shares of Settlement Common Stock (except for rights to distributions made pursuant to sections 7(j) and 7(m)) upon completion of the recapitalization plan, then such holder shall have no right under section 38 and any other provision of law to further compensation from the corporation with respect to action taken pursuant to this subsection.

"(d) OPT-IN PROCEDURE.—(1)(A) Subsection (b) shall not apply to a Native Corporation whose board of directors approves, no later than one year after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987, a resolution electing the application of this subsection.

"(B) This subsection shall not apply to Village Corporations, Urban Corporations, and Group Corporations located outside of the Bristol Bay and Aleut regions.

"(2)(A) Alienability restrictions imposed on Settlement Common Stock issued by a Native Corporation electing application of this subsection shall terminate on December 18, 1991, unless extended in accordance with the provisions of this subsection.

"(B) The board of directors of a Native Corporation electing application of this subsection shall, at least once prior to January 1, 1991, approve, and submit to a vote of the shareholders, an amendment to the articles of incorporation of the corporation to extend alienability restrictions. If the amendment is not approved by the shareholders, the board of directors may submit another such amendment to the shareholders once or more a year until December 18, 1991.

"(C) An amendment submitted pursuant to subparagraph (B) and any amendment submitted pursuant to subparagraph (D) may provide for an extension of alienability restrictions for—

"(i) an indefinite period of time, or

"(ii) a specified period of time of not less than one year and not more than fifty years.

"(D) If an amendment approved by the shareholders of a Native Corporation pursuant to subparagraph (B) or this subparagraph extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of extension then in force.

"(3)(A) If an amendment to the articles of incorporation of a Native Corporation extending alienability restrictions for a specified period of time is approved pursuant to paragraph (2), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (2)(D).

"(B) If the board of directors of a Native Corporation electing application of this subsection does not submit for a shareholder vote an amendment to the articles of incorporation of the corporation in accordance with paragraph (2)(B), or if the amendment submitted does not comply with paragraph (2)(C), alienability restrictions shall not terminate and shall instead remain in effect until such time as a court of competent jurisdiction, upon petition of one or more shareholders of the corporation, orders that a shareholder vote be taken on an amendment which complies with paragraph (2)(C) and such vote is conducted. Following the vote, the status of alienability restrictions shall be determined in accordance with the other provisions of this subsection and the amendment, if approved.

"(4)(A) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions for an indefinite period of time may later amend its articles of incorporation to terminate the restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

"(B) The rejection of an amendment described in subparagraph (A) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

"(5)(A) If a Native Corporation amends its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions, a shareholder who—

"(i) voted against such amendment, and

"(ii) desires to relinquish his or her Settlement Common Stock in exchange for the stock or payment authorized by the board of directors pursuant to subparagraph (B),

shall notify the Corporation within ninety days of the date of the vote of the shareholders on the amendment of his or her desire.

"(B) Within one hundred and twenty days after the date of the vote described in subparagraph (A), the board of directors shall approve a resolution to provide that each shareholder who has notified the corporation pursuant to subparagraph (A) shall receive either—

"(i) alienable common stock in exchange for his or her Settlement Common Stock pursuant to paragraph (6), or

"(ii) an opportunity to request payment for his or her Settlement Common Stock pursuant to section 38(a)(1)(B).

"(C) This paragraph shall apply only to the first extension of alienability restrictions approved by the shareholders. No dissenters rights of any sort shall be permitted in connection with subsequent extensions of such restrictions.

"(6)(A) If the board of directors of a Native Corporation approves a resolution providing for the issuance of alienable common stock pursuant to paragraph (5)(B), then on December 18, 1991, or sixty days after the approval of the resolution, whichever later occurs, the Settlement Common Stock of each shareholder who has notified the corporation pursuant to paragraph (5)(A) shall be deemed canceled, and shares of alienable common stock of the appropriate class shall be issued to such shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this Act as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

"(B)(i) Alienable common stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by section 7(g)(1)(B)(iii) shall bear a legend indicating that the stock will eventually be canceled in accordance with the requirements of that section.

"(ii) Alienable common stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

"(iii) In the resolution authorized by paragraph (5)(B), the board of directors shall provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) of section 7 shall be exchanged either for—

"(I) a share of alienable common stock carrying such right, or

"(II) a share of alienable common stock that does not carry such right together with a separate, non-voting security that represents only such right.

"(iv) In the resolution authorized by paragraph (5)(B), the board of directors may impose upon the alienable common stock to be issued in exchange for Settlement Common Stock one or more of the following—

"(I) a restriction granting the corporation, or the corporation and members of the shareholder's immediate family who are Natives or descendants of Natives the first right to purchase, on reasonable terms, the alienable common stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; or

"(II) any other term, restriction, limitation, or other provision permitted under the laws of the State.

"(C) The articles of incorporation of the Native Corporation shall be deemed amended to implement the provisions of the resolution authorized by paragraph (5)(B).

"(D) Alienable common stock issued pursuant to this subparagraph shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.

"(7)(A) No share of alienable common stock issued pursuant to paragraph (6) shall carry voting rights if it is owned, legally or beneficially, by a person not a Native or a descendant of a Native.

"(B)(i) A purchaser or other transferee of shares of alienable common stock shall, as a condition of the obligation of the issuing Native Corporation to transfer such shares on the books of the corporation, deliver to the corporation or transfer agent, as the case may be, a statement on a form prescribed by the corporation identifying the number of such shares to be transferred to such transferee and certifying—

"(I) that such transferee is or is not a Native or a descendant of a Native;

"(II) that such transferee, if not a Native or a descendant of a Native, understands that shares of such alienable common stock shall not carry voting rights so long as such shares are held by the transferee or any subsequent transferee not a Native or a descendant of a Native;

"(III) that such transferee, if a purchaser, understands that such acquisition may be subject to section 13(d) of the Securities Exchange Act of 1934, as amended, and the regulations of the Securities and Exchange Commission promulgated thereunder; and

"(IV) whether such transferee will be the sole beneficial owner of such shares (if not, the transferee must certify as to the identities of all beneficial owners of such shares and whether such owners are Natives or descendants of Natives).

"(ii) The statement required by clause (i) shall be prima facie evidence of the matters certified therein and may be relied upon by the corporation in effecting a transfer on its books.

"(iii) For purposes of this subparagraph, a beneficial owner of a security includes any person (including a corporation, partnership, trust, association, or other entity) who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares—

"(I) voting power, which includes the power to vote, or to direct the voting of, such security; or

"(II) investment power, which includes the power to dispose of, or to direct the disposition of, such security.

"(iv) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the requirements imposed by this section or section 13(d) of the Securities Exchange Act of 1934, as amended, shall be deemed for purposes of such sections to be the beneficial owner of such security.

"(C) The statement required by subparagraph (B) shall be verified by the transferee before a notary public or other official authorized to administer oaths in accordance with the laws of the jurisdiction of the transferee or in which the transfer is made.".

DISSENTERS RIGHTS

SEC. 9. The Alaska Native Claims Settlement Act is further amended by adding the following new section after section 37:

"DISSENTERS RIGHTS

"SEC. 38. (a) COVERAGE.—(1) Notwithstanding the laws of the State, if the shareholders of a Native Corporation— 43 USC 1629d.

"(A) fail to approve an amendment authorized by section 37(b) to terminate alienability restrictions, a shareholder who voted for the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock; or

"(B) approve an amendment authorized by section 37(d) to continue alienability restrictions without issuing alienable common stock pursuant to section 37(d)(6), a shareholder who voted against the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock.

"(2)(A) A demand for payment made pursuant to paragraph (1)(A) shall be honored only if at the same time as the vote giving rise to the demand, the shareholders of the corporation approved a resolution providing for the purchase of Settlement Common Stock from dissenting shareholders.

"(B) A demand for payment made pursuant to paragraph (1)(B) shall be honored.

"(b) RELATIONSHIP TO STATE PROCEDURE.—(1) Except as otherwise provided in this section, the laws of the State governing the right of a dissenting shareholder to demand and receive payment for his or her shares shall apply to demands for payment honored pursuant to subsection (a)(2).

"(2) The board of directors of a Native Corporation may approve a resolution to provide a dissenting shareholder periods of time longer than those provided under the laws of the State to take actions required to demand and receive payment for his or her shares.

"(c) VALUATION OF STOCK.—(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that one or more of the following conditions will apply in the event a demand for payment is honored pursuant to subsection (a)(2)—

"(A) the Settlement Common Stock shall be valued as restricted stock; and

"(B) the value of—

"(i) any land conveyed to the corporation pursuant to section 14(h)(1) or any other land used as a cemetery; and

"(ii) the surface estate of any land that is both—

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act, and

"(II) used by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act); or

"(iii) any land or interest in land which the board of directors believes to be only of speculative value;

shall be excluded by the shareholder making the demand for payment, the corporation purchasing the Settlement Common Stock of the shareholder, and any court determining the fair value of the shares of Settlement Common Stock to be purchased.

"(2) No person shall have a claim against a Native Corporation or its board of directors based upon the failure of the board to approve a resolution authorized by this subsection.

"(d) FORM OF PAYMENT.—(1) Prior to a vote described in subsection (a)(1), the board of directors of a Native Corporation may approve a resolution to provide that in the event a demand for payment is honored pursuant to subsection (a)(2) payments to each dissenting shareholder shall be made by the corporation through the issuance of a negotiable note in the principal amount of the payment due, which shall be secured by—

"(A) a payment bond issued by an insurance company or financial institution;

"(B) the deposit in escrow of securities or property having a fair market value equal to at least 125 per centum of the face value of the note; or

"(C) a lien upon real property interests of the corporation valued at 125 percent or more of the face amount of the note, except that no such lien shall be applicable to—

"(i) land conveyed to the corporation pursuant to section 14(h)(1), or any other land used as a cemetery;

"(ii) the percentage interest in the corporation's timber resources and subsurface estate that exceeds its percentage interest in revenues from such property under section 7(i); or

"(iii) the surface estate of land that is both—

Taxes.

"(I) exempt from real estate taxation pursuant to section 907(d)(1)(A) of the Alaska National Interest Lands Conservation Act; and

"(II) used by the shareholders of the corporation for subsistence uses (as defined in section 803 of the Alaska National Interest Lands Conservation Act),

unless the Board of Directors of the corporation acts so as to make such lien applicable to such surface estate.

"(2) A note issued pursuant to paragraph (1) shall provide that—

"(A) interest shall be paid semi-annually, beginning as of the date on which the vote described in subsection (a)(1) occurred, at the rate applicable on such date to obligations of the United States having a maturity date of one year, and

"(B) the principal amount and accrued interest on such note shall be payable to the holder at a time specified by the corporation but in no event later than the date that is five years after the date of the vote described in subsection (a)(1).

"(e) DIVIDEND ADJUSTMENT.—(1) The cash payment made pursuant to subsection (a) or the principal amount of a note issued pursuant to subsection (d) to a dissenting shareholder shall be reduced by the amount of dividends paid to such shareholder with respect to his or her Settlement Common Stock after the date of the vote described in subsection (a)(1).

"(2) Upon receipt of a cash payment pursuant to subsection (a) or a note pursuant to subsection (d), a dissenting shareholder shall no longer have an interest in the shares of Settlement Common Stock or in the Native Corporation.".

SETTLEMENT TRUST OPTION

SEC. 10. The Alaska Native Claims Settlement Act is further amended by adding the following new section:

"SETTLEMENT TRUST OPTION

"SEC. 39. (a) CONVEYANCE OF CORPORATE ASSETS.—(1)(A) A Native Corporation may convey assets (including stock or beneficial interests therein) to a Settlement Trust in accordance with the laws of the State (except to the extent that such laws are inconsistent with this section and section 36). 43 USC 1629e.

"(B) The approval of the shareholders of the corporation in the form of a resolution shall be required to convey all or substantially all of the assets of the corporation to a Settlement Trust. A conveyance in violation of this clause shall be void ab initio and shall not be given effect by any court.

"(2) No subsurface estate in land shall be conveyed to a Settlement Trust. A conveyance of title to, or any other interest in, subsurface estate in violation of this subparagraph shall be void ab initio and shall not be given effect by any court.

"(3) Conveyances made pursuant to this subsection—

"(A) shall be subject to applicable laws respecting fraudulent conveyance and creditors rights; and

"(B) shall give rise to dissenters rights to the extent provided under the laws of the State only if the rights of beneficiaries in the Settlement Trust receiving a conveyance are inalienable.

"(4) The provisions of this subsection shall not prohibit a Native Corporation from engaging in any conveyance, reorganization, or transaction not otherwise prohibited under the laws of the State or the United States.

"(b) AUTHORITY AND LIMITATIONS OF A SETTLEMENT TRUST.—(1) The purpose of a Settlement Trust shall be to promote the health, education, and welfare of its beneficiaries and preserve the heritage and culture of Natives. A Settlement Trust shall not—

"(A) operate as a business;

"(B) alienate land or any interest in land received from the settlor Native Corporation (except if the recipient of the land is the settlor corporation); or

"(C) discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of the settlor Native Corporation. Discrimination, prohibition.

An alienation of land or an interest in land in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(2) A Native Corporation that has established a Settlement Trust shall have exclusive authority to—

"(A) appoint the trustees of the trust, and

"(B) remove the trustees of the trust for cause.

Only a natural person shall be appointed a trustee of a Settlement Trust. An appointment or removal of a trustee in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(3) A Native Corporation that has established a Settlement Trust may expand the class of beneficiaries to include holders of Settlement Common Stock issued after the establishment of the trust without compensation to the original beneficiaries.

"(4) A Settlement Trust shall not be held to violate any laws against perpetuities.

"(c) SAVINGS.—(1) The provisions of this Act shall continue to apply to any land or interest in land received from the Federal Government pursuant to this Act and later conveyed to a Settlement Trust as if the land or interest in land were still held by the Native Corporation that conveyed the land or interest in land.

Forests and forest products.

"(2) No timber resources subject to section 7(i) conveyed to a Settlement Trust shall be sold, exchanged, or otherwise conveyed except as necessary to—

"(A) dispose of diseased or dying timber or to prevent the spread of disease or insect infestation;

"(B) prevent or suppress fire; or

"(C) ensure public safety.

The revenue, if any, from such timber harvests shall be subject to section 7(i) as if such conveyance had not occurred.

Contracts.

"(3) The conveyance of assets (including stock or beneficial interests) pursuant to subsection (a) shall not affect the applicability or enforcement (including specific performance) of a valid contract, judgment, lien, or other obligation (including an obligation arising under section 7(i)) to which such assets, stock, or beneficial interests were subject immediately prior to such conveyance.

Contracts.

"(4) A claim based upon paragraph (1), (2), or (3) shall be enforceable against the transferee Settlement Trust holding the land, interest in land, or other assets (including stock or beneficial interests) in question to the same extent as such claim would have been enforceable against the transferor Native Corporation, and valid obligations arising under section 7(i) as well as claims with respect to a conveyance in violation of a valid contract, judgment, lien, or other obligation shall also be enforceable against the transferor corporation.

"(5) Except as provided in paragraphs (1), (2), (3), and (4), once a Native Corporation has made, pursuant to subsection (a), a conveyance to a Settlement Trust that does not—

"(A) render it—

"(i) unable to satisfy claims based upon paragraph (1), (2), or (3); or

"(ii) insolvent; or

"(B) occur when the Native Corporation is insolvent;

the assets so conveyed to the Settlement Trust shall not be subject to attachment, distraint, or sale on execution of judgment or other process or order of any court, except with respect to the lawful debts or obligations of the Settlement Trust.

"(6) No transferee Settlement Trust shall make a distribution or conveyance of assets (including cash, stock, or beneficial interests) that would render it unable to satisfy a claim made pursuant to paragraph (1), (2), or (3). A distribution or conveyance made in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

"(7) Except where otherwise expressly provided, no provision of this section shall be construed to require shareholder approval of an action where shareholder approval would not be required under the laws of the State.".

ALASKA LAND BANK

SEC. 11. Section 907 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1636) is amended—

(1) by striking out "subsection (c)(2)" throughout the section and inserting in lieu thereof "subsection (d)(1)";

(2) in the proviso of subsection (a), by striking out "lands not owned by landowners described in subsection (c)(2) shall not" and inserting in lieu thereof "no lands shall";

(3) by amending subsections (c), (d), and (e) to read as follows:

"(c) Benefits to Private Landowners.—(1) In addition to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, trespass control, resource and land use planning, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties, so long as the landowner is in compliance with the agreement.

"(2) The provision of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement made pursuant to this section so long as the parties to the agreement are in compliance therewith.

"(d) Automatic Protections for Lands Conveyed Pursuant to the Alaska Native Claims Settlement Act.—(1)(A) Notwithstanding any other provision of law or doctrine of equity, all land and interests in land in Alaska conveyed by the Federal Government pursuant to the Alaska Native Claims Settlement Act to a Native individual or Native Corporation or subsequently reconveyed by a Native Corporation pursuant to section 39 of that Act to a Settlement Trust shall be exempt, so long as such land and interests are not developed or leased or sold to third parties from—

"(i) adverse possession and similar claims based upon estoppel;

"(ii) real property taxes by any governmental entity;

"(iii) judgments resulting from a claim based upon or arising under—

"(I) title 11 of the United States Code or any successor statute,

"(II) other insolvency or moratorium laws, or

"(III) other laws generally affecting creditors' rights;

"(iv) judgments in any action at law or in equity to recover sums owed or penalties incurred by a Native Corporation or Settlement Trust or any employee, officer, director, or shareholder of such corporation or trust, unless this exemption is contractually waived prior to the commencement of such action; and

"(v) involuntary distributions or conveyances related to the involuntary dissolution of a Native Corporation or Settlement Trust.

"(B) Except as otherwise provided specifically provided, the exemptions described in subparagraph (A) shall apply to any claim or judgment existing on or arising after the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(2) Definitions.—(A) For purposes of this subsection, the term—

"(i) 'Developed' means a purposeful modification of land, or an interest in land, from its original state that effectuates a condition of gainful and productive present use without further substantial modification. Surveying, construction of roads, providing utilities, or other similar actions, which are normally considered to be component parts of the development process but do not create the condition described in the preceding sentence, shall not constitute a developed state within the meaning of this clause. In order to terminate the exemptions listed in paragraph (1), land, or an interest in land, must be developed for purposes other than exploration, and the exemptions will be terminated only with respect to the smallest practicable tract actually used in the developed state;

"(ii) 'Exploration' means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources; and

"(iii) 'Leased' means subjected to a grant of primary possession entered into for a gainful purpose with a determinable fee remaining in the hands of the grantor. With respect to a lease that conveys rights of exploration and development, the exemptions listed in paragraph (1) shall continue with respect to that portion of the leased tract that is used solely for the purposes of exploration.

"(B) For purposes of this subsection—

"(i) land shall not be considered developed solely as a result of—

"(I) the construction, installation, or placement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further subsistence uses or other customary or traditional uses of such land, or

"(II) the receipt of fees related to hunting, fishing, and guiding activities conducted on such land;

"(ii) land upon which timber resources are being harvested shall be considered developed only during the period of such harvest and only to the extent that such land is integrally related to the timber harvesting operation; and

"(iii) land subdivided by a State or local platting authority on the basis of a subdivision plat submitted by the holder of the land or its agent, shall be considered developed on the date an approved subdivision plat is recorded by such holder or agent unless the subdivided property is a remainder parcel.

"(3) ACTION BY A TRUSTEE.—(A) Except as provided in this paragraph and in section 14(c)(3) of the Alaska Native Claims Settlement Act no trustee, receiver, or custodian vested pursuant to applicable Federal or State law with a right, title, or interest of a Native individual or Native Corporation shall—

"(i) assign or lease to a third party,

"(ii) commence development or use of, or

"(iii) convey to a third party,

any right, title, or interest in any land, or interests in land, subject to the exemptions described in paragraph (1).

"(B) The prohibitions of subparagraph (A) shall not apply—

"(i) when the actions of such trustee, receiver, or custodian are for purposes of exploration or pursuant to a judgment in law or in equity (or arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act; or

"(ii) to any land, or interest in land, which has been—

"(I) developed or leased prior to the vesting of the trustee, receiver, or custodian with the right, title, or interest of the Native Corporation; or

"(II) expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement.

"(4) EXCLUSIONS, REATTACHMENT OF EXEMPTIONS.—(A) The exemptions listed in paragraph (1) shall not apply to any land, or interest in land, which is—

"(i) developed or leased or sold to a third party;

"(ii) held by a Native Corporation in which neither—

"(I) the Settlement Common Stock of the corporation,

"(II) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock, nor

"(III) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives,

represents a majority of either the total equity of the corporation or the total voting power of the corporation for the purposes of electing directors; or

"(iii) held by a Settlement Trust with respect to which any of the conditions set forth in section 39 of the Alaska Native Claims Settlement Act have been violated.

"(B) The exemptions described in clauses (iii), (iv), and (v) of paragraph (1)(A) shall not apply to any land, or interest in land—

"(i) to the extent that such land or interest is expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement, and

"(ii) to the extent necessary to enforce a judgment in any action at law or in equity (or any arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act.

"(C) If the exemptions listed in paragraph (1) are terminated with respect to land, or an interest in land, as a result of development (or a lease to a third party), and such land, or interest in land, subsequently reverts to an undeveloped state (or the third-party lease is terminated), then the exemptions shall again apply to such land, or interest in land, in accordance with the provisions of this subsection.

"(5) TAX RECAPTURE UPON SUBDIVISION PLAT RECORDATION.—(A) Upon the recordation with an appropriate government authority of an approved subdivision plat submitted by, or on behalf of, a Native individual, Native Corporation, or Settlement Trust with respect to land described in paragraph (1), such individual, corporation, or trust shall pay in accordance with this paragraph all State and local property taxes on the smallest practicable tract integrally related to the subdivision project that would have been incurred by the individual, corporation, or trust on such land (excluding the value of subsurface resources and timber) in the absence of the exemption described in paragraph (1)(A)(ii) during the thirty months prior to the date of the recordation of the plat.

"(B) State and local property taxes specified in subparagraph (A) of this paragraph (together with interest at the rate of 5 per centum per annum commencing on the date of recordation of the subdivision plat) shall be paid in equal semi-annual installments over a two-year period commencing on the date six months after the date of recordation of the subdivision plat.

"(C) At least thirty days prior to final approval of a plat of the type described in subparagraph (A), the government entity with jurisdiction over the plat shall notify the submitting individual, corporation, or trust of the estimated tax liability that would be incurred as a result of the recordation of the plat at the time of final approval.

"(6) SAVINGS.—(A) No provision of this subsection shall be construed to impair, or otherwise affect, any valid contract or other

Contracts.

obligation that was entered into prior to the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(B) Enactment of this subsection shall not affect any real property tax claim in litigation on the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(e) CONDEMNATION.—All land subject to an agreement made pursuant to subsection (a) and all land, and interests in land, conveyed or subsequently reconveyed pursuant to the Alaska Native Claims Settlement Act to a Native individual, Native Corporation, or Settlement Trust shall be subject to condemnation for public purposes in accordance with the provisions of this Act and other applicable law."; and

(4) by adding at the end thereof the following new subsection:

"(g) STATE JURISDICTION.—Except as expressly provided in subsection (d), no provision of this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.".

CONFORMING AMENDMENTS

SEC. 12. (a) SECTION 7.—Subsection (o) of section 7 (43 U.S.C. 1606) is amended to strike everything following the word "stockholder" except the period at the end of the subsection.

(b) SECTION 21.—Section 21 (43 U.S.C. 1620) is amended—

(1) by inserting after "distributions" in subsection (a) "(even if the Regional Corporation or Village Corporation distributing the dividend has not segregated revenue received from the Alaska Native Fund from revenue received from other sources)";

(2) by striking out "Village Corporation" and inserting in lieu thereof "Native Corporation" in subsection (j); and

(3) by striking out everything after "one and one-half acres:" in subsection (j) and inserting in lieu thereof: "*Provided further,* That if the shareholder receiving the homesite subdivides such homesite, he or she shall pay all Federal, State, and local taxes that would have been incurred but for this subsection together with simple interest at 6 per centum per annum calculated from the date of receipt of the homesite, including taxes or assessments for the provision of road access and water and sewage facilities by the conveying corporation or the shareholder.".

(c) SECTION 30.—Subsection (b) of section 30 (43 U.S.C. 1627(b)) is amended by striking out "prior to December 19, 1991" and inserting in lieu thereof "while the Settlement Common Stock of all corporations subject to merger or consolidation remains subject to alienability restrictions.".

15 USC 78m.

(d) SECURITIES EXCHANGE ACT OF 1934.—Section 13(d)(1) of the Securities Exchange Act of 1934 is amended by inserting "or any equity security issued by a Native Corporation pursuant to section 37(d)(6) of the Alaska Native Claims Settlement Act" after "Investment Company Act of 1940".

SEVERABILITY

43 USC 1601 note.

SEC. 13. Section 27 (85 Stat. 688) is amended to read as follows:

"SEVERABILITY

"SEC. 27. The provisions of this Act, as amended, and the Alaska Native Claims Settlement Act Amendments of 1987 are severable. If any provision of either Act is determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other provision of either Act.".

SECURITIES LAWS EXEMPTION

SEC. 14. Section 28 (43 U.S.C. 1625) is amended to read as follows:

"SECURITIES LAWS EXEMPTION

"SEC. 28. (a) A Native Corporation shall be exempt from the provisions, as amended, of the Investment Company Act of 1940 (54 Stat. 789), the Securities Act of 1933 (48 Stat. 74), and the Securities Exchange Act of 1934 (48 Stat. 881) until the earlier of the day after—

"(1) the date on which the corporation issues shares of stock other than Settlement Common Stock in a transaction where—

"(A) the transaction or the shares are not otherwise exempt from Federal securities laws; and

"(B) the shares are issued to persons or entities other than—

"(i) individuals who held shares in the corporation on the date of the enactment of the Alaska Native Claims Settlement Act Amendments of 1987;

"(ii) Natives;

"(iii) descendants of Natives;

"(iv) individuals who have received shares of Settlement Common Stock by inheritance pursuant to section 7(h)(2);

"(v) Settlement Trusts; or

"(vi) entities established for the sole benefit of Natives or descendants of Natives; or

"(2) the date on which alienability restrictions are terminated; or

"(3) the date on which the corporation files a registration statement with the Securities and Exchange Commission pursuant to either the Securities Act of 1933 or the Securities Exchange Act of 1934.

"(b) No provision of this section shall be construed to require or imply that a Native Corporation shall, or shall not, be subject to provisions of the Acts listed in subsection (a) after any of the dates described in subsection (a).

"(c)(1) A Native Corporation that, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall annually prepare and transmit to its shareholders a report that contains substantially all the information required to be included in an annual report to shareholders by a corporation subject to that Act.

"(2) For purposes of determining the applicability of the registration requirements of the Securities Exchange Act of 1934 on or after the date described in subsection (a), holders of Settlement Common Stock shall be excluded from the calculation of the number of shareholders of record pursuant to section 12(g) of that Act.

"(d)(1) Notwithstanding any other provision of law, prior to January 1, 2001, the provisions of the Investment Company Act of 1940 shall not apply to any Native Corporation or any subsidiary of such corporation if such subsidiary is wholly owned (as that term is defined in the Investment Company Act of 1940) by the corporation and the corporation owns at least 95 per centum of the equity of the subsidiary.

"(2) The Investment Company Act of 1940 shall not apply to any Settlement Trust.

"(3) If, but for this section, a Native Corporation would qualify as an Investment Company under the Investment Company Act of 1940, it shall be entitled to voluntarily register pursuant to such Act and any such corporation which so registered shall thereafter comply with the provisions of such Act.".

ELIGIBILITY FOR NEEDS-BASED FEDERAL PROGRAMS; MINORITY STATUS

SEC. 15. Section 29 (43 U.S.C. 1626) is amended by adding the following new subsections:

"(c) In determining the eligibility of a household, an individual Native, or a descendant of a Native (as defined in section 3(r)) to—

"(1) participate in the Food Stamp Program,

"(2) receive aid, assistance, or benefits, based on need, under the Social Security Act, or

"(3) receive financial assistance or benefits, based on need, under any other Federal program or federally-assisted program,

none of the following, received from a Native Corporation, shall be considered or taken into account as an asset or resource:

"(A) cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed $2,000 per individual per annum;

"(B) stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);

"(C) a partnership interest;

"(D) land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

"(E) an interest in a settlement trust.

"(d) Notwithstanding any other provision of law, Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans.

"(e)(1) For all purposes of Federal law, a Native Corporation shall be considered to be a corporation owned and controlled by Natives and a minority business enterprise if the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives, represents a majority of both the total equity of the corporation and the total voting power of the corporation for the purposes of electing directors.

"(2) For all purposes of Federal law, direct and indirect subsidiary corporations, joint ventures, and partnerships of a Native Corporation qualifying pursuant to paragraph (1) shall be considered to be entities owned and controlled by Natives and a minority business enterprise if the shares of stock or other units of ownership interest in any such entity held by such Native Corporation and by the holders of its Settlement Common Stock represent a majority of both—

"(A) the total equity of the subsidiary corporation, joint venture, or partnership; and

"(B) the total voting power of the subsidiary corporation, joint venture, or partnership for the purpose of electing directors, the general partner, or principal officers.

"(3) No provision of this subsection shall—

"(A) preclude a Federal agency or instrumentality from applying standards for determining minority ownership (or control) less restrictive than those described in paragraphs (1) and (2), or

"(B) supersede any such less restrictive standards in existence on the date of enactment of the Alaska Native Claims Settlement Act Amendments of 1987.

"(f)(1) Section 3 of Public Law 97-451 (96 Stat. 2448) is amended by inserting 'or which is administered by the United States pursuant to section 14(g) of Public Law 92-203, as amended' after 'alienation' in subsection (3) and subsection (4). 30 USC 1702.

"(2) The amendment made by paragraph (1) shall be effective as if originally included in section 3 of Public Law 97-451. 30 USC 1702 note.

"(g) For the purposes of implementation of the Civil Rights Act of 1964, a Native Corporation and corporations, partnerships, joint ventures, trusts, or affiliates in which the Native Corporation owns not less than 25 per centum of the equity shall be within the class defined in section 701(b) of Public Law 88-352 (78 Stat. 253), as amended, or successor statutes.".

JUDICIAL REVIEW

SEC. 16. (a) STATUTE OF LIMITATIONS.—(1) Notwithstanding any other provision of law, a civil action that challenges the constitutionality of an amendment made by, or other provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987) shall be barred unless filed within the periods specified in this subsection. 43 USC 1601 note.

(2) If a civil action described in paragraph (1) challenges—

(A) the issuance or distribution of Settlement Common Stock for less than fair market value consideration pursuant to section 7(g)(1)(B) or 7(g)(2)(C)(ii) of the Alaska Native Claims Settlement Act; or

(B) an extension of alienability restrictions that involves the issuance of stock pursuant to subsections (c) or (d) of section 37 of such Act; or

(C) the denial of dissenters rights after the rejection of an amendment to terminate alienability restrictions pursuant to section 37(b) of such Act;

such civil action shall be barred unless it is filed within one year after the date of the shareholder vote authorizing such issuance or distribution, extension of restrictions, or denial of right, and unless a request for a declaratory judgment or injunctive relief is made before stock is issued or distributed.

(3) Any other civil action described in paragraph (1) shall be barred unless it is filed within two years of the date of the enactment of this Act.

(4) No Native Corporation taking an action described in paragrapn (2)(A), (2)(B), or (2)(C) shall issue or distribute stock sooner than fourteen days after the date of the shareholder vote authorizing such action.

(b) JURISDICTION AND PROCEDURE.—(1) The United States District Court for the District of Alaska shall have exclusive original jurisdiction over a civil action described in subsection (a)(1). The action shall be heard and determined by a court of three judges as provided in section 2284 of title 28 of the United States Code. An appeal of the final judgment of such court shall be made directly to the United States Supreme Court.

(2) No money judgment shall be entered against the United States in a civil action subject to this section.

(c) STATEMENT OF PURPOSE.—The purpose of the limitation on civil actions established by this section is—

(1) to ensure that after the expiration of a reasonable period of time, Native Shareholders, Native Corporations, the United States, and the State of Alaska and its political subdivisions will be able to plan their affairs with certainty in full reliance on the provisions of this Act, and

(2) to eliminate the possibility that the United States will incur a monetary liability as a result of the enactment of this Act.

DISCLAIMER

30 USC 1601 note.

SEC. 17. (a) No provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987), exercise of authority pursuant to this Act, or change made by, or pursuant to, this Act in the status of land shall be construed to validate or invalidate or in any way affect—

(1) any assertion that a Native organization (including a federally recognized tribe, traditional Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), as amended) has or does not have governmental authority over lands (including management of, or regulation of the taking of, fish and wildlife) or persons within the boundaries of the State of Alaska, or

(2) any assertion that Indian country (as defined by 18 U.S.C. 1151 or any other authority) exists or does not exist within the boundaries of the State of Alaska.

Taxes.

(b) Nothing in the Alaska Native Claims Settlement Act Amendments of 1987 (or any amendment made thereby) shall be construed—

(1) to diminish or enlarge the ability of the Federal Government to assess, collect, or otherwise enforce any Federal tax, or

(2) to affect, for Federal tax purposes, the valuation of any stock issued by a Native Corporation.

Approved February 3, 1988.

LEGISLATIVE HISTORY—H.R. 278:

HOUSE REPORTS: No. 100-31 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-201 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 133 (1987):
Mar. 31, considered and passed House.
Oct. 29, considered and passed Senate, amended.
Dec. 21, House concurred in Senate amendment with amendment. Senate concurred in House amendment.

○

Public Law 100-242
100th Congress

An Act

To amend and extend certain laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

Feb. 5, 1988
[S. 825]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Housing and Community Development Act of 1987.
42 USC 5301 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Housing and Community Development Act of 1987".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Budget compliance.
Sec. 4. Credit limitation.
Sec. 5. Limitation on spending authority.

TITLE I—HOUSING ASSISTANCE

Subtitle A—Programs Under United States Housing Act of 1937

PART 1—GENERAL PROVISIONS

Sec. 101. Lower income housing authorization.
Sec. 102. Tenant rental contributions.
Sec. 103. Income eligibility for assisted housing.

PART 2—PUBLIC HOUSING

Sec. 111. Discretionary preference for near elderly families in public housing projects designed for the elderly.
Sec. 112. Grants for public housing development.
Sec. 113. Limitation on public housing development and assurance of public housing quality standards.
Sec. 114. Limitation on recapture of funding reservations.
Sec. 115. Indian public housing.
Sec. 116. Location of acquired housing.
Sec. 117. Public housing child care grants.
Sec. 118. Payments for operation of lower income housing projects.
Sec. 119. Comprehensive improvement assistance program.
Sec. 120. Comprehensive improvement assistance special purpose needs.
Sec. 121. Public housing demolition and disposition.
Sec. 122. Public housing resident management.
Sec. 123. Public housing homeownership and management opportunities.
Sec. 124. Treatment of certain public housing development funds.
Sec. 125. Energy efficient public housing demonstration.
Sec. 126. Public housing comprehensive transition demonstration.

PART 3—SECTION 8 ASSISTANCE AND OTHER PROGRAMS

Sec. 141. Section 8 contracts for existing dwelling units.
Sec. 142. Section 8 fair market rentals and contract rents.
Sec. 143. Housing voucher program.
Sec. 144. Administrative fees for section 8 certificate and housing voucher programs.
Sec. 145. Portability of section 8 certificates and vouchers.
Sec. 146. Prohibition of denial of section 8 certificates and vouchers to residents of public housing.
Sec. 147. Nondiscrimination against section 8 certificate holders and voucher holders.
Sec. 148. Project-based section 8 assistance.
Sec. 149. Section 8 assistance for residents of rental rehabilitation projects.

Sec. 150. Rental rehabilitation grants.
Sec. 151. Rental development grants.
Sec. 152. Termination of rental development grant program.

Subtitle B—Other Housing Assistance Programs

Sec. 161. Housing for the elderly and handicapped.
Sec. 162. Housing for the handicapped.
Sec. 163. Congregate services.
Sec. 164. Modification of restriction on use of assisted housing by aliens.
Sec. 165. Preventing fraud and abuse in Department of Housing and Urban Development programs.
Sec. 166. Annual report on characteristics of families in assisted housing.
Sec. 167. Section 236 rental housing program.
Sec. 168. Tenant eligibility determinations in rent supplement projects.
Sec. 169. Counseling to tenants and homeowners.
Sec. 170. Housing assistance technical amendments.

Subtitle C—Multifamily Housing Management and Preservation

Sec. 181. Management and preservation of HUD-owned multifamily housing projects.
Sec. 182. Acquisition of insured multifamily housing projects.
Sec. 183. Tenant participation in multifamily housing projects.
Sec. 184. Multifamily housing disposition partnership.
Sec. 185. Multifamily housing capital improvements assistance.
Sec. 186. Flexible subsidy program.

TITLE II—PRESERVATION OF LOW INCOME HOUSING

Subtitle A—General Provisions

Sec. 201. Short title.
Sec. 202. Findings and purpose.
Sec. 203. Termination of certain provisions.

Subtitle B—Prepayment of Mortgages Insured Under National Housing Act

Sec. 221. General prepayment limitation.
Sec. 222. Notice of intent.
Sec. 223. Plan of action.
Sec. 224. Incentives to extend low income use.
Sec. 225. Criteria for approval of plan of action.
Sec. 226. Alternative State strategy.
Sec. 227. Timetable for approval of plan of action.
Sec. 228. Modification of existing regulatory agreements.
Sec. 229. Consultations with other interested parties.
Sec. 230. Right of conversion to alternative prepayment system.
Sec. 231. Insurance for second mortgage financing.
Sec. 232. Report to Congress.
Sec. 233. Definitions.
Sec. 234. Regulations.
Sec. 235. Effective date.

Subtitle C—Rural Rental Housing Displacement Prevention

Sec. 241. Prepayment and refinancing procedures.
Sec. 242. Equity recapture loans and loans to nonprofit organizations and public agencies.
Sec. 243. Use of Rural Housing Insurance Fund.

Subtitle D—Other Measures to Preserve Low Income Housing

Sec. 261. Early prepayment.
Sec. 262. Section 8 assistance.
Sec. 263. Section 515 operating reserve and equity contribution requirements.

TITLE III—RURAL HOUSING

Sec. 301. Program authorizations.
Sec. 302. Eligibility requirements.
Sec. 303. Escrowing taxes and insurance.
Sec. 304. Rural housing guaranteed loan demonstration.
Sec. 305. Definition of domestic farm labor.
Sec. 306. Conformance with low-income housing tax credit eligibility requirements.
Sec. 307. Limitation of fees on rural rental housing loans.

Sec. 308. Rural area classification.
Sec. 309. Procedures for reduction of interest credits.
Sec. 310. Rural housing preservation grant program.
Sec. 311. Rural rental rehabilitation demonstration.
Sec. 312. Study of mortgage credit in rural areas.
Sec. 313. Debt settlement authority of Secretary.
Sec. 314. Manufactured housing.
Sec. 315. Loan packaging by nonprofit organizations.
Sec. 316. Rural housing technical amendments.

TITLE IV—MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET PROGRAMS

Subtitle A—FHA Mortgage Insurance Programs

Sec. 401. Insurance authority for FHA.
Sec. 402. Amount to be insured under National Housing Act.
Sec. 403. Limitation on Federal Housing Administration insurance premiums.
Sec. 404. Increase in maximum mortgage amount under single family insurance program.
Sec. 405. Change in definition of veteran.
Sec. 406. Limitation on use of single family mortgage insurance by investors.
Sec. 407. Actions to reduce losses under single family mortgage insurance program.
Sec. 408. Insurance of graduated payment mortgages.
Sec. 409. Refinancing mortgage insurance for hospitals, nursing homes, intermediate care facilities, and board and care homes.
Sec. 410. Mortgage insurance for nursing homes, intermediate care facilities, and board and care homes.
Sec. 411. Requirement of State approval for mortgage insurance for hospitals.
Sec. 412. Mortgage insurance for public hospitals.
Sec. 413. Mortgage insurance on Hawaiian home lands and Indian reservations.
Sec. 414. Co-insurance program.
Sec. 415. Increase in authority to insure adjustable rate single family mortgages.
Sec. 416. Penalties for equity skimming.
Sec. 417. Home equity conversion mortgage insurance demonstration.
Sec. 418. Assurance of adequate processing of applications for loan and mortgage insurance.
Sec. 419. Prohibition of lender requirements discouraging loans with lower principal amounts.
Sec. 420. Repeal of requirement to publish prototype housing costs for 1- to 4-family dwelling units.
Sec. 421. Double damages remedy for unauthorized use of multifamily housing project assets and income.
Sec. 422. Miscellaneous mortgage insurance provisions.
Sec. 423. Calculation of maximum mortgage amount under single family insurance program.
Sec. 424. Approval of individual residential water purification or treatment units.
Sec. 425. Regulation of rents in insured projects.
Sec. 426. Mortgage limits for multifamily projects.
Sec. 427. Operating loss loan insurance.
Sec. 428. Interest charges on temporary mortgage assistance payments and assignment or other assistance.
Sec. 429. Mortgage insurance technical amendments.
Sec. 430. Release of pool funds.

Subtitle B—Secondary Mortgage Market Programs

Sec. 441. Limitations on certain secondary mortgage market fees.
Sec. 442. FNMA cumulative voting.
Sec. 443. Permanent authority to purchase second mortgages on single-family properties.
Sec. 444. Period for approval of actions of FNMA.
Sec. 445. Prohibition of limitation on FHLMC mortgage operations.
Sec. 446. Limitation on GNMA guarantees of mortgage-backed securities.

TITLE V—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

Sec. 501. Community development authorizations.
Sec. 502. Targeting of benefits to persons of low and moderate income.
Sec. 503. City and county classifications.
Sec. 504. Eligible activities.

Sec. 505. Statement of activities and review.
Sec. 506. Alleviation of lakefront flooding and erosion.
Sec. 507. Housing assistance plans.
Sec. 508. Citizen participation plan.
Sec. 509. Conserving neighborhoods and housing by prohibiting displacement.
Sec. 510. Limited new construction of housing under community development block grant program.
Sec. 511. Availability of community development block grants for uniform emergency telephone number systems.
Sec. 512. State certifications for receiving community development block grants for nonentitlement areas.
Sec. 513. Administrative expenses of States distributing funds to nonentitlement areas.
Sec. 514. Community development block grant loan guarantees.
Sec. 515. Urban development action grant selection criteria.
Sec. 516. Prohibition on use of urban development action grants for business relocations.
Sec. 517. Urban homesteading.
Sec. 518. Rehabilitation loans.
Sec. 519. Loan cancellation.
Sec. 520. Neighborhood reinvestment corporation.
Sec. 521. Neighborhood development demonstration program.
Sec. 522. Park Central New Community Project.
Sec. 523. Community development projects labor standards.
Sec. 524. Urban planning.
Sec. 525. Community development technical amendments.

Subtitle B—Flood and Crime Insurance Programs

Sec. 541. Extension of flood insurance program.
Sec. 542. Extension of crime insurance program.
Sec. 543. Studies under national flood insurance program.
Sec. 544. Schedule for payment of flood insurance for structures on land subject to imminent collapse or subsidence.
Sec. 545. Flood and crime insurance technical amendments.

Subtitle C—Miscellaneous Programs

Sec. 561. Fair housing initiatives program.
Sec. 562. Collection of certain data.
Sec. 563. Regulatory authority.
Sec. 564. Research and development.
Sec. 565. Home mortgage disclosure.
Sec. 566. Lead-based paint poisoning prevention.
Sec. 567. Median area income.
Sec. 568. Manufactured housing construction and safety standards.
Sec. 569. Nullification of right of redemption of single-family mortgagors.
Sec. 570. Miscellaneous programs technical amendments.
Sec. 571. Use of American materials and products.
Sec. 572. Study of voluntary standards for modular homes.

TITLE VI—NEHEMIAH HOUSING OPPORTUNITY GRANTS

Sec. 601. Statement of purpose.
Sec. 602. Definitions.
Sec. 603. Assistance to nonprofit organizations.
Sec. 604. Use of assistance.
Sec. 605. Program requirements.
Sec. 606. Terms and conditions of assistance.
Sec. 607. Program selection criteria.
Sec. 608. Distribution of assistance to nonprofit organizations.
Sec. 609. Nehemiah Housing Opportunity Fund.
Sec. 610. Report.
Sec. 611. Regulations.
Sec. 612. Authorization of appropriations.
Sec. 613. Sunset.

TITLE VII—ENTERPRISE ZONE DEVELOPMENT

Sec. 701. Designation of enterprise zones.
Sec. 702. Evaluation and reporting requirements.
Sec. 703. Interaction with other Federal programs.
Sec. 704. Waiver or modification of housing and community development rules in enterprise zones.

Sec. 705. Coordination of housing and urban development programs in enterprise zones.
Sec. 706. Coordination with CDBG and UDAG programs.

SEC. 2. FINDINGS AND PURPOSE.

42 USC 5301 note.

(a) FINDINGS.—The Congress finds that—

(1) for the past 50 years, the Federal Government has taken the leading role in enabling the people of the Nation to be the best housed in the world, and recent reductions in Federal assistance have contributed to a deepening housing crisis for low- and moderate-income families;

(2) the efforts of the Federal Government have included a system of specialized lending institutions, favorable tax policies, construction assistance, mortgage insurance, loan guarantees, secondary markets, and interest and rental subsidies, that have enabled people to rent or buy affordable, decent, safe, and sanitary housing; and

(3) the tragedy of homelessness in urban and suburban communities across the Nation, involving a record number of people, dramatically demonstrates the lack of affordable residential shelter, and people living on the economic margins of our society (lower income families, the elderly, the working poor, and the deinstitutionalized) have few available alternatives for shelter.

(b) PURPOSE.—The purpose of this Act, therefore, is—

(1) to reaffirm the principle that decent and affordable shelter is a basic necessity, and the general welfare of the Nation and the health and living standards of its people require the addition of new housing units to remedy a serious shortage of housing units for all Americans, particularly for persons of low and moderate income;

(2) to make the distribution of direct and indirect housing assistance more equitable by providing Federal assistance for the less affluent people of the Nation;

(3) to provide needed housing assistance for homeless people and for persons of low and moderate income who lack affordable, decent, safe, and sanitary housing; and

(4) to reform existing programs to ensure that such assistance is delivered in the most efficient manner possible.

SEC. 3. BUDGET COMPLIANCE.

42 USC 5301 note.

(a) IN GENERAL.—This Act and the amendments made by this Act may not be construed to provide for new budget authority, budget outlays, or new entitlement authority, for fiscal year 1988 in excess of the appropriate aggregate levels established by the concurrent resolution on the budget for such fiscal year for the programs authorized by this Act and the amendments made by this Act.

(b) DEFINITIONS.—For purposes of this section, the terms "budget authority", "budget outlays", "concurrent resolution on the budget", and "entitlement authority" have the meanings given such terms in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622).

SEC. 4. CREDIT LIMITATION.

42 USC 5301 note.

Any new credit authority (as defined in section 3 of the Congressional Budget Act of 1974) which is provided by this Act, or by an amendment made by this Act, shall be effective only to such extent or in such amounts as are provided in appropriation Acts.

42 USC 5301 note.

SEC. 5. LIMITATION ON SPENDING AUTHORITY.

Any new spending authority (as defined in section 401(c) of the Congressional Budget Act of 1974) which is provided by this Act, or by an amendment made by this Act, shall be effective only to such extent or in such amounts as are provided in appropriation Acts.

TITLE I—HOUSING ASSISTANCE

Subtitle A—Programs Under United States Housing Act of 1937

PART 1—GENERAL PROVISIONS

SEC. 101. LOWER INCOME HOUSING AUTHORIZATION.

42 USC 1437c.

(a) AGGREGATE BUDGET AUTHORITY.—Section 5(c)(6) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for contracts for annual contributions for assistance under section 8, for contracts referred to in paragraphs (7)(A)(iv) and (7)(B)(iv), for grants for public housing, for comprehensive improvement assistance, and for amendments to existing contracts, is increased (to the extent approved in appropriation Acts) by $7,167,000,000 on October 1, 1987, and by $7,300,945,000 on October 1, 1988.".

(b) UTILIZATION OF BUDGET AUTHORITY.—Section 5(c)(7) of the United States Housing Act of 1937 is amended to read as follows:

"(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1988, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $481,320,000, of which amount not more than $144,696,000 shall be available for Indian housing;

"(ii) for assistance under subsections (b)(1) and (o) of section 8, not more than $2,415,000,000;

"(iii) for assistance under section 8(e)(2), not more than $400,000,000;

"(iv) for assistance under section 8 in connection with projects developed under section 202 of the Housing Act of 1959, not more than $1,681,830,000;

"(v) for comprehensive improvement assistance grants under section 14, not more than $1,700,000,000;

"(vi) for assistance under section 8 for property disposition, not more than $301,700,000; and

"(vii) for assistance under section 8 for loan management, not more than $187,150,000.

"(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1989, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $490,465,000, of which amount not more than $147,445,000 shall be available for Indian housing;

"(ii) for assistance under subsections (b)(1) and (o) of section 8, not more than $2,458,660,000;

"(iii) for assistance under section 8(e)(2), not more than $407,600,000;

"(iv) for assistance under section 8 in connection with projects developed under section 202 of the Housing Act of 1959, not more than $1,713,785,000;

"(v) for comprehensive improvement assistance grants under section 14, not more than $1,732,300,000;

"(vi) for assistance under section 8 for property disposition, not more than $307,430,000; and

"(vii) for assistance under section 8 for loan management, not more than $190,705,000.

"(C)(i) Any amount available for the conversion of a project to assistance under section 8(b)(1), if not required for such purpose, shall be used for assistance under section 8(b)(1).

"(ii) Any amount available for assistance under section 8 for property disposition, if not required for such purpose, shall be used for assistance under section 8(b)(1).".

SEC. 102. TENANT RENTAL CONTRIBUTIONS.

(a) Economic Rent.—Section 3(a) of the United States Housing Act of 1937 is amended— 42 USC 1437a.

(1) by inserting "(1)" after "(a)";

(2) in the last sentence, by striking "A" and inserting the following: "Except as provided in paragraph (2), a";

(3) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively; and

(4) by adding at the end the following new paragraph:

"(2)(A) Any public housing agency may provide that each family residing in a public housing project owned and operated by such agency (or in lower income housing assisted under section 8 that contains more than 2,000 dwelling units) shall pay as monthly rent for not more than a 3-year period an amount determined by such agency to be appropriate that does not exceed a maximum amount that—

"(i) is established by such agency and approved by the Secretary;

"(ii) is not more than the amount payable as rent by such family under paragraph (1); and

"(iii) is not less than the average monthly amount of debt service and operating expenses attributable to dwelling units of similar size in public housing projects owned and operated by such agency.

Indians.

"(B) The 3-year limitation established in subparagraph (A) shall not apply to any family residing in a public housing project administered by an Indian public housing agency.".

Reports.

(b) Utility Allowance.—

(1) The Comptroller General of the United States shall submit to the Congress not later than October 30, 1988, a report regarding the utility allowances provided to the residents of public housing and housing assisted under section 8 of the United States Housing Act of 1937.

(2) The report shall include the following:

(A) A description of the manner in which public housing agencies are currently calculating utility allowances, including a national survey of the calculation methods used.

(B) An estimate of the number of residents of public housing and housing assisted under section 8 of the United States Housing Act of 1937 paying more than 30 percent of monthly adjusted income for rent and utilities, including a separate estimate for each meter category.

(C) Recommendations for revisions that may be made in current law to ensure that—

(i) utility allowances will not differ solely because of the metering system of the dwelling unit;

(ii) residents of public housing and housing assisted under section 8 of the United States Housing Act of 1937 will not pay more than 30 percent of monthly adjusted income for rent and utilities; and

Energy.

(iii) such residents will have a strong incentive to conserve energy and reduce utility costs, and residents who waste substantial amounts of energy will be penalized.

(D) A description of administratively feasible methods of ensuring that utility allowances will reflect differences in the size, location, and energy-conserving condition of different types of dwelling units and appliances.

(E) An estimate of the costs that will be associated with any recommendation made under subparagraph (C).

(3) In preparing the report under this subsection, the Comptroller General shall consult with the Secretary of Housing and Urban Development, other appropriate Federal officials, other knowledgeable individuals, and national and other organizations representing public housing agencies, local governments, tenants, and energy conservation interests.

SEC. 103. INCOME ELIGIBILITY FOR ASSISTED HOUSING.

42 USC 1437n.

(a) Implementation of Percentage Limitations.—Section 16 of the United States Housing Act of 1937 is amended by adding at the end the following:

"(c) In developing admission procedures implementing subsection (b), the Secretary may not totally prohibit admission of lower income families other than very low-income families, and shall establish, as appropriate, differing percentage limitations on admission of lower income families in separate assisted housing programs that, when aggregated, will achieve the overall percentage limitation contained in subsection (b). The Secretary shall issue regulations to carry out this subsection not later than 60 days after the date of the enactment of the Housing and Community Development Act of 1987.".

Regulations.

(b) Exemptions from Percentage Limitations.—Section 16 of the United States Housing Act of 1937 (as amended by subsection (a) of this section) is further amended by adding at the end the following new subsection:

Contracts.
Grants.

"(d)(1) The limitations established in subsection (b) shall not apply to dwelling units made available under section 8 housing assistance contracts for the purpose of preventing displacement, or ameliorating the effects of displacement, including displacement caused by rents exceeding 30 percent of monthly adjusted family income, of lower income families from projects being rehabilitated with assistance from rehabilitation grants under section 17 and the Secretary shall not otherwise unduly restrict the use of payments under section 8 housing assistance contracts for this purpose.

"(2) The limitations established in subsections (a) and (b) shall not apply to dwelling units assisted by Indian public housing agencies.". Indians.

PART 2—PUBLIC HOUSING

SEC. 111. DISCRETIONARY PREFERENCE FOR NEAR ELDERLY FAMILIES IN PUBLIC HOUSING PROJECTS DESIGNED FOR THE ELDERLY.

Section 3(b)(3) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "In determining priority for admission to public housing projects designed for elderly families, the public housing agency shall give preference to such families. When the public housing agency determines (in accordance with regulations of the Secretary) that there are insufficient numbers of elderly families to fill all the units in such a project, the agency may give preference to families in which the head of household (or spouse) is at least 50 years of age but below the age of 62 before those in which the head of household and spouse, if any, are below the age of 50.". 42 USC 1437a.

SEC. 112. GRANTS FOR PUBLIC HOUSING DEVELOPMENT.

(a) Authority To Provide Grants.—Section 5(a) of the United States Housing Act of 1937 is amended to read as follows: 42 USC 1437c.

"(a)(1) The Secretary may make annual contributions to public housing agencies to assist in achieving and maintaining the lower income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the public housing agency to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by a public housing agency to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed 40 years. Contracts.

"(2) The Secretary may make contributions (in the form of grants) to public housing agencies to cover the development cost of public housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains, and that the terms and conditions of such contract shall remain in effect for a 40-year period. Grants. Contracts.

"(3) The amount of contributions that would be established for a newly constructed project by a public housing agency designed to accommodate a number of families of a given size and kind may be established under this section for a project by such public housing agency that would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures that are suitable for lower income housing use and obtained in the local market.".

(b) Conforming Amendments.—

(1) Section 5 of the United States Housing Act of 1937 is amended—

(A) by striking "ANNUAL" in the section heading; and

(B) by striking "annual" in subsection (e)(2).

42 USC 1437d. (2) Section 6 of the United States Housing Act of 1937 is amended by striking "annual" the first place it appears in the first sentence of subsection (g), and each place it appears in subsection (d) and the first sentence of each of subsections (a) and (c).

42 USC 1437e. (3) Section 7 of the United States Housing Act of 1937 is amended by striking "annual" in the proviso in the first sentence.

42 USC 1437g. (4) Section 9(a)(2) of the United States Housing Act of 1937 is amended—

(A) by striking "being assisted by an annual contributions contract authorized by section 5(c)" and inserting the following: "one developed pursuant to a contributions contract authorized by section 5"; and

(B) by striking "any such annual" and inserting "any such".

42 USC 1437j. (5) Section 12 of the United States Housing Act of 1937 is amended by striking "annual".

42 USC 1437*l*. (6) Section 14 of the United States Housing Act of 1937 is amended—

(A) by striking "receive assistance under section 5(c)" in subsection (c)(2) and inserting "assisted under section 5"; and

(B) by striking "annual" in each of paragraphs (2) and (4)(C) of subsection (d).

42 USC 1437m. (7) Section 15 of the United States Housing Act of 1937 is amended by striking "with loans or debt service annual contributions" in clause (2).

42 USC 1437n. (8) Section 16(b) of the United States Housing Act of 1937 is amended by striking "annual".

42 USC 1437p. (9) Section 18(c) of the United States Housing Act of 1937 is amended by striking "annual contributions authorized under section 5(c)" and inserting "contributions authorized under section 5".

SEC. 113. LIMITATION ON PUBLIC HOUSING DEVELOPMENT AND ASSURANCE OF PUBLIC HOUSING QUALITY STANDARDS.

42 USC 1437c. Section 5 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(j)(1) After September 30, 1987, in providing assistance under this Act to a public housing agency for public housing (other than for Indian families), the Secretary shall reserve funds for the development of public housing only if—

"(A) the Secretary determines that additional amounts are required to complete the development of dwelling units for which amounts are obligated on or before such date;

"(B) the public housing agency certifies to the Secretary that 85 percent of the public housing dwelling units of the public housing agency—

"(i) are maintained in substantial compliance with the housing quality standards established by the Secretary under section 8(o)(6);

"(ii) will be so maintained upon completion of modernization for which funding has been awarded; or

"(iii) will be so maintained upon completion of modernization for which applications are pending that have been submitted in good faith under section 14 (or a comparable

State or local government program) and that there is a reasonable expectation, as determined by the Secretary in writing, that the applications would be approved;

"(C) the public housing agency certifies that such development—

"(i) will replace dwelling units that are disposed of or demolished by the public housing agency, including dwelling units disposed of or lost through sale to tenants or through units redesign; or

"(ii) is required to comply with court orders or directions of the Secretary;

"(D) the public housing agency certifies that it has demands for family housing not satisfied by the rental assistance programs established in subsection (b) or (o) of section 8 for which it plans to construct or acquire projects of not more than 100 units; or

"(E) the Secretary makes such reservation under paragraph (2).

"(2) Notwithstanding any other provision of law, not more than 20 percent of the funds appropriated for development of public housing also may be committed by the Secretary for the substantial redesign, reconstruction, or redevelopment of existing public housing projects or units, which work shall be carried out pursuant to the rules and regulations applicable to the development of public housing.".

SEC. 114. LIMITATION ON RECAPTURE OF FUNDING RESERVATIONS.

Section 5 of the United States Housing Act of 1937 (as amended by section 113 of this Act) is further amended by adding at the end the following new subsection:

"(k) After the reservation of public housing development funds to a public housing agency, the Secretary may not recapture any of the amounts included in such reservation due to the failure of a public housing agency to begin construction or rehabilitation, or to complete acquisition, during the 30-month period following the date of such reservation. During such 30-month period, the public housing agency shall be permitted to change the site of the public housing project or reformulate the project, if not less than the original number of dwelling units are to be constructed, rehabilitated, or acquired. There shall be excluded from the computation of such 30-month period any delay in the beginning of construction or rehabilitation of such project caused by (1) the failure of the Secretary to process such project within a reasonable period of time; (2) any environmental review requirement; (3) any legal action affecting such project; or (4) any other factor beyond the control of the public housing agency.".

SEC. 115. INDIAN PUBLIC HOUSING.

Section 5 of the United States Housing Act of 1937 (as amended by section 114 of this Act) is further amended by adding at the end the following new subsection:

"(l) The Secretary may not use as a criterion for distributing assistance under this section the progress made by an Indian public housing agency in collecting rents owed by tenants unless—

"(1) such criterion is used as 1 of several criteria that are weighted proportionally and is established by regulations issued after public notice and opportunity to comment in accordance with section 553 of title 5, United States Code; or Regulations.

"(2) the Secretary determines that the Indian public housing agency has demonstrated a pattern of substantial noncompliance with requirements governing the collection of rents.".

SEC. 116. LOCATION OF ACQUIRED HOUSING.

42 USC 1437d.

Section 6(h) of the United States Housing Act of 1937 is amended—

(1) by inserting before "is" the following: "in the neighborhood where the public housing agency determines the housing is needed"; and

(2) by inserting "in such neighborhood" after "rehabilitation".

SEC. 117. PUBLIC HOUSING CHILD CARE GRANTS.

12 USC 1701z-6 note.

Section 222 of the Housing and Urban-Rural Recovery Act of 1983 is amended to read as follows:

"PUBLIC HOUSING CHILD CARE DEMONSTRATION PROGRAM

"SEC. 222. (a) PROGRAM AUTHORITY.—

"(1) The Secretary of Housing and Urban Development shall, to the extent approved in appropriation Acts, carry out a demonstration program of making grants to nonprofit organizations to assist such organizations in providing child care services in lower income housing projects for lower income families who reside in public housing.

"(2) The Secretary shall design the program described in paragraph (1) to determine the extent to which the availability of child care services in lower income housing projects facilitates the employability of the parents or guardians of children residing in public housing.

"(b) ELIGIBILITY FOR ASSISTANCE.—The Secretary may make a grant to a nonprofit organization for child care services in a lower income housing project only if—

"(1) prior to receipt of assistance under this section, a child care services program is not in operation in the project;

"(2) the public housing agency agrees to provide suitable facilities for the provision of child care services;

"(3) the child care services program in the project will serve preschool children during the day, school children after school, or both, in order to permit the parents or guardians of such children to obtain, retain, or train for employment;

"(4) the child care services program in the project is designed, to the extent practicable, to involve the participation of the parents of children benefiting from such program;

Aged persons.

"(5) the child care services program in the project is designed, to the extent practicable, to employ in part-time positions elderly individuals who reside in the lower income housing project involved; and

"(6) the child care services program in the project complies with all applicable State and local laws, regulations, and ordinances.

"(c) ALLOCATION OF ASSISTANCE.—In providing grants under this section, the Secretary shall—

"(1) give priority to nonprofit organizations providing child care services in lower income housing projects in which reside the largest number of preschool and school children of lower income families;

"(2) seek to ensure a reasonable distribution of such grants between urban and rural areas and among nonprofit organizations providing child care services in lower income housing projects of varying sizes; and

"(3) seek to provide such grants to the largest number of nonprofit organizations practicable, considering the amount of funds available under this section and the financial requirements of the particular child care services programs to be established in the lower income housing projects for which applications are submitted under this section.

"(d) Administrative Provisions.—

"(1) Applications for grants under this section shall be made by nonprofit organizations (in consultation with public housing agencies) in such form, and according to such procedures, as the Secretary may prescribe.

"(2) Any nonprofit organization receiving a grant under this section may use such grant only for operating expenses and minor renovations of facilities necessary to the provision of child care services under this section.

"(3) The Secretary shall conduct periodic evaluations of each child care services program assisted under this section for purposes of—

"(A) determining the effectiveness of such program in providing child care services and permitting the parents or guardians of children residing in public housing to obtain, retain, or train for employment; and

"(B) ensuring compliance with the provisions of this section.

"(4) No provision of this section may be construed to authorize the Secretary to establish any health, safety, educational, or other standards with respect to child care services or facilities assisted with grants received under this section. Such services and facilities shall comply with all applicable State and local laws, regulations, and ordinances, and all requirements established by the Secretary of Health and Human Services for child care services and facilities.

"(e) Report to Congress.—Not later than the expiration of the 3-year period following the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall prepare and submit to the Congress a detailed report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program established in this section. Such report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of assisting child care services in lower income housing projects.

"(f) Definitions.—For purposes of this section:

"(1) The term 'lower income families' has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

"(2) The terms 'lower income housing project' and 'public housing' have the meanings given such terms in section 3(b)(1) of the United States Housing Act of 1937.

"(3) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(4) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(g) Authorization of Appropriations.—Of the total amount approved in appropriation Acts under section 103 of the Housing and Community Development Act of 1974, there shall be set aside to carry out this section $5,000,000 for fiscal year 1988 and $5,210,000 for fiscal year 1989.".

SEC. 118. PAYMENTS FOR OPERATION OF LOWER INCOME HOUSING PROJECTS.

(a) Performance Funding System.—Section 9(a) of the United States Housing Act of 1937 is amended— 42 USC 1437g.

(1) by striking the last sentence of paragraph (1); and

(2) by adding at the end the following new paragraph:

"(3)(A) For purposes of making payments under this section, the Secretary shall utilize a performance funding system that is substantially based on the system defined in regulations and in effect on the date of the enactment of the Housing and Community Development Act of 1987 (as modified by this paragraph), and that establishes standards for costs of operation and reasonable projections of income, taking into account the character and location of the project and the characteristics of the families served, in accordance with a formula representing the operations of a prototype well-managed project. Such performance funding system shall be established in consultation with public housing agencies and their associations, be contained in a regulation promulgated by the Secretary prior to the start of any fiscal year to which it applies, and remain in effect for the duration of such fiscal year without change. Notwithstanding the preceding sentences, the Secretary shall revise the performance funding system by June 15, 1988, to accurately reflect the increase in insurance costs incurred by public housing agencies. Insurance.

"(B) Under the performance funding system established under this paragraph—

"(i) in the first year that the reductions occur, any public housing agency shall share equally with the Secretary any cost reductions due to the differences between projected and actual utility rates attributable to actions taken by the agency which lead to such reductions;

"(ii) in the case of any public housing agency that receives financing (from a person other than the Secretary) or enters into a performance contract to undertake energy conservation improvements in a public housing project, under which payment does not exceed the cost of the energy saved as a result of the improvements during a negotiated contract period of not more than 12 years that is approved by the Secretary— Contracts. Energy. Utilities.

"(I) the public housing agency shall retain 100 percent of any cost avoidance due to differences between projected and actual utility consumption (adjusted for heating degree days) attributable to the improvements, until the term of the financing agreement is completed, at which time the annual utility expense level 3-year rolling base procedures shall be applied using—

"(a) in the first year following the end of the contract period, the energy use during the 2 years prior to installation of the energy conservation improvements and the last contract year;

"(b) in the second year following the end of the contract period, the energy use during the 1 year prior to installation of the energy conservation improvements and the 2 years following the end of the contract period; and

"(c) in the third year following the end of the contract period, the energy use in the 3 years following the end of the contract period; or

"(II) the Secretary shall provide an additional operating subsidy above the current allowable utility expense level equivalent to the cost of the energy saved as a result of the improvements and sufficient to cover payments for the improvements through the term of the contract or agreement;

"(iii) there shall be a formal review process for the purpose of providing such revisions (either increases or reductions) to the allowable expense level of a public housing agency as necessary—

"(I) to correct inequities and abnormalities that exist in the base year expense level of such public housing agency;

"(II) to accurately reflect changes in operating circumstances since the initial determination of such base year expense level; and

"(III) to ensure that the allowable expense limit accurately reflects the higher cost of operating the project in an economically distressed unit of local government and the lower cost of operating the project in an economically prosperous unit of local government; and

"(iv) if a public housing agency redesigns or substantially rehabilitates a public housing project so that 2 or more dwelling units are combined to create a single larger dwelling unit, the payments received under this section shall not be reduced solely because of the resulting reduction in the number of dwelling units if not less than the same number of individuals will reside in the new larger dwelling unit as resided in the dwelling units that were combined to form such larger dwelling unit.".

(b) Authorization of Appropriations.—Section 9(c) of the United States Housing Act of 1937 is amended to read as follows: 42 USC 1437g.

"(c) There are authorized to be appropriated for purposes of providing annual contributions under this section $1,500,000,000 for fiscal year 1988 and $1,530,000,000 for fiscal year 1989.".

(c) Time of Payment.—Section 9 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(e) In the case of any public housing agency that submits its budget for any fiscal year of such agency to the Secretary in a timely manner in accordance with the regulations issued by the Secretary under this section, assistance to be provided to such agency under this section for such fiscal year shall commence not later than the 1st month of such fiscal year, and shall be paid in accordance with such payment schedule as may be agreed upon by the Secretary and such agency.".

(d) Use of Operating Subsidies To Remedy PHA Noncompliance With Audit Responsibilities.—Section 9(a)(1) of the United States Housing Act of 1937 is amended by adding at the end the following new sentences: "If the Secretary determines that a public housing agency has failed to take the actions required to submit an acceptable audit on a timely basis in accordance with chapter 75 of title 31, United States Code, the Secretary may arrange for, and pay the costs of, the audit. In such circumstances, the Secretary may withhold, from assistance otherwise payable to the agency under this section, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, when appropriate, the reasonable costs of accounting services necessary to place the agency's books and records in auditable condition.".

SEC. 119. COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM.

42 USC 1437*l* note.

(a) Purpose of Amendments.—It is the purpose of the amendments made by this section—

(1) to provide assistance on a reliable and more predictable basis to public housing agencies in furtherance of their plans to enable them to operate, upgrade, modernize, and rehabilitate public housing projects financed under the United States Housing Act of 1937 to ensure their continued availability for the benefit of lower income families as decent, safe, and sanitary rental housing at affordable rents;

(2) to provide considerable discretion to public housing agencies to decide the specific improvements, the manner of their execution, and the timing of the expenditure of funds in the modernization of projects under section 14 of the United States Housing Act of 1937;

(3) to significantly simplify the program of Federal assistance for capital improvements in public housing projects;

(4) to provide increased opportunities and incentives for more efficient management of public housing projects; and

(5) to afford public housing agencies greater control in planning and expending funds under the United States Housing Act of 1937 for the modernization, rehabilitation, maintenance, and improvement of public housing projects to benefit lower income families.

42 USC 1437*l*.

(b) Authority To Provide Financial Assistance.—Section 14(b) of the United States Housing Act of 1937 is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end the following new paragraph:

Grants.
Contracts.

"(2) The Secretary may make contributions (in the form of grants) to public housing agencies under this section. The contract under which the contributions shall be made shall specify that the terms and conditions of the contract shall remain in effect for a 20-year period for any project receiving the benefit of a grant under the contract.".

(c) Applications by PHA's Managing Less Than 500 Units.—Section 14(d) of the United States Housing Act of 1937 is amended in the matter preceding paragraph (1) by inserting after "subsection (b)" the following: "to a public housing agency that owns or operates less than 500 public housing dwelling units".

(d) Comprehensive Plans.—Section 14 of the United States Housing Act of 1937 is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) No financial assistance may be made available under this section to a public housing agency that owns or operates 500 or more public housing dwelling units unless the Secretary approves (or has approved before the effective date of this subsection) a 5-year comprehensive plan submitted by the public housing agency, except that the Secretary may provide such assistance if it is necessary to correct conditions that constitute an immediate threat to the health or safety of tenants. The comprehensive plan shall contain—

"(A) a comprehensive assessment of—

"(i) the current physical condition of each public housing project owned or operated by the public housing agency;

"(ii) the physical improvements necessary for each such project to permit the project—

"(I) to be rehabilitated to a level at least equal to the modernization standards specified in the Modernization Handbook of the Department of Housing and Urban Development in effect on the date of the enactment of the Housing and Community Development Act of 1987, as well as the modernization standards established by the Secretary and in effect at the time of the preparation of the comprehensive plan; and

Energy.

"(II) to comply with life-cycle cost-effective energy conservation performance standards established by the Secretary to reduce operating costs over the estimated life of the building; and

"(iii) the replacement needs of equipment systems and structural elements that will be required to be met (assuming routine and timely maintenance is performed) during the 5-year period covered by the comprehensive plan;

"(B) a comprehensive assessment of the improvements needed to upgrade the management and operation of the public housing agency and of each such project so that decent, safe, and sanitary living conditions will be provided such projects, which assessment shall include at least an identification of needs related to—

"(i) the management, financial, and accounting control systems of the public housing agency that are related to such projects;

"(ii) the adequacy and qualifications of personnel appropriate to be employed by the public housing agency (in the management and operation of such projects) for each significant category of employment; and

"(iii) the improvement of the efficacy of—

"(I) tenant programs and services in such projects;

"(II) the security of each such project and its tenants;

"(III) policies and procedures of the public housing agency for the selection and eviction of tenants in such projects; and

"(IV) other policies and procedures of the public housing agency relating to such projects, as specified by the Secretary;

"(C) an analysis, made on a project-by-project basis in accordance with standards and criteria prescribed by the Secretary, demonstrating that completion of the improvements and replacements identified under subparagraphs (A) and (B) will reasonably ensure the long-term physical and social viability of each such project at a reasonable cost;

"(D) an action plan for making the improvements and replacements identified under subparagraphs (A) and (B) that are determined under the analysis described in subparagraph (C) to reasonably ensure long-term viability of each such project at a reasonable cost, which action plan shall include at least a schedule, in order of priority established by the public housing agency, of the actions that are to be completed over a period of 5 years from the date of approval of the comprehensive plan by the Secretary (or any longer period reasonably needed to make the improvements and replacements, considering the scope of the improvements and replacements and the amount of funding provided) and that are necessary—

"(i) to make the improvements and replacements identified under subparagraph (A) for each project expected to receive capital improvements or replacements (with priority to improvements and replacements required to correct any life threatening condition); and

"(ii) to upgrade the management and operation of the public housing agency and its public housing projects as described in subparagraph (B);

State and local governments.
Indians.

"(E) a statement, to be signed by the chief local government official (or Indian tribal official, if appropriate), certifying that—

"(i) the comprehensive plan was developed by the public housing agency in consultation with appropriate local government officials (or Indian tribal officials) and with tenants of the housing projects (or tenants of the Indian housing projects) eligible for assistance under this section, which shall include at least one public hearing that shall be held prior to the initial adoption of any plan by the public housing agency for use of such assistance, and afford tenants and interested parties an opportunity to summarize their priorities and concerns, to ensure their due consideration in the planning process of the public housing agency; and

"(ii) the comprehensive plan is consistent with the assessment of the community of its lower income housing needs and that the unit of general local government (or Indian tribe) will cooperate in the provision of tenant programs and services (as defined in section 3(c)(2));

"(F) a statement, to be signed by the chief public housing official, certifying that the public housing agency will carry out the comprehensive plan in conformity with title VI of the Civil Rights Act of 1964, title VIII of the Act of April 11, 1968 (commonly known as the Civil Rights Act of 1968), and section 504 of the Rehabilitation Act of 1973;

"(G) a preliminary estimate of the total cost of the items identified in subparagraphs (A) and (B), including a preliminary estimate of the funds that will be required during each year covered by the comprehensive plan to accomplish the work pursuant to the action plan; and

"(H) such other information as the Secretary may require.

"(2)(A) The Secretary shall approve a comprehensive plan unless—

"(i) the comprehensive plan is incomplete in significant matters;

"(ii) on the basis of available significant facts and data pertaining to the physical and operational condition of the public housing projects of the public housing agency or the management and operations of the public housing agency, the Secretary determines that the identification by the public housing agency of needs is plainly inconsistent with such facts and data;

"(iii) on the basis of the comprehensive plan, the Secretary determines that the action plan described in paragraph (1)(D) is plainly inappropriate to meeting the needs identified in the comprehensive plan, or that the public housing agency has failed to demonstrate that completion of improvements and replacements identified under subparagraphs (A) and (B) of paragraph (1) will reasonably ensure long-term viability of one or more public housing projects to which they relate at a reasonable cost; or

"(iv) there is evidence available to the Secretary that tends to challenge in a substantial manner any certification contained in the comprehensive plan.

"(B) The comprehensive plan shall be considered to be approved, unless the Secretary notifies the public housing agency in writing within 75 calendar days of submission that the Secretary has disapproved the comprehensive plan as submitted, indicating the reasons for disapproval and modifications required to make the comprehensive plan approvable.

"(3)(A) Each public housing agency that owns or operates 500 or more public housing dwelling units shall, after being advised by the Secretary of the estimated assistance it will receive under this section in any fiscal year, submit to the Secretary, at a date determined by the Secretary, an annual statement of the activities and expenditures projected to be undertaken, in whole or in part, by such assistance during the 12-month period immediately following the execution of the contract for such assistance. The Secretary, in establishing the funding for a public housing agency for any fiscal year, shall review the relative needs for restoring public housing shown by the approved comprehensive plans in the regional or area office of the Department of Housing and Urban Development for such agency. As long as the activities and expenditures are consistent with the approved plan, the public housing agency shall have total discretion in expending assistance for any activity or work set forth in the plan. The annual statement shall include a certification by the public housing agency that the proposed activities and expenditures are consistent with the approved comprehensive plan of the public housing agency. The annual statement also shall include a certification that the public housing agency has provided the tenants of the public housing affected by the planned activities the opportunity to review the annual statement and comment on it, and that such comments have been taken into account in formulating the annual statement as submitted to the Secretary.

"(B) A public housing agency may propose an amendment to its comprehensive plan under paragraph (1) in any annual statement. Any such proposed amendment shall be reviewed in accordance with paragraph (2), and shall include a certification that (i) the proposed amendment has been made publicly available for comment prior to its submission; (ii) affected tenants have been given sufficient time to review and comment on it; and (iii) such comments have been taken into consideration in the preparation and submission of the amendment. A public housing agency shall have a right to amend its comprehensive plan and related statements to extend the time for performance whenever the Secretary has not provided the amount of assistance set forth in the plan or has not provided the assistance in a timely manner.

"(C) The Secretary shall approve the annual statement and any amendment to it or the comprehensive plan unless the Secretary determines that the statement or amendment is plainly inconsistent with the activities specified in the comprehensive plan. The statement or amendment shall be considered to be approved, unless the Secretary notifies the public housing agency in writing before the expiration of the 75-day period following its submission that the Secretary has disapproved it as submitted, indicating the reasons for disapproval and the modifications required to make it approvable.

Reports.

"(4)(A) Each public housing agency that owns or operates 500 or more public housing dwelling units shall submit to the Secretary, on a date determined by the Secretary, a performance and evaluation report concerning the use of funds made available under this section. The report of the public housing agency shall include an assessment by the public housing agency of the relationship of such use of funds made available under this section, as well as the use of other funds, to the needs identified in the comprehensive plan of the public housing agency and to the purposes of this section. The public housing agency shall certify that the report has been made available for review and comment by affected tenants prior to its submission to the Secretary.

"(B) The Secretary shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine whether each public housing agency receiving assistance under this section—

"(i) has carried out its activities under this section in a timely manner and in accordance with its comprehensive plan;

"(ii) has a continuing capacity to carry out its comprehensive plan in a timely manner;

"(iii) has satisfied, or has made reasonable progress towards satisfying, such performance standards as shall be prescribed by the Secretary, and has made reasonable progress in carrying out modernization projects approved under this section.

"(C) Each public housing agency that owns or operates 500 or more public housing dwelling units and receives assistance under this section shall have an audit made in accordance with chapter 75 of title 31, United States Code. The Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States shall have access to all books, documents, papers, or other records that are pertinent to the activities carried out under this section in order to make audit examinations, excerpts, and transcripts.

"(D) The comprehensive plan, any amendments to the comprehensive plan, and the annual statement shall, once approved by the Secretary, be binding upon the Secretary and the public housing agency. The Secretary may order corrective action only if the public housing agency does not comply with subparagraph (A) or (B) or if an audit under subparagraph (C) reveals findings that the Secretary reasonably believes require such corrective action. The Secretary may withhold funds under this section only if the public housing agency fails to take such corrective action after notice and a reasonable opportunity to do so. In administering this section, the Secretary shall, to the greatest extent possible, respect the professional judgment of the administrators of the public housing agency.".

42 USC 1437*l*.

(e) Eligible Costs.—Section 14(f) of the United States Housing Act of 1937 (as so redesignated by this section) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the matter preceding paragraph (1), by inserting after "public housing agency" the following: "that owns or operates less than 500 public housing dwelling units";

(3) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D); and

(4) by adding at the end the following new paragraph:

"(2) A public housing agency that owns or operates 500 or more public housing dwelling units may use financial assistance received under subsection (b) only—

"(A) to undertake activities described in its approved comprehensive plan under subsection (e)(1) or its annual statement under subsection (e)(3);

Health and medical care. Safety.

"(B) to correct conditions that constitute an immediate threat to the health or safety of tenants and to meet special purpose needs described in section 14(i)(1)(D), whether or not the need for such correction is indicated in its comprehensive plan or annual statement; and

Reports.

"(C) to prepare a comprehensive plan under subsection (e)(1), including reasonable costs that may be necessary to assist tenants in participating in the planning process in a meaningful way, an annual statement under subsection (e)(3), an annual performance and evaluation report under subsection (e)(4)(A), and an audit under subsection (e)(4)(C).".

42 USC 1437*l*.

(f) ALLOCATION OF ASSISTANCE.—Section 14 of the United States Housing Act is amended by adding at the end the following new subsection:

"(k)(1) Until the Congress establishes by law a revised method for allocating assistance under this section, assistance shall be allocated under this section in substantial accordance with the allocation method in effect on the date of the enactment of the Housing and Community Development Act of 1987.

"(2) Not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall—

"(A) complete the study of the need for public housing modernization initiated pursuant to the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45) and any other studies that are necessary to evaluate the current condition and capital requirements of public housing as well as the future need for rehabilitation and replacement of public housing facilities;

"(B) submit to the Congress proposed methods for determining the relative allocation of funds between activities to correct existing deficiencies and the annual accrual of resources to meet future needs;

"(C) submit to the Congress proposed alternatives for allocating funds among public housing agencies to correct existing deficiencies, including formulas for distributing funds to public housing agencies, to regional and field offices of the Department of Housing and Urban Development, or to States, as well as such other allocation methods as the Secretary may wish to recommend;

"(D) provide the Congress with—

"(i) an analysis of data and other information used to develop recommendations for measuring existing deficiencies, future needs, and anticipated emergencies;

"(ii) an analysis of the bases underlying each of the proposed allocation methods; and

"(iii) a comparison of proposed allocations to previous allocations under this section;

"(E) propose to the Congress criteria for distinguishing capital replacement activities that are routine from those that are not routine;

"(F) propose to the Congress alternative methods—

"(i) to allocate funds to public housing agencies to meet predictable routine modernization and regular capital replacement expenses; and

"(ii) provide for unpredictable, infrequent, or extraordinary future capital replacement needs through a fund administered on a national, regional, State, or local level or through such other methods as the Secretary may recommend;

"(G) consult at least on a quarterly basis with organizations and individuals representing public housing agencies, local government, and tenants regarding progress on the studies referred to in subparagraph (A) and the development of alternatives for improving this section; and

"(H) estimate, for not less than the 200 largest public housing agencies, the amount that will be received annually under each such alternative allocation system and compare such amounts to funds received in prior years under this section.".

(g) ANNUAL REPORT.—Section 14 of the United States Housing Act (as amended by subsection (f) of this section) is further amended by adding at the end the following new subsection:

"(l) The Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act—

"(1) a description of the allocation, distribution, and use of assistance under this section on a regional basis and on the basis of public housing agency size; and

"(2) a national compilation of the total funds requested in comprehensive plans for all public housing agencies owning or operating 500 or more public housing dwelling units.".

(h) REGULATIONS.—Section 14 of the United States Housing Act (as amended by subsection (g) of this section) is further amended by adding at the end the following new subsection:

"(m) Subject to subsection (k)(1), the Secretary may issue any regulations that are necessary to carry out this section.".

(i) CONFORMING AMENDMENTS.—

(1) Section 14(d) of the United States Housing Act of 1937 is amended in the matter preceding paragraph (1) by striking "subsection (e)(4)" and inserting "subsection (f)(4)".

(2) Section 14(i)(1) of the United States Housing Act of 1937 is amended in the matter preceding subparagraph (A) by inserting "(f)," after "(e),".

(3) Section 14(f) of the United States Housing Act of 1937 (as so redesignated by this section) is amended by striking "annual".

(4) Section 14(g) of the United States Housing Act of 1937 is amended by inserting "or (e)" after "subsection (d)(4)".

(5) Section 14(h)(2) of the United States Housing Act of 1937 is amended by inserting "or (e)" after "subsection (d)(4)".

(6) Section 14(i) of the United States Housing Act of 1937 is amended by striking "subsections (c), (d), (e), (g), and (h)" and inserting "subsections (c) through (h)". 42 USC 1437*l*.

SEC. 120. COMPREHENSIVE IMPROVEMENT ASSISTANCE SPECIAL PURPOSE NEEDS.

Section 14(i)(1)(D) of the United States Housing Act of 1937 is amended—

(1) by inserting "(i)" after "(D)";

(2) by redesignating clauses (i) and (ii) and clauses (I) and (II), respectively;

(3) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new clause:

"(ii) physical improvement needs eligible under this subparagraph shall include replacing or repairing major equipment systems or structural elements, upgrading security, increasing accessibility for elderly families and handicapped families (as such terms are defined in section 3(b)(3)), reducing the number of vacant substandard units, and increasing the energy efficiency of the units, except that the Secretary may make financial assistance available under this clause only if the Secretary determines that the physical improvements are necessary and sufficient to extend substantially the useful life of the project.".

SEC. 121. PUBLIC HOUSING DEMOLITION AND DISPOSITION.

(a) Determination of Infeasibility of Modifications.—Section 18(a)(1) of the United States Housing Act of 1937 is amended by striking "or" after "purposes," and inserting "and". 42 USC 1437p.

(b) Development and Approval of Replacement Housing Plan.—Section 18(b) of the United States Housing Act of 1937 is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) the public housing agency has developed a plan for the provision of an additional decent, safe, sanitary, and affordable dwelling unit for each public housing dwelling unit to be demolished or disposed under such application, which plan—

"(A) provides for the provision of such additional dwelling units through—

"(i) the acquisition or development of additional public housing dwelling units;

"(ii) the use of 15-year project-based assistance under section 8;

"(iii) the use of not less than 15-year project-based assistance under other Federal programs;

State and local governments. Contracts.

"(iv) the acquisition or development of dwelling units assisted under a State or local government program that provides for project-based assistance comparable in terms of eligibility, contribution to rent, and length of assistance contract (not less than 15 years) to assistance under section 8(b)(1);

"(v) the use of 15-year tenant-based assistance under section 8 (excluding vouchers under section 8(o)); or

"(vi) any combination of such methods;

"(B) if it provides for the use of tenant-based assistance under section 8, may be approved—

"(i) only after a finding by the Secretary that replacement with project-based assistance is not feasible, and the supply of private rental housing actually available to those who would receive such assistance under the plan is sufficient for the total number of certificates and vouchers available in the community after implementation of the plan and that such supply is likely to remain available for the full 15-year term of the assistance; and

"(ii) only if such finding is based on objective information, which shall include rates of participation by landlords in the section 8 program, size, conditions and rent levels of available rental housing as compared to section 8 standards, the supply of vacant existing housing meeting the section 8 quality standards with rents at or below the fair market rent or the likelihood of adjusting the fair market rent, the number of eligible families waiting for public housing or housing assistance under section 8, and the extent of discrimination against the types of individuals or families to be served by the assistance;

State and local governments.

"(C) is approved by the unit of general local government in which the project is located;

"(D) includes a schedule for completing the plan within a period consistent with the size of the proposed demolition or disposition, except that the schedule shall in no event exceed 6 years;

"(E) includes a method of ensuring that the same number of individuals and families will be provided housing;

"(F) provides for the payment of the relocation expenses of each tenant to be displaced and ensures that the rent paid by the tenant following relocation will not exceed the amount permitted under this Act; and

"(G) prevents the taking of any action to demolish or dispose of any unit until the tenant of the unit is relocated to decent, safe, sanitary, and affordable housing that is, to the extent practicable, of the tenant's choice.".

42 USC 1437p.

(c) FUNDING OF REPLACEMENT HOUSING PLAN.—Section 18(c) of the United States Housing Act of 1937 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraphs:

"(2) The Secretary shall, upon approving a plan under subsection (b)(3), agree to commit (subject to the availability of future appropriations) the funds necessary to carry out the plan over the approved schedule of the plan.

"(3) The Secretary shall, in allocating assistance for the acquisition or development of public housing or for moderate rehabilitation under section 8(e)(2), give consideration to housing that replaces demolished public housing units in accordance with a plan under subsection (b)(3).".

(d) APPLICABILITY.—Section 18 of the United States Housing Act of 1937 is amended by striking subsection (d) and inserting the following new subsection:

"(d) A public housing agency shall not take any action to demolish or dispose of a public housing project or a portion of a public housing project without obtaining the approval of the Secretary and satisfying the conditions specified in subsections (a) and (b).".

SEC. 122. PUBLIC HOUSING RESIDENT MANAGEMENT.

Corporations.

The United States Housing Act of 1937 is amended by adding at the end the following new section:

"PUBLIC HOUSING RESIDENT MANAGEMENT

42 USC 1437r.

"SEC. 20. (a) PURPOSE.—The purpose of this section is to encourage increased resident management of public housing projects, as a means of improving existing living conditions in public housing projects, by providing increased flexibility for public housing projects that are managed by residents by—

"(1) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and

"(2) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

For purposes of this section, the term 'public housing project' includes one or more contiguous buildings or an area of contiguous row houses the elected resident councils of which approve the establishment of a resident management corporation and otherwise meet the requirements of this section.

"(b) PROGRAM REQUIREMENTS.—

"(1) RESIDENT COUNCIL.—As a condition of entering into a resident management program, the elected resident council of a public housing project shall approve the establishment of a resident management corporation. When such approval is made by the elected resident council of a building or row house area, the resident management program shall not interfere with the rights of other families residing in the project or harm the efficient operation of the project. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council. The corporation shall be a nonprofit corporation organized under the laws of the State in which the project is located, and the tenants of the project shall be the sole voting members of the corporation. If there is no elected resident council, a majority of the households of the public housing project shall approve the establishment of a resident council to determine the feasibility of establishing a resident management corporation to manage the project.

"(2) PUBLIC HOUSING MANAGEMENT SPECIALIST.—The resident council of a public housing project, in cooperation with the public housing agency, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties agreed to in the daily operations of the project.

"(3) BONDING AND INSURANCE.—Before assuming any management responsibility for a public housing project, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary and the public housing agency. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

Contracts.

"(4) MANAGEMENT RESPONSIBILITIES.—A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the public housing agency, shall enter into a contract with the public housing agency establishing the respective management rights and responsibilities of the corporation and the public housing agency. Such contract shall be consistent with the requirements of this Act applicable to public housing projects and may include specific terms governing management personnel and compensation, access to public housing project records, submission of and adherence to budgets, rent collection procedures, tenant income verification, tenant eligibility determinations, tenant eviction, the acquisition of supplies and materials, and such other matters as may be appropriate. The contract shall be treated as a contracting out of services and shall be subject to any provision of a collective bargaining agreement regarding contracting out to which the public housing agency is subject.

Reports.

"(5) ANNUAL AUDIT.—The books and records of a resident management corporation operating a public housing project shall be audited annually by a certified public accountant. A written report of each audit shall be forwarded to the public housing agency and the Secretary.

"(c) COMPREHENSIVE IMPROVEMENT ASSISTANCE.—Public housing projects managed by resident management corporations may be provided with comprehensive improvement assistance under section 14 for purposes of renovating such projects in accordance with such section. If such renovation activities (including the planning and architectural design of the rehabilitation) are administered by a resident management corporation, the public housing agency involved may not retain, for any administrative or other reason, any portion of the assistance provided pursuant to this subsection unless otherwise provided by contract.

"(d) WAIVER OF FEDERAL REQUIREMENTS.—

"(1) WAIVER OF REGULATORY REQUIREMENTS.—Upon the request of any resident management corporation and public housing agency, and after notice and an opportunity to comment is afforded to the affected tenants, the Secretary may waive (for both the resident management corporation and the public housing agency) any requirement established by the Secretary (and not specified in any statute) that the Secretary determines to unnecessarily increase the costs or restrict the income of a public housing project.

"(2) WAIVER TO PERMIT EMPLOYMENT.—Upon the request of any resident management corporation, the Secretary may, subject to applicable collective bargaining agreements, permit residents of such project to volunteer a portion of their labor.

"(3) REPORT ON ADDITIONAL WAIVERS.—Not later than 6 months after the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall submit to the Congress a report setting forth any additional waivers of Federal law that the Secretary determines are necessary or appropriate to carry out the provisions of this section. In preparing the report, the Secretary shall consult with resident management corporations and public housing agencies.

"(4) EXCEPTIONS.—The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 16, rental payments under section 3(a), tenant or applicant protections, employee organizing rights, or rights of employees under collective bargaining agreements.

"(e) OPERATING SUBSIDY AND PROJECT INCOME.—

"(1) CALCULATION OF OPERATING SUBSIDY.—Notwithstanding any provision of section 9 or any regulation under such section, and subject to the exception provided in paragraph (3), the portion of the operating subsidy received by a public housing agency under section 9 that is allocated to a public housing project managed by a resident management corporation shall not be less than the public housing agency per unit monthly amount provided in the previous year as determined on an individual project basis.

"(2) CONTRACT REQUIREMENTS.—Any contract for management of a public housing project entered into by a public housing agency and a resident management corporation shall specify the amount of income expected to be derived from the project itself (from sources such as rents and charges) and the amount of income funds to be provided to the project from the other sources of income of the public housing agency (such as operating subsidy under section 9, interest income, administrative fees, and rents).

"(3) CALCULATION OF TOTAL INCOME.—

"(A) Subject to subparagraph (B), the amount of funds provided by a public housing agency to a public housing project managed by a resident management corporation may not be reduced during the 3-year period beginning on the date of enactment of the Housing and Community Development Act of 1987 or on any later date on which a resident management corporation is first established for the project.

"(B) If the total income of a public housing agency (including the operating subsidy provided to the public housing agency under section 9) is reduced or increased, the income provided by the public housing agency to a public housing project managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the public housing agency, except that any reduction in operating subsidy that occurs as a result of fraud, waste, or mismanagement by the public housing agency shall not affect the funds provided to the resident management corporation.

"(4) RETENTION OF EXCESS REVENUES.—

"(A) Any income generated by a resident management corporation of a public housing project that exceeds the income estimated for purposes of this subsection shall be excluded in subsequent years in calculating (i) the operating subsidies provided to the public housing agency under section 9; and (ii) the funds provided by the public housing agency to the resident management corporation.

"(B) Any revenues retained by a resident management corporation under subparagraph (A) shall be used for purposes of improving the maintenance and operation of the public housing project, for establishing business enterprises that employ residents of public housing, or for acquiring additional dwelling units for lower income families.

"(f) RESIDENT MANAGEMENT TECHNICAL ASSISTANCE AND TRAINING.—

"(1) FINANCIAL ASSISTANCE.—To the extent budget authority is available for section 14, the Secretary shall provide financial assistance to resident management corporations or resident councils that obtain, by contract or otherwise, technical assistance for the development of resident management entities, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of public housing projects, and the securing of such support.

"(2) LIMITATION ON ASSISTANCE.—The financial assistance provided under this subsection with respect to any public housing project may not exceed $100,000.

"(3) FUNDING.—Of the amounts available for financial assistance under section 14, the Secretary may use to carry out this subsection not more than $2,500,000 for fiscal year 1988 and not more than $2,500,000 for fiscal year 1989.

"(g) ASSESSMENT AND REPORT BY THE SECRETARY.—Not later than 3 years after the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall—

"(1) conduct an evaluation and assessment of resident management, and particularly of the effect of resident management on living conditions in public housing; and

"(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate.".

Corporations.

SEC. 123. PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.

The United States Housing Act of 1937 (as amended by section 122 of this Act) is further amended by adding at the end the following new section:

"PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES

42 USC 1437s.

"SEC. 21. (a) HOMEOWNERSHIP OPPORTUNITIES IN GENERAL.—Lower income families residing in a public housing project shall be provided with the opportunity to purchase the dwelling units in the project through a qualifying resident management corporation as follows:

"(1) FORMATION OF RESIDENT MANAGEMENT CORPORATION.—As a condition for public housing homeownership—

"(A) the adult residents of a public housing project shall have formed a resident management corporation in accordance with regulations and requirements of the Secretary prescribed under this section and section 20;

Contracts.

"(B) the resident management corporation shall have entered into a contract with the public housing agency establishing the respective management rights and responsibilities of the resident management corporation and the public housing agency; and

"(C) the resident management corporation shall have demonstrated its ability to manage public housing effectively and efficiently for a period of not less than 3 years.

"(2) HOMEOWNERSHIP ASSISTANCE.—

"(A) The Secretary may provide comprehensive improvement assistance under section 14 to a public housing project in which homeownership activities under this section are conducted.

"(B) The Secretary, and the public housing agency owning and operating a public housing project, shall provide such training, technical assistance, and educational assistance as the Secretary determines to be necessary to prepare the families residing in the project, and any resident management corporation established under paragraph (1), for homeownership.

Termination date.

"(C) This paragraph shall not have effect after September 30, 1990.

"(3) CONDITIONS OF PURCHASE BY A RESIDENT MANAGEMENT CORPORATION.—

"(A) A resident management corporation may purchase from a public housing agency one or more multifamily buildings in a public housing project following a determination by the Secretary that—

"(i) the resident management corporation has met the conditions of paragraph (1);

"(ii) the resident management corporation has applied for and is prepared to undertake the ownership, management, and maintenance of the building or buildings with continued assistance from the Secretary;

"(iii) the public housing agency has held one or more public hearings to obtain the views of citizens regarding the proposed purchase and, in consultation with the Secretary, has certified that the purchase will not interfere with the rights of other families residing in public housing, will not harm the efficient operation of other public housing, and is in the interest of the community;

"(iv) the public housing agency has certified that it has and will implement a plan to replace public housing units sold under this section within 30 months of the sale, which plan shall provide for replacement of 100 percent of the units sold under this section by—

"(I) production, acquisition, or rehabilitation of vacant public housing units by the public housing agency; and

"(II) acquisition by the resident management corporation of nonpublicly owned, decent, and affordable housing units, which the resident management corporation shall operate as rental housing subject to tenant income and rent limitations comparable to the limitations applicable to public housing; and

"(v) the building or buildings meet the minimum safety and livability standards applicable under section 14, and the physical condition, management, and operation of the building or buildings are sufficient to permit affordable homeownership by the families residing in the project.

"(B) The price of a building purchased under the preceding sentence shall be approved by the Secretary, in consultation with the public housing agency and resident management corporation, taking into account the fair market value of the property, the ability of resident families to afford and maintain the property, and such other factors as the Secretary determines to be consistent with increasing the supply of dwelling units affordable to very low income families.

Termination date.

"(C) This paragraph shall not have effect after September 30, 1990.

"(4) CONDITIONS OF RESALE.—

"(A)(i) A resident management corporation may sell a dwelling unit or ownership rights in a dwelling unit only to a lower income family residing in, or eligible to reside in, public housing and only if the Secretary determines that the purchase will not interfere with the rights of other families residing in the housing project or harm the efficient operation of the project, and the family will be able to purchase and maintain the property.

"(ii) The sale of dwelling units or ownership rights in dwelling units under clause (i) shall be made to families in the following order of priority:

"(I) a lower income family residing in the public housing project in which the dwelling unit is located;

"(II) a lower income family residing in any public housing project within the jurisdiction of the public housing agency having jurisdiction with respect to the project in which the dwelling unit is located;

"(III) a lower income family receiving Federal housing assistance and residing in the jurisdiction of such public housing agency; and

"(IV) a lower income family on the waiting list of such public housing agency for public housing or assistance under section 8, with priority given in the order in which the family appears on the waiting list.

"(iii) Each resident management corporation shall provide each family described in clause (ii) with a notice of the eligibility of the family to purchase a dwelling unit under this paragraph.

"(B) A purchase under subparagraph (A) may be made under any of the following arrangements:

"(i) Limited dividend cooperative ownership.

"(ii) Condominium ownership.

"(iii) Fee simple ownership.

"(iv) Shared appreciation with a public housing agency providing financing under paragraph (6).

"(v) Any other arrangement determined by the Secretary to be appropriate.

"(C) Property purchased under this section shall be resold only to the resident management corporation, a lower income family residing in or eligible to reside in public housing or housing assisted under section 8, or to the public housing agency.

"(D) In no case may the owner receive consideration for his or her interest in the property that exceeds the total of—

Regulations.

"(i) the contribution to equity paid by the owner;

"(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the owner during the owner's tenure as owner; and

"(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost of living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the resident management corporation or the public housing agency, whichever is appropriate, at the time of initial sale, and applied against the contribution to equity; the resident management corporation or the public housing agency may, at the time of initial sale, enter into an agreement with the owner to set a maximum amount which this appreciation may not exceed

"(E) Upon sale, the resident management corporation or the public housing agency, whichever is appropriate, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

"(5) Use of proceeds.—Notwithstanding any other provision of this Act or other law to the contrary, proceeds from the sale of a building or buildings under paragraph (3) and amounts recaptured under paragraph (4) shall be paid to the public housing agency and shall be retained and used by the public housing agency only to increase the number of public housing units available for occupancy. The resident management corporation shall keep and make available to the public housing agency and the Secretary all records necessary to calculate accurately payments due the local housing agency under this section. The Secretary shall not reduce or delay payments under other provisions of law as a result of amounts made available to the local housing agency under this section.

"(6) Financing.—When financing for the purchase of the property is not otherwise available for purposes of assisting any purchase by a family or resident management corporation under this section, the public housing agency involved may make a loan on the security of the property involved to the family or resident management corporation at a rate of interest that shall not be lower than 70 percent of the market interest rate for conventional mortgages on the date on which the loan is made.

"(7) Annual contributions.—Nowithstanding the purchase of a building in a public housing project under this section, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(8) Operating subsidies.—Operating subsidies shall not be available with respect to a building after the date of its sale by the public housing agency.

"(b) Protection of Nonpurchasing Families.—

"(1) EVICTION PROHIBITION.—No family residing in a dwelling unit in a public housing project may be evicted by reason of the sale of the project to a resident management corporation under this section.

"(2) TENANTS RIGHTS.—Families renting a dwelling unit purchased by a resident management corporation shall have all rights provided to tenants of public housing under this Act.

"(3) RENTAL ASSISTANCE.—If any family resides in a dwelling unit in a building purchased by a resident management corporation, and the family decides not to purchase the dwelling unit, the Secretary shall offer to provide to the family (at the option of the family) a certificate under section 8(b)(1) or a housing voucher under section 8(o) for as long as the family continues to reside in the building. The Secretary may adjust the fair market rent for such certificate to take into account conditions under which the building was purchased.

"(4) RENTAL AND RELOCATION ASSISTANCE.—If any family resides in a dwelling unit in a public housing project in which other dwelling units are purchased under this section, and the family decides not to purchase the dwelling unit, the Secretary shall offer (to be selected by the family, at its option)—

"(A) to assist the family in relocating to a comparable appropriate sized dwelling unit in another public housing project, and to reimburse the family for their cost of relocation; and

"(B) to provide to the family the financial assistance necessary to permit the family to stay in the dwelling unit or to move to another comparable dwelling unit and to pay no more for rent than required under subparagraph (A), (B), or (C) of section 3(a)(1).

"(c) FINANCIAL ASSISTANCE FOR PUBLIC HOUSING AGENCIES.—The Secretary shall provide to public housing agencies such financial assistance as is necessary to permit such agencies to carry out the provisions of this section.

"(d) ADDITIONAL HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—This section shall not apply to the turnkey III, the mutual help, or any other homeownership program established under section 5(h) or section 6(c)(4)(D) and in existence before the date of the enactment of the Housing and Community Development Act of 1987.

"(e) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section. Such regulations may establish any additional terms and conditions for homeownership or resident management under this section that are determined by the Secretary to be appropriate.

"(f) ANNUAL REPORT.—The Secretary shall annually submit to the Congress a report setting forth—

"(1) the number, type, and cost of units sold;

"(2) the income, race, gender, children, and other characteristics of families purchasing or moving and not purchasing;

"(3) the amount and type of financial assistance provided;

"(4) the need for subsidy to ensure continued affordability and meet future maintenance and repair costs;

"(5) any need for the development of additional public housing dwelling units as a result of the sale of public housing dwelling units under this section;

"(6) recommendations of the Secretary for additional budget authority to carry out such development;

"(7) recommendations of the Secretary to ensure decent homes and decent neighborhoods for lower income families; and

"(8) the recommendations of the Secretary for statutory and regulatory improvements to the program.

"(g) LIMITATION.—Any authority of the Secretary under this section to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act.". Contracts.

SEC. 124. TREATMENT OF CERTAIN PUBLIC HOUSING DEVELOPMENT FUNDS.

(a) FORGIVENESS OF CERTAIN INTEREST.—Notwithstanding any other provision of law or other requirement, any interest accruing on any excess funds advanced to the Housing Authority of the City of Pittsburgh, in the State of Pennsylvania, for development of the public housing project numbered PA-1-22 shall be forgiven, and any such interest paid to the Secretary of Housing and Urban Development before the date of the enactment of this Act shall be returned to such City. Pennsylvania.

(b) FORGIVENESS OF CERTAIN PAYMENTS.—Notwithstanding any other provision of law or other requirement, the Secretary of Housing and Urban Development may not require the Bay City Housing Commission in the State of Michigan to pay any amount relating to ineligible costs incurred with respect to the public housing development grant numbered Michigan 24-7, awarded in 1974, under the United States Housing Act of 1937. Michigan.

(c) SUBJECT TO APPROPRIATIONS.—This section shall be effective only to the extent approved in appropriation Acts.

SEC. 125. ENERGY EFFICIENT PUBLIC HOUSING DEMONSTRATION. 42 USC 1437k note.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a demonstration program through the assistance of an appropriate technology transfer organization that specializes in producing detailed energy-efficient designs and in conducting local and statewide, public participation tests for energy efficient, needs-oriented housing. The appropriate technology organization shall carry out the demonstration working through and with public housing agencies to build and test a variety of energy-efficient housing designs in 100 separate housing units in 4 different States that meet local lower income housing needs (including single parent, disabled, and elderly concerns) through a composite ranging from single to 12-plex units in the cluster approach on vacant lots and open areas.

(b) REPORT.—As soon as practicable following September 30, 1988, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section.

(c) FUNDING.—Of the budget authority authorized to be provided for the development of public housing, there is authorized to be appropriated to carry out this section $4,700,000 for fiscal year 1988.

SEC. 126. PUBLIC HOUSING COMPREHENSIVE TRANSITION DEMONSTRATION. 42 USC 1437f note.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall carry out a program to demonstrate the effectiveness of providing a comprehensive program of services to participating public housing residents in order to ensure the successful transition of such residents to private housing. In carrying out the demonstration program, the Secretary shall consult with the heads of other appropriate Federal agencies to design and implement procedures to carry out the transition from public housing.

North Carolina.

(b) Scope of Demonstration Program.—The Secretary shall carry out the demonstration program with respect to public housing administered by the Housing Authority of the City of Charlotte, in the State of North Carolina. The Secretary may also carry out the demonstration program with respect to public housing administered by not more than 10 additional public housing agencies.

(c) Requirements of Demonstration Program.—The demonstration program shall consist of the following requirements:

(1) Contract of participation.—Each participating public housing agency may enter into a voluntary contract with any family that is to commence residence in a public housing project administered by the public housing agency. The contract shall be made part of the lease, shall set forth the provisions of the demonstration program, and shall specify the resources to be made available to the participating family and the responsibilities of the participating family.

(2) Remediation phase.—

Education.
Drugs and drug abuse.

(A) During not to exceed the first 2 years of residence of a participating family in public housing, the public housing agency shall ensure the provision of remediation services to the family in accordance with the terms and conditions of the contract of participation, which may include—

(i) remedial education;
(ii) completion of high school;
(iii) job training and preparation;
(iv) substance abuse treatment and counseling;
(v) training in homemaking skills and parenting; and
(vi) training in money management.

(B) During the remediation phase, the amount of rent charged the family may not be increased on the basis of any increase in earned income of the family.

(3) Transition phase.—

(A) During not to exceed a 5-year period following completion of the remediation stage—

(i) the head of the family shall be required to have full-time employment; and

(ii) the public housing agency shall ensure the provision of counseling for the family with respect to homeownership, money management, and problem solving.

(B) During the transition phase, the amount of rent charged the family—

(i) may be increased on the basis of any increase in family income; and

(ii) may not be decreased on the basis of any decrease in earned income due to voluntary termination of employment.

(4) Encouragement of savings.—The public housing agency shall take appropriate actions (including the establishment of an escrow savings account) to encourage each participating

family to save funds during the remediation and transition phases.

(5) EFFECT OF INCREASES IN FAMILY INCOME.—

(A) Any increase in the earned income of a family during participation in the demonstration program under this section may not be considered as income or a resource for the purpose of denying the eligibility of, or reducing the amount of benefits payable to, the family under any other Federal law, unless the income of the family increases at any time to not less than 50 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

(B) If at any time during the participation of a family in the demonstration program the income of the family increases to not less than 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families), the participation of the family in the demonstration program shall terminate.

(6) COMPLETION OF TRANSITION.—Each family participating in the demonstration program shall be required to complete the transition out of public housing during a period of not more than 7 years. The public housing agency shall extend the period for any family that requests an extension for good cause.

(d) REPORTS TO CONGRESS.—

(1) INTERIM REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to the Congress an interim report evaluating the effectiveness of the demonstration program under this section.

(2) FINAL REPORT.—Not later than 60 days after the termination of the demonstration program under subsection (f), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program under this section.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

(f) TERMINATION OF DEMONSTRATION PROGRAM.—The demonstration program under this section shall terminate upon the expiration of the 7-year period beginning on the date of the enactment of this Act.

PART 3—SECTION 8 ASSISTANCE AND OTHER PROGRAMS

SEC. 141. SECTION 8 CONTRACTS FOR EXISTING DWELLING UNITS.

42 USC 1437f.

Section 8(b)(1) of the United States Housing Act of 1937 is amended by inserting after the first sentence the following new sentence: "The Secretary shall enter into a separate annual contributions contract with each public housing agency to obligate the authority approved each year, beginning with the authority approved in appropriations Acts for fiscal year 1988 (other than amendment authority to increase assistance payments being made using authority approved prior to the appropriations Acts for fiscal year 1988), and such annual contributions contract (other than for annual contributions under subsection (o)) shall bind the Secretary to make such authority, and any amendments increasing such authority, available to the public housing agency for a specified period.".

SEC. 142. SECTION 8 FAIR MARKET RENTALS AND CONTRACT RENTS.

42 USC 1437f.

(a) Annual Adjustment.—Section 8(c)(1) of the United States Housing Act of 1937 is amended by inserting before the last sentence the following new sentence: "Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in the market area suitable for occupancy by persons assisted under this section.".

New York.

(b) Calculation for Certain County.—Section 8(c)(1) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "The Secretary shall establish separate fair market rentals under this paragraph for Westchester County in the State of New York.".

(c) Comparability.—

(1) Section 8(c)(1) of the United States Housing Act of 1937 (as amended by subsection (b) of this section) is further amended by adding at the end the following new sentence: "If units assisted under this section are exempt from local rent control while they are so assisted or otherwise, the maximum monthly rent for such units shall be reasonable in comparison with other units in the market area that are exempt from local rent control.".

(2) Section 8(c)(2)(C) of the United States Housing Act of 1937 is amended—

(A) by striking "assisted and comparable unassisted units" and inserting the following: "assisted units and unassisted units of similar quality and age in the same market area"; and

(B) by adding at the end the following new sentence: "If the Secretary or appropriate State agency does not complete and submit to the project owner a comparability study not later than 60 days before the anniversary date of the assistance contract under this section, the automatic annual adjustment factor shall be applied.".

(d) Prohibition on Reduction of Certain Contract Rents.—Section 8(c)(2)(C) of the United States Housing Act of 1937 (as amended by subsection (c) of this section) is further amended by adding at the end the following new sentence: "The Secretary may not reduce the contract rents in effect on or after April 15, 1987, for newly constructed, substantially rehabilitated, or moderately rehabilitated projects assisted under this section (including projects assisted under this section as in effect prior to November 30, 1983), unless the project has been refinanced in a manner that reduces the periodic payments of the owner.".

(e) Repeal of Limit on Contract Rent Increases.—Section 8(c)(2) of the United States Housing Act of 1937 is amended by striking subparagraph (D).

SEC. 143. HOUSING VOUCHER PROGRAM.

(a) Operation.—Section 8(o) of the United States Housing Act of 1937 is amended—

(1) in the first sentence of paragraph (1), by striking "In" and all that follows through "demonstration program" and inserting "The Secretary may provide assistance";

(2) by striking paragraph (4); and

(3) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively.

(b) FLEXIBILITY TO ADJUST ASSISTANCE PAYMENTS.—Section 8(o)(6) of the United States Housing Act of 1937 (as so redesignated by subsection (a) of this section) is amended— 42 USC 1437f.

(1) in subparagraph (A), by striking "as frequently as twice during any five-year period" and inserting "annually"; and

(2) by striking subparagraph (D).

(c) USE OF VOUCHERS IN CONNECTION WITH COOPERATIVE AND MUTUAL HOUSING.—Section 8(o)(7) of the United States Housing Act of 1937 (as so redesignated by subsection (a) of this section) is amended by striking "not to exceed 5 per centum of the amount of".

(d) ADJUSTMENT POOLS.—Section 8(o) of the United States Housing Act of 1937 (as amended by subsection (a) of this section) is further amended by adding at the end the following new paragraph:

"(8) The Secretary may set aside up to 5 percent of the budget authority available under this subsection as an adjustment pool. The Secretary shall use amounts in the adjustment pool for adjustments pursuant to paragraph (6)(A) to ensure continued affordability where the Secretary determines additional assistance for this purpose is necessary, based on documentation submitted by a public housing agency.".

SEC. 144. ADMINISTRATIVE FEES FOR SECTION 8 CERTIFICATE AND HOUSING VOUCHER PROGRAMS.

Section 8 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

Contracts.

"(q)(1) The Secretary shall establish a fee for the costs incurred in administering the certificate and housing voucher programs under subsections (b) and (o). The amount of the fee for each month for which a dwelling unit is covered by an assistance contract shall be 8.2 percent of the fair market rental established under subsection (c)(1) for a 2-bedroom existing rental dwelling unit in the market area of the public housing agency. The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

"(2)(A) The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

"(i) the costs of preliminary expenses (not to exceed $275) that the public housing agency documents it has incurred in connection with new allocations of assistance under the certificate and housing voucher programs under subsections (b) and (o);

"(ii) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

"(iii) extraordinary costs approved by the Secretary.

"(B) The method used to calculate fees under subparagraph (A) shall be the same for the certificate and housing voucher programs under subsections (b) and (o) and shall take into account local cost differences.

"(3) The Secretary may establish or increase a fee in accordance with this subsection only to such extent or in such amounts as are provided in appropriation Acts.".

SEC. 145. PORTABILITY OF SECTION 8 CERTIFICATES AND VOUCHERS.

Section 8 of the United States Housing Act of 1937 (as amended by section 144 of this Act) is further amended by adding at the end the following new subsection:

"(r)(1) Any family assisted under subsection (b) or (o) may receive such assistance to rent an eligible dwelling unit if the dwelling unit to which the family moves is within the same, or a contiguous, metropolitan statistical area as the metropolitan statistical area within which is located the area of jurisdiction of the public housing agency approving such assistance.

"(2) The public housing agency having authority with respect to the dwelling unit to which a family moves under this subsection shall have the responsibility of carrying out the provisions of this subsection with respect to the family. If no public housing agency has authority with respect to the dwelling unit to which a family moves under this subsection the public housing agency approving the assistance shall have such responsibility.

"(3) In providing assistance under subsection (b) or (o) for any fiscal year, the Secretary shall give consideration to any reduction in the number of resident families incurred by a public housing agency in the preceding fiscal year as a result of the provisions of this subsection.

"(4) The provisions of this subsection may not be construed to restrict any authority of the Secretary under any other provision of law to provide for the portability of assistance under this section.".

SEC. 146. PROHIBITION OF DENIAL OF SECTION 8 CERTIFICATES AND VOUCHERS TO RESIDENTS OF PUBLIC HOUSING.

Section 8 of the United States Housing Act of 1937 (as amended by section 145 of this Act) is further amended by adding at the end the following new subsection:

"(s) In selecting families for the provision of assistance under this section (including subsection (o)), a public housing agency may not exclude or penalize a family solely because the family resides in a public housing project.".

Contracts.

SEC. 147. NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS AND VOUCHERHOLDERS.

Section 8 of the United States Housing Act of 1937 (as amended by section 146 of this Act) is further amended by adding at the end the following new subsection:

"(t)(1) No owner who has entered into a contract for housing assistance payments under this section on behalf of any tenant in a multifamily housing project shall refuse—

"(A) to lease any available dwelling unit in any multifamily housing project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under this section, to a holder of a certificate of eligibility under this section a proximate cause of which is the status of such prospective tenant as a holder of such certificate, and to enter into a housing assistance payments contract respecting such unit; or

"(B) to lease any available dwelling unit in any multifamily housing project of such owner to a holder of a voucher under subsection (o), and to enter into a voucher contract respecting such unit, a proximate cause of which is the status of such prospective tenant as holder of such voucher.

"(2) For purposes of this subsection, the term 'multifamily housing project' means a residential building containing more than 4 dwelling units.".

SEC. 148. PROJECT-BASED SECTION 8 ASSISTANCE.

42 USC 1437f.

Section 8(d)(2) of the United States Housing Act of 1937 is amended by inserting before the period at the end of the last sentence the following: ", except that the Secretary shall permit the public housing agency to approve such attachment with respect to not more than 15 percent of the assistance provided by the public housing agency if the requirements of clause (B) are met".

SEC. 149. SECTION 8 ASSISTANCE FOR RESIDENTS OF RENTAL REHABILITATION PROJECTS.

Section 8 of the United States Housing Act of 1937 (as amended by section 147 of this Act) is further amended by adding at the end the following new subsection:

"(u) In the case of lower income families living in rental projects rehabilitated under section 17 of this Act or section 533 of the Housing Act of 1949 before rehabilitation—

"(1) certificates or vouchers under this section shall be made for families who are required to move out of their units because of the physical rehabilitation activities or because of overcrowding; and

"(2) at the discretion of each public housing agency or other agency administering the allocation of assistance, certificates or vouchers under this section may be made for families who would have to pay more than 30 percent of their adjusted income for rent after rehabilitation whether they choose to remain in, or to move from, the project.".

SEC. 150. RENTAL REHABILITATION GRANTS.

(a) Authorization of Appropriations.—Section 17(a)(3) of the United States Housing Act of 1937 is amended to read as follows:

42 USC 1437*o*.

"(3) Authorization.—There are authorized to be appropriated for rental rehabilitation under this section $125,000,000 for each of the fiscal years 1988 and 1989, of which $1,500,000 shall be available each fiscal year for technical assistance, including the collection, processing, and dissemination of program information useful for local and national program management.".

(b) Eligible Property.—Section 17(a)(1)(A) of the United States Housing Act of 1937 is amended by inserting after "property" the following: ", or of real property that will be privately owned upon the completion of rehabilitation,".

(c) Maximum Grant Amount.—Section 17(c)(2)(E) of the United States Housing Act of 1937 is amended by striking "$5,000 per unit" and inserting the following: "$5,000 per unit for a unit with no bedrooms, $6,500 per unit for a unit with 1 bedroom, $7,500 per unit for a unit with 2 bedrooms, and $8,500 per unit for a unit with 3 or more bedrooms,".

(d) Use of Funds.—Section 17(c) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

State and local governments.

"(4) Use of Funds To Comply With Seismic Standards.—If a unit of general local government has a local ordinance that requires rehabilitation to meet seismic standards, the unit of local government may use all rehabilitation assistance received under this section to rehabilitate units with no bedroom or 1 bedroom, if the occupants of the units will have incomes that do not exceed 50 percent of the median income of the area.".

(e) ADMINISTRATIVE EXPENSES.—Section 17(h) of the United States Housing Act of 1937 is amended by inserting before the period at the end the following: ", except that not more than 10 percent of any rehabilitation grant received under subsection (c) may be retained to cover administrative expenses incurred by any State administering resources made available under subsection (b) (which State shall share such amount with units of general local government administering the program with the State) and by any city or urban county receiving resources under subsection (b)". 42 USC 1437*o*.

(f) ELIGIBILITY.—Section 17(k)(4) of the United States Housing Act of 1937 is amended—

(1) by inserting "privately owned" before "real property";

(2) by inserting "(A)" after "includes"; and

(3) by inserting before the semicolon at the end the following: ", and (B) housing that is owned by a State or locally chartered, neighborhood based, nonprofit organization the primary purpose of which is the provision and improvement of housing".

SEC. 151. RENTAL DEVELOPMENT GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 17(a)(3) of the United States Housing Act of 1937 (as amended by section 150 of this Act) is further amended by adding at the end the following new sentence: "There are authorized to be appropriated for development grants under this section $75,000,000 for fiscal year 1988 and $75,000,000 for fiscal year 1989.".

(b) AREA ELIGIBILITY.—Section 17(d)(2) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, the eligibility requirements for development grants under this section shall be the requirements in effect under this subsection on October 17, 1986.".

(c) GRANT AMOUNT.—Section 17(d)(4)(B) of the United States Housing Act of 1937 is amended by striking "refinancing costs and".

(d) PROGRAM REQUIREMENTS.—Section 17(d)(4) of the United States Housing Act of 1937 is amended—

(1) by inserting before the semicolon at the end of subparagraph (G) the following: ", except that the Secretary may extend such period by not more than 6 months if the commencement of such activities is delayed due to judicial or administrative proceedings";

(2) by striking "and" at the end of subparagraph (G);

(3) by striking the period at the end of subparagraph (H) and inserting "; and"; and

(4) by adding at the end the following new subparagraph:

"(I) the owner of each assisted structure agrees to comply with the provisions of paragraph (8) until the 20-year period specified in paragraph (7) has ended.".

(e) DEVELOPMENT COST.—Section 17(d) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(10) DEVELOPMENT COST.—

"(A) The Secretary shall include in the development cost of a project assisted under this subsection any developer's fee if such fee—

"(i) is included in a mortgage secured by the project; and

"(ii) the lender is a State housing finance agency or the project is financed by bonds issued by a State housing finance agency or similar local entity.

"(B) The amount of any developer's fee shall not be counted in calculating the maximum grant amount pursuant to paragraph (4)(B).

"(C) This paragraph shall only be applicable to projects with respect to which a notice of project selection is received before the date of the enactment of the Housing and Community Development Act of 1987.".

SEC. 152. TERMINATION OF RENTAL DEVELOPMENT GRANT PROGRAM. 42 USC 1437*o*.

(a) In General.—Effective on October 1, 1989, the rental development grant program under section 17(d) of the United States Housing Act of 1937 shall terminate.

(b) Savings Provision.—The provisions of subsection (a) shall not apply with respect to any housing development grant under section 17(d) of the United States Housing Act of 1937 made pursuant to a reservation of funds made by the Secretary of Housing and Urban Development before October 1, 1989.

Subtitle B—Other Housing Assistance Programs

SEC. 161. HOUSING FOR THE ELDERLY AND HANDICAPPED.

(a) Borrowing Authority.—The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended— 12 USC 1701q.

(1) by striking "and" the first place it appears; and

(2) by inserting after "1984," the following: "and to such sums as may approved in appropriation Acts for fiscal years 1988 and 1989,".

(b) Loan Authority.—Section 202(a)(4)(C) of the Housing Act of 1959 is amended by adding at the end the following new sentence: "For fiscal years 1988 and 1989, not more than $621,701,000 and $630,000,000, respectively, may be approved in appropriation Acts for such loans.".

(c) Interest Rate on Loans.—

(1) Calculation of rate.—Section 202(a)(3) of the Housing Act of 1959 is amended—

(A) by inserting "(A)" after the paragraph designation;

(B) by striking all that follows "Secretary" the second place it appears through "loan is made" and inserting the following: "taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States"; and

(C) by adding at the end the following new subparagraph:

"(B) At the option of the borrower, a loan under this section may be made and may be processed for a conditional or firm commitment either (i) at an interest rate not to exceed a rate and allowance determined by the Secretary in accordance with subparagraph (A) using the 1-month period immediately prior to the month in which the request for a commitment is submitted; or (ii) at an interest rate not to exceed a rate and allowance determined by the Secretary in accordance with subparagraph (A) using the 3-month period immediately preceding the fiscal year in which the request for a commitment is submitted.".

12 USC 1701q note.

(2) MAXIMUM RATE.—Section 223(a) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking paragraph (2).

12 USC 1701q.

(d) INTEREST RATE ON NOTES.—The second sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended to read as follows: "Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States.".

(e) APPEAL OF CANCELLATION OF LOAN AUTHORITY.—Section 202 of the Housing Act of 1959 is amended by adding at the end the following new subsection:

"(n) The Secretary shall notify the project sponsor not less than 30 days prior to canceling any loan authority provided under this section. During the 30-day period following the receipt of a notice under paragraph (1), a sponsor may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.".

(f) PRIORITY.—Section 202(a) of the Housing Act of 1959 is amended by adding at the end the following new paragraph:

"(8) In reviewing applications for loans under this section, the Secretary shall give a priority to any project that will provide housing designed to replace a structure that is owned by a public housing agency, contains not less than 100 dwelling units, is used for housing only elderly families, and is to be demolished. The requirements of this paragraph shall not apply after September 30, 1988.".

Termination date.

SEC. 162. HOUSING FOR THE HANDICAPPED.

12 USC 1701q note.

(a) FINDINGS AND PURPOSE.—

(1) The Congress finds that—

(A) housing for nonelderly handicapped families is assisted under section 202 of the Housing Act of 1959 and section 8 of the United States Housing Act of 1937;

(B) the housing programs under such sections are designed and implemented primarily to assist rental housing for elderly and nonelderly families and are often inappropriate for dealing with the specialized needs of the physically impaired, the developmentally disabled, and the chronically mentally ill;

(C) the development of housing for nonelderly handicapped families under such programs is often more expensive than necessary, thereby reducing the number of such families that can be assisted with available funds;

(D) the program under section 202 of the Housing Act of 1959 can continue to provide direct loans to finance group residences and independent apartments for nonelderly handicapped families, but can be made more efficient and less costly by the adoption of standards and procedures applicable only to housing for such families;

(E) the cost containment policies currently being implemented in the development of small group homes (i) do not adequately reflect the necessity for building designs to meet the needs of the designated residents; and (ii) do not recognize necessary State and local standards for the operation of such homes;

(F) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly handicapped families is time consuming and unnecessarily costly and, in some areas of the Nation, prevents the development of such housing;

(G) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly handicapped families should be replaced by a more appropriate subsidy mechanism;

(H) both elderly and handicapped housing projects assisted under section 202 of the Housing Act of 1959 will benefit from an increased emphasis on supportive services and a greater use of State and local funds; and

(I) an improved program for nonelderly handicapped families will assist in providing shelter and supportive services for mentally ill persons who might otherwise be homeless.

(2) The purpose of this section is to improve the direct loan program under section 202 of the Housing Act of 1959 to ensure that such program meets the special housing and related needs of nonelderly handicapped families.

(b) HOUSING FOR HANDICAPPED FAMILIES.—

(1) Section 202(h) of the Housing Act of 1959 is amended to read as follows: 12 USC 1701q.

"(h)(1) Of the amounts made available in appropriation Acts for loans under subsection (a)(4)(C) for any fiscal year commencing after September 30, 1987, not less than 15 percent shall be available for loans for the development costs of housing for handicapped families. If the amount required for any such fiscal year for approvable applications for loan under this subsection is less than the amount available under this paragraph, the balance shall be made available for loans under other provisions of this section. Loans.

"(2) The Secretary shall take such actions as may be necessary to ensure that—

"(A) funds made available under this subsection will be used to support a variety of methods of meeting the needs primarily of nonelderly handicapped families by providing a variety of housing options, ranging from small group homes to independent living complexes; and

"(B) housing for handicapped families assisted under this subsection will provide families occupying units in such housing with an assured range of services specified in subsection (f), will provide such families with opportunities for optimal independent living and participation in normal daily activities, and will facilitate access by such families to the community at large and to suitable employment opportunities within such community.

"(3)(A) In allocating funds under this subsection, and in processing applications for loans under this section and assistance payments under paragraph (4), the Secretary shall adopt such distinct standards and procedures as the Secretary determines appropriate due to differences between housing for handicapped families and other housing assisted under this section. In adopting such standards, the Secretary shall ensure adequate participation by representatives of the disability community through the provisions available under the Federal Advisory Committee Act.

Reports.

"(B) The Secretary may, on a demonstration basis, determine the feasibility and desirability of reducing processing time and costs for housing for handicapped families by limiting project design to a small number of prototype designs. Any such demonstration shall be limited to the 3-year period following the date of the enactment of the Housing and Community Development Act of 1987, may only involve projects whose sponsors consent to participation in such demonstration, and shall be described in a report submitted by the Secretary to the Congress following completion of such demonstration.

Contracts.
Loans.

"(4)(A) The Secretary shall, to the extent approved in appropriation Acts, enter into contracts with owners of housing for handicapped families receiving loans under, or meeting the requirements of, this section to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by lower income families that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The term of a contract entered into under this subparagraph shall be 240 months. The annual contract amount may be adjusted by the Secretary if the sum of the project income and the amount of assistance payments available under this subparagraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility in which there reside families assisted under title XIX of the Social Security Act, project income under this subparagraph shall include the same amount as if such families were being assisted under title XVI of the Social Security Act.

"(B) The Secretary shall approve initial project rentals for any project assisted under this subsection based on the determination of the Secretary of the total actual necessary and reasonable costs of developing and operating the project, excluding the costs of the assured range of services under subsection (f), taking into consideration the need to contain costs to the extent practicable and consistent with the purposes of the project and this section.

"(C) The Secretary shall require that, during the term of each contract entered into under subparagraph (A), all units in a project assisted under this subsection shall be made available for occupancy by lower income families, as such term is defined in section 3(b)(2) of the United States Housing Act of 1937. The rent payment required of a lower income family shall be determined in accordance with section 3(a) of such Act, except that the gross income of a family occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the family were being assisted under title XVI of the Social Security Act.

"(D) The Secretary shall coordinate the processing of an application for a loan for housing for handicapped families under this section and the processing of an application for assistance payments under this paragraph for such housing.".

12 USC 1701q.

(2) Section 202(d) of the Housing Act of 1959 is amended by adding at the end the following new paragraphs:

"(9) The term 'housing for handicapped families' means housing and related facilities to be occupied by handicapped families who are primarily nonelderly handicapped families.

"(10) The term 'nonelderly handicapped families' means elderly or handicapped families, the head of which (and spouse, if any) is less than 62 years of age at the time of initial occupancy of a project assisted under this section.".

(3) Section 202(c)(3) of the Housing Act of 1959 is amended by inserting after "section" the following: "and designed for dwelling use by 12 or more elderly or handicapped families". 12 USC 1701q.

(c) SUPPORTIVE SERVICES FOR ELDERLY AND HANDICAPPED FAMILIES.—Section 202(f) of the Housing Act of 1959 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) Each applicant for a loan under this section for housing and related facilities shall submit with the application a supportive services plan describing— Loans.

"(A) the category or categories of families such housing and facilities are intended to serve;

"(B) the range of necessary services to be provided to the families occupying such housing;

"(C) the manner in which such services will be provided to such families; and

"(D) the extent of State and local funds available to assist in the provision of such services.". State and local governments.

Contracts. 12 USC 1701q note.

(d) TERMINATION OF SECTION 8 ASSISTANCE.—On and after the first date that amounts approved in an appropriation Act for any fiscal year become available for contracts under section 202(h)(4)(A) of the Housing Act of 1959, as amended by subsection (b) of this section, no project for handicapped (primarily nonelderly) families approved for such fiscal year pursuant to section 202 of such Act shall be provided assistance payments under section 8 of the United States Housing Act of 1937, except pursuant to a reservation for a contract to make such assistance payments that was made before the first date that amounts for contracts under such section 202(h)(4)(A) became available.

Federal Register, publication. 12 USC 1701q note.

(e) IMPLEMENTATION.—Not later than the expiration of the 120-day period following the date of the enactment of this Act, the Secretary of Housing and Urban Development shall, to the extent amounts are approved in an appropriation Act for use under section 202(h)(4)(A) of the Housing Act of 1959 for fiscal year 1988, publish in the Federal Register a notice of fund availability to implement the provisions of, and amendments made by, this section. The Secretary shall issue such rules as may be necessary to carry out such provisions and amendments for fiscal year 1989 and thereafter.

(f) EFFECTIVE DATE AND APPLICABILITY.— 12 USC 1701q note.

(1) Except as otherwise provided in this section, the provisions of, and amendments made by, this section shall not apply with respect to projects with loans or loan reservations made under section 202 of the Housing Act of 1959 before the implementation date under subsection (e).

(2) Notwithstanding paragraph (1), the Secretary shall apply the provisions of, and amendments made by, this section to any project if needed to facilitate the development of such project in a timely manner.

SEC. 163. CONGREGATE SERVICES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 411(a) of the Congregate Housing Services Act of 1978 is amended to read as follows: 42 USC 8010.

"(a) There are authorized to be appropriated to carry out this title $10,000,000 for each of the fiscal years 1988 and 1989.".

(b) DELETION OF REFERENCE TO PROGRAM AS NONPERMANENT.—Section 408 of the Congregate Housing Services Act of 1978 is amended by striking subsection (c). 42 USC 8007.

(c) REPORT.—Section 408 of the Congregate Housing Services Act of 1978 (as amended by subsection (b) of this section) is further amended by adding at the end the following new subsection:

Contracts. State and local governments.

"(c)(1) The Secretary shall contract with a university or qualified research institution to produce a report—

"(A) documenting the number of elderly living in federally assisted housing at risk of institutionalization;

"(B) studying and comparing alternative delivery systems in the States, including the congregate housing services program, to provide services to older persons in assisted congregate housing;

"(C) assessing existing and potential financial resources at the Federal, State, and local levels for the support of congregate housing services; and

Grants.

"(D) making legislative recommendations as to the feasibility of permitting State housing agencies and other appropriate State agencies to participate and operate the program on a matching grant basis.

"(2) The Secretary shall submit the report to the Congress not later than September 30, 1988.".

SEC. 164. MODIFICATION OF RESTRICTION ON USE OF ASSISTED HOUSING BY ALIENS.

(a) ALIENS ADMITTED FOR LAWFUL RESIDENCE.—Section 214(a) of the Housing and Community Development Act of 1980 is amended— 42 USC 1436a.

(1) by striking "or" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(6) an alien lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act.".

(b) PRESERVATION OF FAMILIES.—Section 214 of the Housing and Community Development Act of 1980 is amended by inserting after subsection (b) the following new subsection:

"(c)(1) If, following completion of the applicable hearing process, financial assistance for any individual receiving such assistance on the date of the enactment of the Housing and Community Development Act of 1987 is to be terminated, the public housing agency or other local governmental entity involved (in the case of public housing or assistance under section 8 of the United States Housing Act of 1937) or the Secretary of Housing and Urban Development (in the case of any other financial assistance) may, in its discretion, take one of the following actions:

"(A) Permit the continued provision of financial assistance, if necessary to avoid the division of a family in which the head of household or spouse is a citizen of the United States, a national of the United States, or an alien resident of the United States described in any of paragraphs (1) through (6) of subsection (a).

For purposes of this paragraph, the term 'family' means a head of household, any spouse, any parents of the head of household, any parents of the spouse, and any children of the head of household or spouse.

"(B) Defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other affordable housing. Any deferral under this subparagraph shall be for a 6-month period and may be renewed by the public housing agency or other entity involved for an aggregate period of 3 years. At the beginning of each deferral period, the public housing agency or other entity involved shall inform the individual and family members of their ineligibility for financial assistance and offer them other assistance in finding other affordable housing.

"(2) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of—

"(A) any alien who—

"(i) has a residence in a foreign country that such alien has no intention of abandoning;

"(ii) is a bona fide student qualified to pursue a full course of study; and

"(iii) is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student (and if any such institution of learning or place of study fails to make such reports promptly the approval shall be withdrawn); and

"(B) the alien spouse and minor children of any alien described in subparagraph (A), if accompanying such alien or following to join such alien.".

Immigration.

42 USC 1436a.

(c) VERIFICATION PROCEDURES.—Section 214(d) of the Housing and Community Development Act of 1980 (as added by section 121(a)(2) of the Immigration Reform and Control Act of 1986 (Public Law 99-603)) is amended—

(1) in paragraph (2), by inserting after "States" the following: ", is not 62 years of age or older, and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987";

(2) in paragraph (4), in the matter before subparagraph (A)—

(A) by inserting after "States" the following: ", is not 62 years of age or older, and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987"; and

(B) by inserting "or recertification" after "application";

(3) in paragraph (4)(A)(i), by inserting after the comma the following: "or to appeal to the Immigration and Naturalization Service the verification determination of the Immigration and Naturalization Service under paragraph (3),";

(4) in paragraph (4)(B), by striking the matter before clause (i) and inserting the following:

"(B) if any documents or additional information are submitted as evidence under subparagraph (A), or if appeal is made to the Immigration and Naturalization Service with respect to the verification determination of the Service under paragraph (3)—";

(5) in paragraph (4)(B)(i), by inserting "or additional information" after "documents";

(6) in paragraph (4)(B)(ii), by inserting "or appeal" after "verification";

(7) by inserting after paragraph (5) the following new paragraph:

"(6) For purposes of paragraph (5)(B), the applicable fair hearing process made available with respect to any individual shall include not less than the following procedural protections:

"(A) The Secretary shall provide the individual with written notice of the determination described in paragraph (5) and of the opportunity for a hearing with respect to the determination.

"(B) Upon timely request by the individual, the Secretary shall provide a hearing before an impartial hearing officer designated by the Secretary, at which hearing the individual may produce evidence of a satisfactory immigration status.

"(C) The Secretary shall notify the individual in writing of the decision of the hearing officer on the appeal of the determination in a timely manner.

"(D) Financial assistance may not be denied or terminated until the completion of the hearing process."; and

(8) by striking the last sentence and inserting the following: "For purposes of this subsection, the term 'Secretary' means the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.".

Immigration.

42 USC 1436a.

(d) Enforcement Procedures.—Section 214(e) of the Housing and Community Development Act of 1980 (as added by section 121(a)(2) of the Immigration Reform and Control Act of 1986 (Public Law 99-603)) is amended—

(1) in the matter before paragraph (1), by inserting "of Housing and Urban Development" after "Secretary";

(2) in paragraph (2), by inserting after "(d)(4)(A)(ii)" the following: "(or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603))";

(3) in paragraph (3), by inserting after "(d)(4)(B)(ii)" the following: "(or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603))"; and

(4) in paragraph (4), by inserting after "(d)(5)(B)" the following: "(or provided for under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603))".

(e) Verification System.—Section 214 of the Housing and Community Development Act of 1980 (as amended by section 121(a)(2) of the Immigration Reform and Control Act of 1986 (Public

Law 99-603)) is amended by adding at the end the following new subsection:

42 USC 1436a.

"(f)(1) Notwithstanding any other provision of law, no agency or official of a State or local government shall have any liability for the design or implementation of the Federal verification system described in subsection (d) if the implementation by the State or local agency or official is in accordance with Federal rules and regulations.

State and local governments.

"(2) The verification system of the Department of Housing and Urban Development shall not supersede or affect any consent agreement entered into or court decree or court order entered prior to the date of the enactment of the Housing and Community Development Act of 1987.".

(f) Reimbursement for Costs of Implementation.—

(1) Section 214 of the Housing and Community Development Act of 1980 (as amended by subsection (e) of this section) is further amended by adding at the end the following new subsection:

"(g) The Secretary of Housing and Urban Development is authorized to pay to each public housing agency or other entity an amount equal to 100 percent of the costs incurred by the public housing agency or other entity in implementing and operating an immigration status verification system under subsection (d) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)).".

Immigration.

(2) The United States Housing Act of 1937 (as amended by section 121(b)(6) of the Immigration Reform and Control Act of 1986 (Public Law 99-603)) is amended by striking section 20.

42 USC 1437r.

(g) Transitional Certification and Documentation Provisions.—In carrying out section 214 of the Housing and Community Development Act of 1980 during fiscal year 1988, the Secretary of Housing and Urban Development shall require, as a condition of providing financial assistance for the benefit of any individual, that such individual—

42 USC 1436a note.

(1) declare in writing, under penalty of perjury, whether or not such individual is a citizen or national of the United States; and

(2) if not a citizen or national—

(A) declare in writing, under penalty of perjury, the immigration status of such individual, if such individual is not less than 62 years of age "and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987"; or

(B) provide such documentation regarding the immigration status of such individual as the Secretary may require by regulation.

Immigration.

(h) Effective Dates.—

42 USC 1436a note.

(1) The provisions of, and amendments made by, subsections (a), (b), (e), (f), and (g) shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (c) and (d) shall take effect on October 1, 1988.

42 USC 3543.

SEC. 165. PREVENTING FRAUD AND ABUSE IN DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROGRAMS.

Loans. Grants.

(a) Disclosure of Social Security Account Number.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary of Housing and Urban Development may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or her social security account number or employer identification number to the Secretary.

(b) Definitions.—For purposes of this section, the terms "applicant" and "participant" shall have such meanings as the Secretary of Housing and Urban Development by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

SEC. 166. ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN ASSISTED HOUSING.

42 USC 3536 note.

(a) In General.—The Secretary of Housing and Urban Development shall include in the annual report under section 8 of the Housing and Urban Development Act descriptions of the characteristics of families assisted under each of the following programs of assistance: public housing, section 8 of the United States Housing Act of 1937 (other than subsection (o) of such section), section 8(o) of the United States Housing Act of 1937, and section 202 of the Housing Act of 1959.

(b) Specific Requirements.—The descriptions required in subsection (a) shall include information with respect to—

(1) family size, including the number of children;

(2) amount and sources of family income;

(3) the age, race, and sex of family members; and

(4) whether the head of the family (or the spouse of such person) is a member of the armed forces.

SEC. 167. SECTION 236 RENTAL HOUSING PROGRAM.

(a) State-Aided Projects.—

12 USC 1715z-1.

(1) Section 236(f)(4) of the National Housing Act is amended by striking "90 per centum" and inserting "100 percent".

12 USC 1701s.

(2) Section 101(g) of the Housing and Urban Development Act of 1965 is amended by striking "90 per centum" and inserting "100 percent".

12 USC 1715z-1.

(b) Insuring Authority.—Section 236(n) of the National Housing Act is amended by adding at the end the following new sentence: "A mortgage may be insured under this section after the date in the preceding sentence in order to refinance a mortgage insured under this section or to finance pursuant to subsection (j)(3) the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under this section.".

SEC. 168. TENANT ELIGIBILITY DETERMINATIONS IN RENT SUPPLEMENT PROJECTS.

Section 101 of the Housing and Urban Development Act of 1965 is amended—

(1) by striking the second sentence of subsection (e)(1); and

(2) by striking subsection (k) and inserting the following:
"(k) In selecting individuals or families to be assisted under this section in accordance with the eligibility criteria and procedures established under subsection (e)(1), the project owner shall give preference to individuals or families who are occupying substandard housing, are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking housing assistance under this section.".

SEC. 169. COUNSELING TO TENANTS AND HOMEOWNERS.

(a) COUNSELING SERVICES.—Section 106(a)(3) of the Housing and Urban Development Act of 1968 is amended in the first sentence by striking all that follows the semicolon and inserting the following: "except that for each of the fiscal years 1988 and 1989 there are authorized to be appropriated $3,500,000 for such purposes.". 12 USC 1701x.

(b) EMERGENCY HOMEOWNERSHIP COUNSELING.—Section 106 of the Housing and Urban Development Act of 1968 is amended by inserting at the end the following new subsection:

"(c) GRANTS FOR HOMEOWNERSHIP COUNSELING ORGANIZATIONS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may make grants—

"(A) to nonprofit organizations experienced in the provision of homeownership counseling to enable the organizations to provide homeownership counseling to eligible homeowners; and

"(B) to assist in the establishment of nonprofit homeownership counseling organizations.

"(2) PROGRAM REQUIREMENTS.—

"(A) Applications for grants under this subsection shall be submitted in the form, and in accordance with the procedures, that the Secretary requires.

"(B) The homeownership counseling organizations receiving assistance under this subsection shall use the assistance only to provide homeownership counseling to eligible homeowners.

"(C) The homeownership counseling provided by homeownership counseling organizations receiving assistance under this subsection shall include counseling with respect to—

"(i) financial management;

"(ii) available community resources, including public assistance programs, mortgage assistance programs, home repair assistance programs, utility assistance programs, food programs, and social services; and

"(iii) employment training and placement.

"(3) AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—The Secretary shall take any action that is necessary—

"(A) to ensure the availability throughout the United States of homeownership counseling from homeownership counseling organizations receiving assistance under this subsection, with priority to areas that—

"(i) are experiencing high rates of home foreclosure and any other indicators of homeowner distress determined by the Secretary to be appropriate; and

"(ii) are not already adequately served by homeownership counseling organizations; and

"(B) to inform the public of the availability of the homeownership counseling.

Loans.

"(4) ELIGIBILITY FOR COUNSELING.—A homeowner shall be eligible for homeownership counseling under this subsection if—

"(A) the home loan is secured by property that is the principal residence (as defined by the Secretary) of the homeowner;

"(B) the home loan is not assisted under title V of the Housing Act of 1949; and

"(C) the homeowner is, or is expected to be, unable to make payments, correct a home loan delinquency within a reasonable time, or resume full home loan payments due to a reduction in the income of the homeowner because of—

"(i) an involuntary loss of, or reduction in, the employment of the homeowner, the self-employment of the homeowner, or income from the pursuit of the occupation of the homeowner; or

"(ii) any similar loss or reduction experienced by any person who contributes to the income of the homeowner.

Loans.

"(5) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING REQUIREMENT.—The creditor of a delinquent home loan shall notify an eligible homeowner of the availability of any homeownership counseling offered by the creditor. As a supplement to the counseling provided by the creditor, the creditor shall notify the homeowner of the availability of 1 of the following:

"(A) Homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling.

"(B) A list of the nonprofit organizations, approved by the Secretary and experienced in the provision of homeownership counseling, that can be obtained by calling a toll-free telephone number at the Department of Housing and Urban Development.

"(C) Homeownership counseling provided by the Administrator of Veterans' Affairs for loans insured or guaranteed under chapter 37 of title 38, United States Code.

"(6) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'creditor' means a person or entity that is servicing a home loan on behalf of itself or another person or entity.

"(B) The term 'eligible homeowner' means a homeowner eligible for counseling under paragraph (4).

"(C) The term 'home loan' means a loan secured by a mortgage or lien on residential property.

"(D) The term 'homeowner' means a person who is obligated under a home loan.

"(E) The term 'residential property' means a 1-family residence, including a 1-family unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

"(7) REGULATIONS.—The Secretary shall issue any regulations that are necessary to carry out this subsection.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection

$3,500,000 for each of the fiscal years 1988 and 1989. Any amount appropriated under this subsection shall remain available until expended.

"(9) TERMINATION.—The provisions of this subsection shall not be effective after September 30, 1989.".

SEC. 170. HOUSING ASSISTANCE TECHNICAL AMENDMENTS.

(a) SECTION 235 HOMEOWNERSHIP ASSISTANCE.—Section 235(i)(3)(C) of the National Housing Act is amended by inserting an opening parenthesis before "including". 12 USC 1715z.

(b) RENTAL HOUSING FOR LOWER INCOME FAMILIES.—The last sentence of section 236(i)(1) of the National Housing Act is amended by striking "(h)" and inserting "(f)(4)". 12 USC 1715z-1.

(c) DEFINITION OF DISABILITY.—Section 3(b)(3)(A) of the United States Housing Act of 1937 is amended— 42 USC 1437a.

(1) by striking "or" the first place it appears and inserting a comma; and

(2) by striking "or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970" and inserting the following: ", has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))".

(d) LOWER INCOME HOUSING.—

(1) The first sentence of section 6(a) of the United States Housing Act of 1937 is amended by inserting "The" before "Secretary". 42 USC 1437d.

(2) Section 6(c)(4)(A) of the United States Housing Act of 1937 is amended—

(A) by striking "or are paying more than 50 per centum of family income for rent"; and

(B) by inserting ", are paying more than 50 percent of family income for rent," after "substandard housing".

(3) Paragraphs (4) and (5) of section 6(k) of the United States Housing Act of 1937 are amended by striking "his" each place it appears and inserting "their".

(e) HOUSING DEVELOPMENT GRANTS.—Section 17(d)(7)(A) of the United States Housing Act of 1937 is amended by striking "title" and inserting "subsection". 42 USC 1437o.

(f) PUBLIC HOUSING DEMOLITION AND DISPOSITION.—Section 18(b) of the United States Housing Act of 1937 is amended in the matter preceding paragraph (1) by inserting "or" after "section". 42 USC 1437p.

(g) HOUSING FOR THE ELDERLY AND HANDICAPPED.—

(1) The third sentence of section 202(d)(4) of the Housing Act of 1959 is amended by striking "is a developmentally disabled individual as defined in section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1950" and inserting the following: "has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))". 12USC 1701q.

(2) Section 202(f) of the Housing Act of 1959 is amended by striking "section 134" and inserting "section 133".

(3) Section 202(l) of the Housing Act of 1959 is amended by striking "difference" and inserting "different".

(h) RENT SUPPLEMENTS.—Section 101(j)(1)(D) of the Housing and Urban Development Act of 1965 is amended by striking "divided" and inserting "dividend". 12 USC 1701s.

Subtitle C—Multifamily Housing Management and Preservation

SEC. 181. MANAGEMENT AND PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS.

(a) GOALS.—Section 203(a) of the Housing and Community Development Amendments of 1978 is amended by striking "(a)" and all that follows through the semicolon at the end of paragraph (1) and inserting the following: 12 USC 1701z-11.

"(a) The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall manage or dispose of multifamily housing projects that are owned by the Secretary, or that are subject to a mortgage held by the Secretary that is either delinquent, under a workout agreement, or being foreclosed upon by the Secretary, in a manner that is consistent with the National Housing Act and this section and that will, in the least costly fashion among the reasonable alternatives available, further the goals of—

"(1) preserving so that they are available to and affordable by low- and moderate-income persons—

"(A) all units in multifamily housing projects that are subsidized projects or formerly subsidized projects;

"(B) in other multifamily housing projects owned by the Secretary, at least the units that are occupied by low- and moderate-income persons or vacant; and

"(C) in all other multifamily housing projects, at least the units that are, on the date of assignment, occupied by low- and moderate-income persons;".

(b) MANAGEMENT SERVICES.—Section 203(b)(2) of the Housing and Community Development Amendments of 1978 is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) by redesignating clauses (A) through (D) as clauses (i) through (iv), respectively;

(3) by striking ", owned by the Secretary" and inserting the following: "subject to subsection (a) that is owned by the Secretary (or for which the Secretary is mortgagee in possession)";

(4) by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following new subparagraph:

"(B) to require the owner of a multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), to contract for management services for the project in the manner described in subparagraph (A).".

(c) MAINTAINING OF PROJECTS.—Section 203(c) of the Housing and Community Development Amendments of 1978 is amended to read as follows:

"(c)(1) In the case of multifamily housing projects subject to subsection (a) that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing for the longest feasible period.

"(2) In the case of any multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of paragraph (1).".

(d) FINANCIAL ASSISTANCE.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

12 USC 1701z-11.

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) In carrying out the goals specified in subsection (a)(1) the Secretary shall take not less than one of the following actions:

Contracts.

"(1) Enter into contracts under section 8 of the United States Housing Act of 1937, to the extent budget authority is available for such section 8, with owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary. Such contracts shall provide assistance to the project involved for a period of not less than 15 years. Such contracts shall be sufficient to assist all units in subsidized or formerly subsidized projects, and all units in other projects that are occupied by lower income families eligible for assistance under such section 8 at the time of foreclosure or sale, as the case may be, and all units that are vacant at such time (which units shall be made available for such families as soon as possible). In order to make available to families any units in subsidized or formerly subsidized projects that are occupied by persons not eligible for assistance under such section 8, but that subsequently become vacant, the contract shall also provide that when any such vacancy occurs the owner involved shall lease the available unit to a family eligible for assistance under such section 8. The Secretary shall provide such contracts at contract rents that, consistent with subsection (a), provide for the rehabilitation of such project and do not exceed the most recently adjusted fair market rents for substantially rehabilitated units published by the Secretary in the Federal Register.

Federal Register, publication.

"(2) In accordance with the authority provided under the National Housing Act, provide purchase-money mortgages, reduce the selling price, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that will ensure that, for a period of not less than 15 years (A) the project will remain available to and affordable by low- and moderate-income persons; and (B) such persons shall pay not more than the amount payable as rent under section 3(a) of the United States Housing Act of 1937.".

(e) RIGHT OF FIRST REFUSAL.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (e) through (h) (as so redesignated by this section) as subsections (f) through (i); and

(2) by inserting before such subsection (f) the following new subsection:

State and local governments.

"(e) Upon receipt of a bona fide offer to purchase a project subject to subsection (a), the Secretary shall notify the local government and the State housing finance agency (or other agency or agencies designated by the Governor) of the proposed terms and conditions of the offer, including the assistance that the Secretary plans to make available to the prospective purchaser. The local government and the designated State agency shall have 90 days to match the offer and purchase the project. In administering the right of first refusal provided in this subsection, the Secretary shall offer assistance to the local government or designated State agency on terms and conditions at least as favorable as made available to the prospective purchaser. Notwithstanding any other provision of law to the contrary, a local government (including a public housing agency) or designated State agency may purchase a subsidized project or formerly subsidized project in accordance with this subsection.".

(f) DISPLACEMENT PROTECTION.—Section 203(f)(1) of the Housing and Community Development Amendments of 1978 (as so redesignated by this section) is amended—

12 USC 1701z-11.

(1) by striking "owned by the Secretary" and inserting the following: "subject to subsection (a) that is owned by the Secretary (or for which the Secretary is mortgagee in possession)"; and

(2) by adding at the end the following new sentence: "In the case of a multifamily housing project subject to subsection (a) that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph.".

(g) LIMITATIONS ON CERTAIN PROJECT, LOAN, AND MORTGAGE SALES.—Section 203 of the Housing and Community Development Amendments of 1978 is amended—

(1) by redesignating subsections (h) and (i) (as so redesignated by this section) as subsections (i) and (j); and

(2) by inserting before such subsection (i) the following new subsection:

"(h)(1) The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) The Secretary may not approve the sale of any subsidized project (A) that is subject to a mortgage held by the Secretary; or (B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

State and local governments.

"(3) Notwithstanding any provision of law that may require competitive sales or bidding, the Secretary may carry out negotiated sales of subsidized or formerly subsidized mortgages held by the

Secretary, without the competitive selection of purchasers or intermediaries, to agencies of State or local government, or groups of investors that include at least 1 such agency of State or local government, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or agencies of State or local government to act as mortgagee or owner of a beneficial interest in such mortgages in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such agency of State or local government to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best price that may be obtained for such mortgages from an agency of State or local government, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.".

(h) DEFINITIONS.—Section 203(i) of the Housing and Community Development Amendments of 1978 (as so redesignated by this section) is amended— 12 USC 1701z-11.

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraphs:

"(2) For the purpose of this section, the term 'subsidized project' means a multifamily housing project receiving any of the following assistance immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act;

"(B) interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act;

"(C) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(D) direct loans at below market interest rates, made under section 202 of the Housing Act of 1959 or to a multifamily housing project under section 312 of the Housing Act of 1964; or

"(E) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975) or section 8 of the United States Housing Act of 1937 (other than subsection (b)(1) of such section), without regard to whether such payments are made to all or a portion of the units in the project.

"(3) For the purpose of this section, the term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.".

SEC. 182. ACQUISITION OF INSURED MULTIFAMILY HOUSING PROJECTS.

Section 207(k) of the National Housing Act is amended by inserting after the second sentence the following new sentence: "In deter- 12 USC 1713.

mining the amount to be bid, the Secretary shall act consistently with the goal established in section 203(a)(1) of the Housing and Community Development Amendments of 1978.".

SEC. 183. TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS.

12 USC 1715z-1b.

(a) APPLICABILITY.—Section 202(a) of the Housing and Community Development Amendments of 1978 is amended by inserting before the period at the end the following: "or section 202 of the Housing Act of 1959".

(b) NOTICE AND COMMENT.—Section 202(b)(1) of the Housing and Community Development Amendments of 1978 is amended by striking "and the Secretary deems it appropriate" and inserting the following: "or where the Secretary proposes to sell a mortgage secured by a multifamily housing project".

Contracts.
42 USC 1437f note.

(c) NONDISCRIMINATION AGAINST SECTION 8 CERTIFICATE HOLDERS AND VOUCHER HOLDERS.—No owner of a subsidized project (as defined in section 203(i)(2) of the Housing and Community Development Amendments of 1978, as amended by section 181(h) of this Act) shall refuse—

(1) to lease any available dwelling unit in any such project of such owner that rents for an amount not greater than the fair market rent for a comparable unit, as determined by the Secretary under section 8 of the United States Housing Act of 1937, to a holder of a certificate of eligibility under such section, a proximate cause of which is the status of such prospective tenant as a holder of such certificate, and to enter into a housing assistance payments contract respecting such unit; or

(2) to lease any available dwelling unit in any such project of such owner to a holder of a voucher under section 8(o) of such Act, and to enter into a voucher contract respecting such unit, a proximate cause of which is the status of such prospective tenant as holder of such voucher.

State and local governments.
12 USC 1701z-11 note.

SEC. 184. MULTIFAMILY HOUSING DISPOSITION PARTNERSHIP.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—The Secretary of Housing and Urban Development (referred to in this section as the "Secretary") shall carry out a program to demonstrate the effectiveness of disposing of distressed multifamily housing projects owned by the Department of Housing and Urban Development through a partnership with State housing finance agencies. The demonstration program may be carried out with not more than 4 State housing finance agencies and shall be designed to determine the feasibility of entering into similar relationships with other State housing finance agencies.

(b) REQUIREMENTS OF DEMONSTRATION PROGRAM.—

(1) OPPORTUNITY TO PARTICIPATE IN SALE.—Not less than 30 days before offering to sell any multifamily housing project that is located in a State participating in the demonstration program and that is subject to section 204 of the Housing and Community Development Amendments of 1978, the Secretary shall—

(A) notify the State housing finance agency of the plan of the Secretary to sell the project; and

(B) provide the State housing finance agency with the option to provide the long-term financing for the sale of the project through the co-insurance program of the Secretary, if the project complies with the State laws applicable to the State housing finance agency.

Loans.

(2) TERMS OF PARTICIPATION.—If the State housing finance agency agrees to participate in the sale of a project under this section, the terms of the sale shall be as follows:

(A) The State housing finance agency shall provide a loan to the purchaser of the property.

(B) The mortgage securing the loan shall be insured by the Secretary and the State housing finance agency under paragraph (3) or (4) of section 221(d) of the National Housing Act.

(C) The terms and conditions of the loan shall be consistent with the terms and conditions of the sale.

(3) COOPERATIVE AGREEMENT.—Not later than the expiration of the 3-month period beginning on the date of the enactment of this Act, the Secretary shall enter into cooperative agreements with State housing finance agencies to carry out the demonstration program under this section.

(c) TERMINATION OF DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (2), the demonstration program under this section shall terminate upon the expiration of the 3-year period beginning on the date of the enactment of this Act.

(2) CONTINUATION OF PROGRAM.—

(A) The Secretary may continue the demonstration program under this section after the termination date established in paragraph (1) for such additional period as the Secretary determines to be appropriate.

(B) The Secretary shall continue the demonstration program under this section with respect to any project for which the Secretary notifies the State housing finance agency under subsection (b)(1)(A) before the termination date established in paragraph (1) or under subparagraph (A).

(d) REPORT TO CONGRESS.—Not later than 6 months after the termination date established in subsection (c)(1), the Secretary shall submit to the Congress a report evaluating the effectiveness of the demonstration program under this section as a national model for the disposition of distressed multifamily housing projects owned by the Department of Housing and Urban Development.

SEC. 185. MULTIFAMILY HOUSING CAPITAL IMPROVEMENTS ASSISTANCE.

(a) PURPOSE.—Section 201(a) of the Housing and Community Development Amendments of 1978 is amended by inserting after "management," the following: "to permit capital improvements to be made to maintain certain projects as decent, safe, and sanitary housing,".

12 USC 1715z-1a.

(b) ELIGIBILITY.—Section 201(c)(1)(B) of the Housing and Community Development Amendments of 1978 is amended by inserting after "is assisted under" the following: "section 23 of the United States Housing Act of 1937, as in effect immediately before January 1, 1975,".

(c) BORROWER REQUIREMENTS.—Section 201(d) of the Housing and Community Development Amendments of 1978 is amended—

(1) in paragraph (1), by inserting "or physical" after "maintain the financial"; and

(2) in paragraph (6), by striking the final period, and inserting the following: "; except that the Secretary may excuse an owner from compliance with the plan requirement set forth in this

paragraph in any case in which such owner seeks only assistance for capital improvements under this section.".

(d) Amount and Conditions of Assistance.—Section 201(f) of the Housing and Community Development Amendments of 1978 is amended— 12 USC 1715z-1a.

(1) in paragraph (1), by inserting after "to any project" in the matter preceding subparagraph (A) the following: "(except a project assisted only for capital improvements)"; and

(2) in paragraph (4), by inserting after "for any year" the following: "for a project (other than a project receiving assistance only for capital improvements)".

(e) Regulations.—Section 201(g) of the Housing and Community Development Amendments of 1978 is amended by inserting before the period at the end the following: ", to the extent applicable.".

(f) Flexible Subsidy Fund.—Section 201(j) of the Housing and Community Development Amendments of 1978 is amended to read as follows:

"(j)(1) For purposes of carrying out the provisions of this section, there is hereby established in the Treasury of the United States a revolving fund, to be known as the Flexible Subsidy Fund. The Fund shall, to the extent approved in appropriation Acts, be available to the Secretary to provide assistance under this section (including assistance for capital improvements).

"(2) The Fund shall consist of (A) any amount appropriated to carry out the purposes of this section; (B) any amount repaid on any assistance provided under this section; (C) any amounts credited to the reserve fund described in section 236(g) of the National Housing Act; and (D) any other amount received by the Secretary under this section (including any amount realized under paragraph (3)).

"(3) Any amounts in the Fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of this section shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

"(4) The Secretary may use not more than $50,000,000 from the Fund in any fiscal year for purposes of providing assistance for capital improvements in accordance with this section.".

(g) Assistance for Capital Improvements.—Section 201 of the Housing and Community Development Amendments of 1978 is amended by adding at the end the following new subsections:

"(k)(1) Assistance for capital improvements under this section shall include assistance for any major repair or replacement of a capital item in a multifamily housing project, including any such repair or replacement required as a result of deferred or inadequate maintenance. Capital improvements do not include maintenance of any such item. Assistance for capital improvements under this section shall be in the form of a loan. Loans.

"(2) The owner of a project receiving assistance for capital improvements shall agree to contribute assistance to such project in such amounts, from such sources, and in such manner as the Secretary determines to be appropriate, except that—

"(A) such contribution shall not be less than 20 percent of the total estimated cost of the capital improvements involved, unless the Secretary, upon application of the owner, determines that such contribution is financially infeasible and waives or reduces such contribution to the extent necessary;

"(B) the Secretary may not require an amount to be contributed, from the reserve funds established by the owner of such projects for the purpose of making capital improvements, in excess of 50 percent of the amount of such reserve funds on the date of such loan; and

"(C) The Secretary shall waive the requirements of this paragraph if such owner is a private nonprofit corporation or an association.

"(3) The Secretary may provide assistance for capital improvements under this section if the Secretary finds that the reserve funds established by the owner of a project for the purpose of making capital improvements are insufficient to finance both the capital improvements for which such assistance is to be used and other capital improvements that are reasonably expected to be required in the near future, and such insufficiency is not the result of the failure of such owner to comply with any standard established by the Secretary for management of such reserve funds.

"(4) In providing, and contracting to provide, assistance for capital improvements under this section, the Secretary shall—

"(A) give priority to projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987; and

"(B) with respect to any amounts not required for projects under subparagraph (A), give priority among other projects based on the extent to which—

"(i) the capital improvements for which such assistance is requested are immediately required;

"(ii) the projects serve as the residences of lower income families, and the extent which other suitable housing is unavailable for such families in the areas in which such projects are located;

Safety.
Health and medical care.

"(iii) the capital improvements for which such assistance is requested involve the life, safety, or health of the residents of the project or involve major capital improvements in the projects; and

"(iv) the projects demonstrate the greatest financial distress, while continuing to meet the requirements of subsection (d)(1).

"(l)(1) The principal amount of any assistance for capital improvements under this section that is provided to the owner of a project shall not exceed the difference between the contribution made by the owner in accordance with subsection (k)(2) and the sum of—

"(A) the amount determined by the Secretary to be necessary for such owner to make capital improvements with respect to capital items that have failed, or are likely to deteriorate seriously or fail in the near future, in such projects;

Energy.

"(B) the amount determined by the Secretary to be necessary to carry out a plan to upgrade the capital items being improved, and any other capital items determined by the Secretary to be associated with such capital items being improved and to require upgrading, to meet cost-effective energy efficiency standards prescribed by the Secretary; and

"(C) the amount determined by the Secretary to be necessary to comply with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

Loans.

"(2)(A) The term of any assistance for capital improvements in the form of a loan under this section shall not exceed the remaining term of the mortgage of the project with respect to which such loan is provided.

"(B) Each loan for capital improvements provided under this section shall bear interest at a rate determined by the Secretary to be appropriate, except that—

"(i) such rate shall not be more than 3 percentage points below a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding date on which the loan is made, adjusted to the nearest 1/8 of 1 percent, plus an allowance adequate in the judgment of the Secretary of Housing and Urban Development to cover administrative costs and probable losses under the program; and

"(ii) such interest rate plus such allowance shall not exceed 6 percent per annum nor be less than 3 percent per annum.

"(C) Each loan for capital improvements provided under this section shall be considered to be a liability of the project involved, and shall not be dischargeable in any bankruptcy proceeding under section 727, 1141, or 1328(b) of title 11, United States Code.

"(D) The Secretary may establish such additional conditions on loans provided under this section as the Secretary determines to be appropriate.

"(E) The Secretary may provide more than one loan or assistance in any other form to any project under this section, if each loan or other assistance complies with the provisions of this section.

Loans.

"(m)(1) Increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project subject to a plan of action approved under subtitle B of the Emergency Low Income Housing Preservation Act of 1987 shall be governed by the rent agreements entered into under such subtitle.

"(2) In order to minimize any increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project not subject to paragraph (1) and that would be incurred by lower income residents of the project involved whose rental payments are, or would as a result of such expenses be, in excess of the amount allowable if section 3(a) of the United States Housing Act of 1937 were applicable to such residents, the Secretary may take any or all of the following actions:

"(A) Provide assistance with respect to such project under section 8(b)(1) of the United States Housing Act of 1937, to the extent amounts are available for such assistance and without regard to section 16 of such Act.

"(B) Reduce the rate of interest charged on such loan to a rate of not less than 1 percent.

"(C) Increase the term of such loan to a term that does not exceed the remaining term of the mortgage on such project.

"(D) Increase the amount of assistance to be provided by the owner of such project under subsection (k)(2), if applicable, to an amount not to exceed 30 percent of the total estimated cost of the capital improvements involved.".

(h) CONFORMING AMENDMENT.—The section heading for section 201 of the Housing and Community Development Amendments of 1978 is amended by striking "OPERATING".

12 USC 1715z-1a.

SEC. 186. FLEXIBLE SUBSIDY PROGRAM.

(a) USE OF SECTION 236 EXCESS RENTAL CHARGES.—Section 236(f)(3) of the National Housing Act is amended by striking "September 30, 1985" and inserting "September 30, 1989".

12 USC 1715z-1.

(b) ASSISTANCE FOR CERTAIN HOUSING PROJECTS FOR ELDERLY OR HANDICAPPED FAMILIES.—

(1) Section 201(a) of the Housing and Community Development Amendments of 1978 is amended by inserting "the Housing Act of 1959," after "1937,".

(2) Section 201(c)(1)(A) of the Housing and Community Development Amendments of 1978 is amended by inserting before the semicolon at the end the following: ", or received a loan under section 202 of the Housing Act of 1959 more than 15 years before the date on which assistance is made available under this section".

TITLE II—PRESERVATION OF LOW INCOME HOUSING

Emergency Low Income Housing Preservation Act of 1987.

Subtitle A—General Provisions

SEC. 201. SHORT TITLE.

12 USC 1715*l* note.

This title may be cited as the "Emergency Low Income Housing Preservation Act of 1987".

SEC. 202. FINDINGS AND PURPOSE.

12 USC 1715*l* note.

(a) FINDINGS.—The Congress finds that—

(1) in the next 15 years, more than 330,000 low income housing units insured or assisted under sections 221(d)(3) and 236 of the National Housing Act could be lost as a result of the termination of low income affordability restrictions;

(2) in the next decade, more than 465,000 low income housing units produced with assistance under section 8 of the United States Housing Act of 1937 could be lost as a result of the expiration of the rental assistance contracts;

(3) some 150,000 units of rural low income housing financed under section 515 of the Housing Act of 1949 are threatened with loss as a result of the prepayment of mortgages by owners;

(4) the loss of this privately owned and federally assisted housing, which would occur in a period of sharply rising rents on unassisted housing and extremely low production of additional low rent housing, would inflict unacceptable harm on current tenants and would precipitate a grave national crisis in the supply of low income housing that was neither anticipated nor intended when contracts for these units were entered into;

(5) the loss of this affordable housing, to encourage the production of which the public has provided substantial benefits over past years, would irreparably damage hard-won progress toward such important and long-established national objectives as—

(A) providing a more adequate supply of decent, safe, and sanitary housing that is affordable to low income Americans;

(B) increasing the supply of housing affordable to low income Americans that is accessible to employment opportunities; and

(C) expanding housing opportunities for all Americans, particularly members of disadvantaged minorities;

(6) the provision of an adequate supply of low income housing has depended and will continue to depend upon a strong, long-term partnership between the public and private sectors that accommodates a fair return on investment;

(7) recent reductions in Federal housing assistance and tax benefits related to low income housing have increased the incentives for private industry to withdraw from the production and management of low income housing;

(8) efforts to retain this housing must take account of specific financial and market conditions that differ markedly from project to project;

(9) a major review of alternative responses to this threatened loss of affordable housing is now being undertaken by numerous private sector task forces as well as State and local organizations; and

(10) until the Congress can act on recommendations that will emerge from this review, interim measures are needed to avoid the irreplaceable loss of low income housing and irrevocable displacement of current tenants.

(b) Purpose.—It is the purpose of this title—

(1) to preserve and retain to the maximum extent practicable as housing affordable to low income families or persons those privately owned dwelling units that were produced for such purpose with Federal assistance;

(2) to minimize the involuntary displacement of tenants currently residing in such housing; and

(3) to continue the partnership between all levels of government and the private sector in the production and operation of housing that is affordable to low income Americans.

12 USC 1715*l* note.

SEC. 203. TERMINATION OF CERTAIN PROVISIONS.

(a) In General.—Effective upon the expiration of the 2-year period beginning on the date of the enactment of this Act—

(1) subtitles B and D are repealed; and

(2) each provision of law amended by subtitle B or D is amended to read as it would without such amendment.

(b) Savings Provision.—The repeal or amendment of any provision under subsection (a) shall have no effect on any action taken or authorized under the provision prior to such repeal or amendment.

Subtitle B—Prepayment of Mortgages Insured Under National Housing Act

12 USC 1715*l* note.

SEC. 221. GENERAL PREPAYMENT LIMITATION.

(a) Prior Approval of Plan of Action.—An owner of eligible low income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Secretary of Housing and Urban Development under this subtitle.

(b) Alternative Prepayment Moratorium.—In the event any court of the United States or any State invalidates the requirements established in this subtitle, an owner of eligible low income housing located in the geographic area subject to the jurisdiction of such court may not prepay, and a mortgagee may not accept prepayment of, a mortgage on such housing during the 2-year period following the date of such invalidation.

SEC. 222. NOTICE OF INTENT.

12 USC 1715*l* note.

An owner of eligible low income housing seeking to initiate prepayment or other changes in the status or terms of the mortgage or regulatory agreement shall file with the Secretary a notice of the intent of the owner in such form and manner as the Secretary shall prescribe. The owner shall simultaneously file the notice or intent with any appropriate State or local government agency for the jurisdiction within which the housing is located.

State and local governments.

SEC. 223. PLAN OF ACTION.

12 USC 1715*l* note.

(a) Preparation and Submission.—Upon receipt of a notice of intent, the Secretary shall provide the owner with such information as the owner needs to prepare a plan of action, which information shall include a description of the Federal incentives authorized under this title. The owner shall submit the plan of action to the Secretary in such form and manner as the Secretary shall prescribe. The owner may simultaneously submit the plan of action to any appropriate State or local government agency for the jurisdiction within which the housing is located, which agency shall, in reviewing the plan, consult with representatives of the tenants of the housing.

State and local governments.

(b) Contents.—The plan of action shall include—

(1) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement, which may include a request for incentives to extend the low income use of the housing;

(2) a description of any assistance that could be provided by State or local government agencies, as determined by prior consultation between the owner and any appropriate State or local agencies;

State and local governments.

(3) a description of any proposed changes in the low income affordability restrictions;

(4) a description of any change in ownership that is related to prepayment;

(5) an assessment of the effect of the proposed changes on existing tenants;

(6) a statement of the effect of the proposed changes on the supply of housing affordable to lower and very low income families or persons in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

(7) any other information that the Secretary determines is necessary to achieve the purposes of this title.

(c) Revisions.—The owner may from time to time revise and amend the plan of action as may be necessary to obtain approval of the plan under this subtitle.

12 USC 1715*l* note.

SEC. 224. INCENTIVES TO EXTEND LOW INCOME USE.

(a) AGREEMENTS BY SECRETARY.—After receiving a plan of action from an owner of eligible low income housing, the Secretary may enter into such agreements as are necessary to satisfy the criteria for approval under section 225.

(b) PERMISSIBLE INCENTIVES.—Such agreements may include one or more of the following incentives that the Secretary, after taking into account local market conditions, determines to be necessary to achieve the purposes of this title:

(1) An increase in the allowable distribution or other measures to increase the rate of return on investment.

(2) Revisions to the method of calculating equity.

(3) Increased access to residual receipts accounts or excess replacement reserves.

(4) Provision of insurance for a second mortgage under section 241(f) of the National Housing Act.

(5) An increase in the rents permitted under an existing contract under section 8 of the United States Housing Act of 1937, or (subject to the availability of amounts provided in appropriation Acts) additional assistance under such section 8 or an extension of any project-based assistance attached to the housing.

(6) Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978.

(7) Other actions, authorized in other provisions of law, to facilitate a transfer or sale of the project to a qualified nonprofit organization, limited equity tenant cooperative, public agency, or other entity acceptable to the Secretary.

(8) Other incentives authorized in law.

12 USC 1715*l* note.

SEC. 225. CRITERIA FOR APPROVAL OF PLAN OF ACTION.

(a) PLAN OF ACTION INVOLVING TERMINATION OF LOW INCOME AFFORDABILITY RESTRICTIONS.—The Secretary may approve a plan of action that involves termination of the low income affordability restrictions only upon a written finding that—

(1) implementation of the plan of action will not materially increase economic hardship for current tenants or involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available; and

Safety. Health and medical care.

(2)(A) the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect—

(i) the availability of decent, safe, and sanitary housing affordable to lower income and very low-income families or persons in the area that the housing could reasonably be expected to serve;

(ii) the ability of lower income and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities; or

Minorities.

(iii) the housing opportunities of minorities in the community within which the housing is located; or

State and local governments.

(B) the plan has been approved by the appropriate State agency and any appropriate local government agency for the jurisdiction within which the housing is located as being in accordance with a State strategy approved by the Secretary under section 226.

(b) Plan of Action Including Incentives.—The Secretary may approve a plan of action that includes incentives only upon finding that—

(1) the package of incentives is necessary to provide a fair return on the investment of the owner;

(2) due diligence has been given to ensuring that the package of incentives is, for the Federal Government, the least costly alternative that is consistent with the full achievement of the purposes of this title; and

(3) binding commitments have been made to ensure that—

(A) the housing will be retained as housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons for the remaining term of the mortgage;

(B) throughout such period, adequate expenditures will be made for maintenance and operation of the housing;

(C) current tenants shall not be involuntarily displaced (except for good cause);

(D) any increase in rent contributions for current tenants shall be to a level that does not exceed 30 percent of the adjusted income of the tenant or the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937, whichever is lower;

(E)(i) any resulting increase in rents for current tenants (except for increases made necessary by increased operating costs)—

(I) shall be phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

(II) shall be limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent; and

(ii) assistance under section 8 of the United States Housing Act of 1937 shall be provided if necessary to mitigate any adverse affect on current income eligible tenants; and

(F)(i) rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income families or persons, lower income families or persons, and moderate income families or persons (including families or persons whose incomes are 95 percent or more of area median income) as resided in the housing as of January 1, 1987; and

(ii) in approving rents under this paragraph, the Secretary shall take into account any additional incentives provided under this subtitle and shall make provision for such annual rent adjustments as may be made necessary by future reasonable increases in operating costs.

SEC. 226. ALTERNATIVE STATE STRATEGY.

12 USC 1715*l* note.

(a) Criteria for Approval.—The Secretary may approve a State strategy for purposes of section 225(a) only upon finding that it is a practicable statewide strategy that ensures at a minimum that—

(1) current tenants will not be involuntarily displaced (except for good cause);

Minorities.

(2) housing opportunities for minorities will not be adversely affected in the communities within which the housing is located;

(3) any increase in rent for current tenants shall be to a level that does not exceed 30 percent of the adjusted income of the tenants or the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937, whichever is lower, except that any increase not necessitated by increased operating costs shall be phased in equally over not less than 3 years if such increase exceeds 10 percent;

(4) housing approved under the State strategy will remain affordable to very low-income, lower income or moderate income families and persons for not less than the remaining term of the original mortgage, if the housing is to be made available for rental, or for not less than 40 years, if the housing is to be made available for homeownership;

(5)(A) not less than 80 of all units in eligible low income housing approved under the State strategy shall be retained as affordable to families or persons meeting the income eligibility standards for initial occupancy that applies to the housing on January 1, 1987; and

(B) not less than 60 percent of the units in any one project shall remain available and affordable to such families or persons, within which not less than 20 percent of the units shall remain available and affordable to very low income families or persons as determined by the Secretary with adjustments for smaller and larger families;

(6) expenditures for rehabilitation, maintenance and operation shall be at a level necessary to maintain the housing as decent, safe and sanitary for the period specified in paragraph (4);

(7) not less than 25 percent of new assistance required to maintain low income affordability in accordance with this section shall be provided through State and local actions, such as tax exempt financing, low-income tax credits, State or local tax concessions, and other incentives provided by the State or local governments; and

(8) for each unit of eligible low income housing approved under the State strategy that is not retained as affordable to families or persons meeting the income eligibility standards for initial occupancy on January 1, 1987, the State will provide with State funds 1 additional unit of comparable housing in the same market area that is available and affordable to such families or persons, and such units or funds shall be made available before the Secretary approves the State strategy.

(b) ADDITIONAL REQUIREMENTS.—

(1) The Secretary may not approve a State strategy until the State has entered into all of the agreements necessary to carry out the strategy.

(2) Each State strategy shall include any other provision that the Secretary determines to be necessary to implement an approved State strategy.

(c) IMPLEMENTATION AGREEMENTS.—The Secretary may enter into such agreements as are necessary to implement an approved State strategy, which agreements may include incentives that are authorized in other provisions of this subtitle.

SEC. 227. TIMETABLE FOR APPROVAL OF PLAN OF ACTION.

12 USC 1715*l* note.

(a) NOTIFICATION OF DEFICIENCIES.—Not later than 60 days after receipt of a plan of action, the Secretary shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, such notice shall describe alternative ways in which the plan could be revised to meet the criteria for approval

(b) NOTIFICATION OF APPROVAL.—

(1) IN GENERAL.—Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, the Secretary shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe—

(A) the reasons for withholding approval; and

(B) the actions that could be taken to meet the criteria for approval.

(2) OPPORTUNITY TO REVISE.—The Secretary shall subsequently give the owner a reasonable opportunity to revise the plan of action and seek approval.

SEC. 228. MODIFICATION OF EXISTING REGULATORY AGREEMENTS.

12 USC 1715*l* note.

(a) IN GENERAL.—If a plan of action cannot be approved within 300 days after a plan of action is submitted, the Secretary may, upon the request of the owner, modify existing regulatory agreements to—

(1) prevent involuntary displacement of current tenants (except for good cause);

(2) ensure that adequate expenditures will be made for maintenance and operation of the housing;

(3) extend any expiring project-based assistance on the housing for the term of the agreement;

(4) permit an increase in the allowable distribution that could be accommodated by a rise in rents on occupied units to rise to a level no higher than 30 percent of the adjusted income of the current tenants, as determined by the Secretary, except that rents shall not exceed the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937 and any resulting increase in rents for current tenants shall be phased in equally over a period of no less than 3 years unless such increase is less than 10 percent; and

(5) ensure that units becoming vacant during the term of the agreement are made available in accordance with section 225(b)(6)

(b) EXPIRATION.—Agreements entered into under this section shall expire upon the expiration of the 4-year period beginning on the date of the enactment of this Act. Upon the expiration of the agreements, the housing covered by the agreements shall be subject to any law then affecting low income affordability restrictions.

SEC. 229. CONSULTATIONS WITH OTHER INTERESTED PARTIES.

State and local governments.
12 USC 1715*l* note.

The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title and shall give consideration to the views of any such agency when making determinations under section 225 The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this title.

12 USC 1715*l* note.

SEC. 230. RIGHT OF CONVERSION TO ALTERNATIVE PREPAYMENT SYSTEM.

Any agreement to extend low income affordability restrictions under section 225(b) shall, for 4 years from the date of the enactment of this Act, provide the owner the right to convert to any system of incentives and restrictions provided in law during such period, with such adjustments as the Secretary determines are appropriate to compensate for the value of any benefits the owner had received under this title.

SEC. 231. INSURANCE FOR SECOND MORTGAGE FINANCING.

Loans.
12 USC 1715z-6.

Section 241 of the National Housing Act is amended by adding at the end the following new subsection:

"(f)(1) Notwithstanding any other provision of this section, the Secretary may, upon such terms and conditions as the Secretary may prescribe, make a commitment to insure and insure equity loans made by financial institutions approved by the Secretary. For purposes of this section, the term 'equity loan' means a loan or advance of credit to the owner of eligible low income housing (as defined in section 233 of the Emergency Low Income Housing Preservation Act of 1987) that is made for the purpose of implementing a plan of action approved under such Act.

"(2) To be eligible for insurance under this subsection, an equity loan shall—

"(A) be limited to an amount equal to 90 percent of the value of the equity in the project, as determined by the Secretary, and the Secretary, in making the determination, shall take into account that rental income for the project may rise within limits established by section 225(b) of the Emergency Low Income Housing Preservation Act of 1987;

"(B) have a maturity and provisions for amortization satisfactory to the Secretary, bear interest at such rate as may be agreed upon by the mortgagor and mortgagee, and be secured in such manner as the Secretary may require; and

"(C) contain such other terms, conditions, and restrictions as the Secretary may prescribe, including phased advances of equity loan proceeds to reflect project rent levels.

"(3) A qualified nonprofit organization or limited equity tenant cooperative corporation, when purchasing an otherwise eligible project, may constitute an owner of eligible low income housing for purposes of receiving a loan insured under this subsection.

"(4) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall be applicable to loans insured under this section, except that—

"(A) all references to the term 'mortgage' shall be construed to refer to the term 'loan' as used in this subsection;

"(B) loans involving projects covered by a mortgage insured under section 236 shall be insured under and shall be the obligation of the Special Risk Insurance Fund; and

"(C) with respect to any sale under foreclosure of a mortgage on the project that is senior to the equity loan insured under this subsection and when the equity loan is secured by a mortgage, the Secretary may—

"(i) issue regulations providing that, in order to receive insurance benefits, the insured mortgagee shall either assign the equity loan to the Secretary or bid the amount necessary to acquire the project and convey title to the project to the Secretary, in which case the insurance benefits paid by the Secretary shall include the amount bid by the mortgagee to satisfy the senior mortgage at the foreclosure sale; and

"(ii) if the equity loan has been assigned to the Secretary, bid, in addition to amounts authorized under section 207(k), any sum not in excess of the total unpaid indebtedness secured by such senior mortgage and the equity loan, plus taxes, insurance, foreclosure costs, fees, and other expenses.

"(5) A mortgagee approved by the Secretary may not withhold consent to an equity loan on a property on which that mortgagee holds a mortgage.".

SEC. 232. REPORT TO CONGRESS.

12 USC 1715*l* note.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report setting forth the activities carried out under this subtitle. The report shall include a description of the plans of action approved under subsections (a) and (b) of section 225 and an analysis of the extent to which the plans retain housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons.

SEC. 233. DEFINITIONS.

12 USC 1715*l* note.

For purposes of this subtitle:

(1) The term "eligible low income housing" means any housing financed by a loan or mortgage—

(A) that is—

(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

(iii) insured, assisted, or held by the Secretary under section 236 of the National Housing Act; or

(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

(B) that, under regulation or contract in effect before the date of the enactment of this Act, is or will within 1 year become eligible for prepayment without prior approval of the Secretary.

(2) The term "low income affordability restrictions" means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low income housing.

(3) The terms "lower income families or persons" and "very low-income families or persons" mean families or persons whose incomes do not exceed the respective levels established for lower income families and very low-income families under section 3(b)(2) of the United States Housing Act of 1937.

(4) The term "moderate income families or persons" means families or persons whose incomes are between 80 percent and 95 percent of median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(5) The term "owner" means the current or subsequent owner or owners of eligible low income housing.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "termination of low income affordability restrictions" means any elimination or relaxation of low income affordability restrictions (other than those permitted under an approved plan of action under section 225(b)).

12 USC 1715*l* note.

SEC. 234. REGULATIONS.

The Secretary shall issue final regulations to carry out this subtitle not later than 60 days after the date of the enactment of this Act. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.

12 USC 1715*l* note.

SEC. 235. EFFECTIVE DATE.

The requirements of this subtitle shall apply to any project that is eligible low income housing on or after November 1, 1987.

Subtitle C—Rural Rental Housing Displacement Prevention

SEC. 241. PREPAYMENT AND REFINANCING PROCEDURES.

42 USC 1472.

Section 502(c) of the Housing Act of 1949 is amended by adding at the end the following new paragraphs:

State and local governments.

"(3) Notice of offer to prepay.—Not less than 30 days after receiving an offer to prepay any loan made or insured under section 514 or 515, the Secretary shall provide written notice of the offer or request to the tenants of the housing and related facilities involved, to interested nonprofit organizations, and to any appropriate State and local agencies.

Loans. Contracts.

"(4)(A) Agreement by borrower to extend low income use.—Before accepting any offer to prepay, or requesting refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, the Secretary shall make reasonable efforts to enter into an agreement with the borrower under which the borrower will make a binding commitment to extend the low income use of the assisted housing and related facilities involved for not less than the 20-year period beginning on the date on which the agreement is executed.

"(B) Assistance available to borrower to extend low income use.—To the extent of amounts provided in appropriation Acts, the agreement under subparagraph (A) may provide for 1 or more of the following forms of assistance that the Secretary, after taking into account local market conditions, determines to be necessary to extend the low income use of the housing and related facilities involved:

"(i) Increase in the rate of return on investment.

"(ii) Reduction of the interest rate on the loan through the provision of interest credits under section 521(a)(1)(B).

"(iii) Additional rental assistance, or an increase in assistance provided under existing contracts, under section 521(a)(2) or under section 8 of the United States Housing Act of 1937.

Contracts.

"(iv) An equity loan to the borrower under paragraphs (7) and (8) of section 515(b).

"(v) Incremental rental assistance in connection with loans under clauses (ii) and (iv) to the extent necessary to avoid increases in the rental payments of current tenants not receiving rental assistance under section 521(a)(2) or under section 8 of the United States Housing Act of 1937.

"(C) Approval of assistance.—The Secretary may approve assistance under subparagraph (B) only if the Secretary determines that the combination of assistance provided—

"(i) is necessary to provide a fair return on the investment of the borrower; and

"(ii) is the least costly alternative for the Federal Government that is consistent with carrying out the purposes of this subsection.

"(5)(A) Offer to sell to nonprofit organizations and public agencies.—

"(i) In general.—If the Secretary determines after a reasonable period that an agreement will not be entered into with a borrower under paragraph (4), the Secretary shall require the borrower (except as provided in subparagraph (G)) to offer to sell the assisted housing and related facilities involved to any qualified nonprofit organization or public agency at a fair market value determined by 2 independent appraisers, one of whom shall be selected by the Secretary and one of whom shall be selected by the borrower. If the 2 appraisers fail to agree on the fair market value, the Secretary and the borrower shall jointly select a third appraiser, whose appraisal shall be binding on the Secretary and the borrower.

"(ii) Period for which requirement applicable.—If, upon the expiration of 180 days after an offer is made to sell housing and related facilities under clause (i), no qualified nonprofit organization or public agency has made a bona fide offer to purchase, the Secretary may accept the offer to prepay, or may request refinancing in accordance with subsection (b)(3) of, the loan. This clause shall apply only when funds are available for purposes of carrying out a transfer under this paragraph.

"(B) Qualified nonprofit organizations and public agencies.—

"(i) Local nonprofit organization or public agency.—A local nonprofit organization or public agency may purchase housing and related facilities under this paragraph only if—

Contracts.

"(I) the organization or agency is determined by the Secretary to be capable of managing the housing and related facilities (either directly or through a contract) for the remaining useful life of the housing and related facilities; and

"(II) the organization or agency has entered into an agreement that obligates it (and successors in interest thereof) to maintain the housing and related facilities as affordable for very low-income families or persons and low income families or persons for the remaining useful life of the housing and related facilities.

"(ii) NATIONAL OR REGIONAL NONPROFIT ORGANIZATION.—If the Secretary determines that there is no local nonprofit organization or public agency qualified to purchase the housing and related facilities involved, the Secretary shall require the borrower to offer to sell the assisted housing and related facilities to an existing qualified national or regional nonprofit organization.

"(C) FINANCING OF SALE.—To facilitate the sale described in subparagraph (A), the Secretary shall—

"(i) to the extent provided in appropriation Acts, make an advance to the nonprofit organization or public agency whose offer to purchase is accepted under this paragraph to cover any direct costs (other than the purchase price) incurred by the organization or agency in purchasing and assuming responsibility for the housing and related facilities involved;

Loans.

"(ii) approve the assumption, by the nonprofit organization or public agency involved, of the loan made or insured under section 514 or 515;

"(iii) to the extent provided in appropriation Acts, transfer any rental assistance payments that are received under section 521(a)(2)(A), or under section 8 of the United States Housing Act of 1937, with respect to the housing and related facilities involved; and

Loans.

"(iv) to the extent provided in appropriation Acts, provide a loan under section 515(c)(3) to the nonprofit organization or public agency whose offer to purchase is accepted under this paragraph to enable the organization or agency to purchase the housing and related facilities involved.

"(D) RENT LIMITATION AND ASSISTANCE.—The Secretary shall, to the extent provided in appropriation Acts, provide to each nonprofit organization or public agency purchasing housing and related facilities under this paragraph financial assistance (in the form of monthly payments or forgiveness of debt) in an amount necessary to ensure that the monthly rent payment made by each low income family or person residing in the housing does not exceed the maximum rent permitted under section 521(a)(2)(A).

"(E) RESTRICTION ON SUBSEQUENT TRANSFERS.—Except as provided in subparagraph (B)(ii), the Secretary may not approve the transfer of any housing and related facilities purchased under this paragraph during the remaining useful life of the housing and related facilities, unless the Secretary determines that—

"(i) the transfer will further the provision of housing and related facilities for low income families or persons; or

"(ii) there is no longer a need for such housing and related facilities by low income families or persons.

Loans.
Contracts.

"(F) GENERAL RESTRICTION ON PREPAYMENTS AND REFINANCINGS.—Following the transfer of the maximum number of dwelling units set forth in subparagraph (H)(i) in any fiscal year or the maximum number of dwelling units for which budget authority is available in any fiscal year, the Secretary may not accept in such fiscal year any offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, except in accordance with subparagraph (G). The limitation established in this subparagraph shall not apply to an offer to prepay, or request to refinance, if, following the date on which such offer or request is made (or following the date of the enactment of the Housing and

Community Development Act of 1987, whichever occurs later) a 15-month period expires during which no budget authority is available to carry out this paragraph. For purposes of this subparagraph, the Secretary shall allocate budget authority under this paragraph in the order in which offers to prepay, or request to refinance, are made.

"(G) EXCEPTION.—This paragraph shall not apply to any offer to prepay, or any request to refinance in accordance with subsection (b)(3), any loan made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, if—

Loans.

"(i) the borrower enters into an agreement with the Secretary that obligates the borrower (and successors in interest thereof)—

"(I) to utilize the assisted housing and related facilities for the purposes specified in section 514 or 515, as the case may be, for a period determined by the Secretary (but not less than the period described in paragraph (1)(B) calculated from the date on which the loan is made or insured); and

"(II) upon termination of the period described in paragraph (1)(B), to offer to sell the assisted housing and related facilities to a qualified nonprofit organization or public agency in accordance with this paragraph; or

"(ii) the Secretary determines that housing opportunities of minorities will not be materially affected as a result of the prepayment or refinancing, and that—

"(I) the borrower (and any successor in interest thereof) are obligated to ensure that tenants of the housing and related facilities financed with the loan will not be displaced due to a change in the use of the housing, or to an increase in rental or other charges, as a result of the prepayment or refinancing; or

"(II) there is an adequate supply of safe, decent, and affordable rental housing within the market area of the housing and related facilities and sufficient actions have been taken to ensure that the rental housing will be made available to each tenant upon displacement.

"(H) FUNDING.—

"(i) BUDGET LIMITATION.—Not more than 5,000 dwelling units may be transferred under this paragraph in any fiscal year, and the budget authority that may be provided under this paragraph for any fiscal year may not exceed the amounts required to carry out this paragraph with respect to such number.

"(ii) REIMBURSEMENT OF RURAL HOUSING INSURANCE FUND.—There are authorized to be appropriated to the Rural Housing Insurance Fund such sums as may be necessary to reimburse the Fund for financial assistance provided under this paragraph, paragraph (4), and section 517(j)(7).

"(I) DEFINITION.—For purposes of this paragraph, the term 'nonprofit organization' means any private organization—

"(i) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual; and

"(ii) that is approved by the Secretary as to financial responsibility.

"(J) REGULATIONS.—Notwithstanding section 534, the Secretary shall issue final regulations to carry out this paragraph not later than 60 days after the date of the enactment of the Housing and Community Development Act of 1987. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.".

SEC. 242. EQUITY RECAPTURE LOANS AND LOANS TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.

42 USC 1485.

Section 515 of the Housing Act of 1949 is amended—

(1) by redesignating subsections (c) through (p) as subsections (d) through (q), respectively; and

(2) by inserting after subsection (b) the following:

"(c) With respect to a loan made or insured under subsection (a) or (b), the Secretary is authorized to—

"(1) make or insure an equity loan in the form of a supplemental loan for the purpose of equity takeout to the owner of housing financed with a loan made or insured under this section pursuant to a contract entered into before December 21, 1979, for the purpose of extending the affordability of the housing for low income families or persons and very low-income families or persons for not less than 20 years, except that such loan may not exceed 90 percent of the value of the equity in the project as determined by the Secretary;

"(2) transfer and reamortize an existing loan in connection with assistance provided under paragraph (1); and

"(3) make or insure a loan to enable a nonprofit organization or public agency to make a purchase described in section 502(c)(5).".

SEC. 243. USE OF RURAL HOUSING INSURANCE FUND.

42 USC 1487.

Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) to provide advances and assistance required to carry out paragraphs (4) and (5) of section 502(c).".

Subtitle D—Other Measures to Preserve Low Income Housing

SEC. 261. EARLY PREPAYMENT.

12 USC 1715z-15.

Section 250(a)(1) of the National Housing Act is amended by striking "or" and all that follows through "needs" the last place it appears

SEC 262. SECTION 8 ASSISTANCE.

42 USC 1437f.

(a) REQUIRED NOTICE.—Section 8(c) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

Contracts.

"(9) Not less than 1 year prior to terminating any contract under which assistance payments are received under this section (but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o)), an owner shall provide written notice to the Secretary and the tenants involved of the proposed termination, specifying the reasons for the termination with sufficient detail to enable the Secretary to evaluate whether the termination is lawful and whether there are additional actions that can be taken by the Secretary to avoid the termination. The Secretary shall review the owner's notice, shall consider whether there are additional actions that can be taken by the Secretary to avoid the termination, and shall ensure a proper adjustment of the contract rents for the project in conformity with the requirements of paragraph (2). The Secretary shall issue a written finding of the legality of the termination and the reasons for the termination, including the actions considered or taken to avoid the termination. For purposes of this paragraph, the term 'termination' means the expiration of the assistance contract or an owner's refusal to renew the assistance contract.".

(b) ADJUSTMENT OF ALLOWABLE RENT.—Section 8(c) of the United States Housing Act of 1937 (as amended by subsection (a) of this section) is further amended by adding at the end the following new paragraph:

Contracts.

"(10) If an owner provides notice of proposed termination under paragraph (9) and the contract rent is lower than the maximum monthly rent for units assisted under subsection (b)(1), the Secretary shall adjust the contract rent based on the maximum monthly rent for units assisted under subsection (b)(1) and the value of the lower income housing after rehabilitation.".

Contracts.

(c) LOAN MANAGEMENT AND PROPERTY DISPOSITION PROGRAMS.—Section 8 of the United States Housing Act of 1937 (as amended by section 149 of this Act) is further amended by adding at the end the following new subsection:

"(v)(1) Each contract entered into by the Secretary under this section for loan management assistance shall be for a term of 180 months.

"(2) The Secretary shall extend any expiring contract entered into under this section for loan management assistance or execute a new contract, if the owner agrees to continue providing housing for lower income families during the term of the contract.".

SEC. 263. SECTION 515 OPERATING RESERVE AND EQUITY CONTRIBUTION REQUIREMENTS.

Section 515 of the Housing Act of 1949 (as amended by section 242) is further amended by adding at the end the following new subsection:

"(r) The Secretary—

"(1) may require that the initial operating reserve under this section may be in the form of an irrevocable letter of credit; and

"(2) may not require more than a 3 percent contribution to equity.".

TITLE III—RURAL HOUSING

SEC. 301. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a)(1) of the Housing Act of 1949 is amended to read as follows:

42 USC 1483.

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1988 and 1989 in aggregate amounts not to exceed $1,775,395,000 and $1,794,925,000, respectively, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of borrowers receiving assistance under section 521(a)(1) or receiving guaranteed loans pursuant to section 304 of the Housing and Community Development Act of 1987,

$1,104,000,000 for fiscal year 1988 and $1,116,144,000 for fiscal year 1989.

"(B) For loans under section 504, $11,335,000 for fiscal year 1988 and $11,460,000 for fiscal year 1989.

"(C) For insured loans under section 514, $11,485,000 for fiscal year 1988 and $11,612,000 for fiscal year 1989.

"(D) For insured loans under section 515, $647,000,000 for fiscal year 1988 and $654,117,000 for fiscal year 1989.

"(E) For loans under section 523(b)(1)(B), $1,000,000 for fiscal year 1988 and $1,011,000 for fiscal year 1989.

"(F) For site loans under section 524, $575,000 for fiscal year 1988 and $581,000 for fiscal year 1989.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 is amended to read as follows:

42 USC 148

"(b) There are authorized to be appropriated for fiscal years 1988 and 1989, and to remain available until expended, the following amounts:

"(1) For grants under section 504, $13,113,000 for fiscal year 1988 and $13,362,000 for fiscal year 1989.

"(2) For purposes of section 509(c), $713,000 for fiscal year 1988 and $727,000 for fiscal year 1989.

"(3) Such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(4) For financial assistance under section 516, $9,979,000 for fiscal year 1988 and $10,169,000 for fiscal year 1989.

"(5) For grants under section 523(f), $8,392,000 for fiscal year 1988 and $8,551,000 for fiscal year 1989.

"(6) For grants under section 533, $20,078,000 for fiscal year 1988 and $20,460,000 for fiscal year 1989.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c) of the Housing Act of 1949 is amended to read as follows:

"(c)(1) The Secretary, to the extent approved in appropriation Acts for fiscal years 1988 and 1989, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $275,310,000 for fiscal year 1988 and $280,000,000 for fiscal year 1989.

"(2) Any authority approved in appropriation Acts for fiscal year 1988 or any succeeding fiscal year for rental assistance payment contracts under section 521(a)(2)(A) shall be used by the Secretary—

"(A) to renew rental assistance payment contracts that expire during such fiscal year;

"(B) to provide amounts required to continue rental assistance payments for the remaining period of an existing contract, in any case in which the original amount of rental assistance is used prior to the end of the term of the contract; and

"(C) to make additional rental assistance payment contracts for existing or newly constructed dwelling units.".

(d) SUPPLEMENTAL RENTAL ASSISTANCE CONTRACTS.—Section 513 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(d) The Secretary, to the extent approved in appropriation Acts for fiscal years 1988 and 1989, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating $26,000,000 for fiscal year 1988 and $27,534,000 for fiscal year 1989.".

42 USC 1485.

(e) Rental Housing Loan Authority.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking "March 15, 1988" and inserting "September 30, 1989".

42 USC 1490c.

(f) Mutual and Self-Help Housing Grant and Loan Authority.—Section 523(f) of the Housing Act of 1949 is amended by striking "March 15, 1988" and inserting "September 30, 1989".

Contracts.
State and local governments.

(g) Rural Housing Voucher Demonstration.—Section 513 of the Housing Act of 1949 (as amended by subsection (d) of this section) is further amended by adding at the end the following:

"(e)(1) To such extent or in such amounts as are approved in appropriation Acts, the Secretary shall carry out a demonstration rural housing voucher program during fiscal years 1988 and 1989. For such purpose, the Secretary shall enter into contracts using a payment standard in accordance with section 8(o) of the United States Housing Act of 1937 covering up to 7,500 dwelling units located in rural areas in not more than 5 States during each such fiscal year.

"(2) The Secretary may use the authority conferred by paragraph (1) in a State only if the State Farmers Home Administration Administrator certifies that—

"(A) such Administrator has completed an inventory of the State's housing supply, including housing suitable for rehabilitation, using currently available data; and

"(B) there is an adequate supply of decent, safe, and sanitary housing available for occupancy by voucher holders in that State.

"(3) In carrying out the voucher demonstration program under this subsection, the Secretary shall coordinate activities under this subsection with activities assisted under sections 515 and 533 of this title and under section 17 of the United States Housing Act of 1937.

"(4) Funding for the voucher demonstration program under this subsection shall be from amounts in the Rural Housing Insurance Fund authorized for loans under sections 502 and section 515 in proportion to the amounts authorized for such loans. Any reduction in the amounts available for such loans shall be made from the total amounts available for such loans in all States.".

SEC. 302. ELIGIBILITY REQUIREMENTS.

42 USC 1471.

(a) Resident Aliens.—Section 501 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(h)(1) The Secretary may not restrict the availability of assistance under this title for any alien for whom assistance may not be restricted by the Secretary of Housing and Urban Development under section 214 of the Housing and Community Development Act of 1980.

"(2) In carrying out any restriction established by the Secretary on the availability of assistance under this title for any alien, the Secretary shall follow procedures comparable to the procedures established in section 214 of the Housing and Community Development Act of 1980.".

(b) Income Levels.—

Virgin Islands.

(1) Section 501(b)(4) of the Housing Act of 1949 is amended by adding at the end the following new sentence: "Notwithstand-

ing the preceding sentence, the maximum income levels established for purposes of this title for such families and persons in the Virgin Islands shall not be less than the highest such levels established for purposes of this title for such families and persons in American Samoa, Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

Effective date. 42 USC 1471 note.

(2) The amendment made by paragraph (1) shall be applicable to any determination of eligibility for assistance under title V of the Housing Act of 1949 made on or after the date of the enactment of this Act.

SEC. 303. ESCROWING TAXES AND INSURANCE.

42 USC 1471.

Section 501(e) of the Housing Act of 1949 is amended to read as follows:

"(e) The Secretary shall establish procedures under which borrowers under this title are required to make periodic payments for the purpose of taxes, insurance, and other necessary expenses as the Secretary may deem appropriate. Notwithstanding any other provision of law, such payments shall not be considered public funds. The Secretary shall direct the disbursement of the funds at the appropriate time or times for the purposes for which the funds were escrowed. If the prepayments made by the borrower are not sufficient to pay the amount due, advances may be made by the Secretary to pay the costs in full, which advances shall be charged to the account of the borrower, bear interest, and be payable in a timely fashion as determined by the Secretary. The Secretary shall notify a borrower in writing when loan payments are delinquent.".

Loans.

SEC. 304. RURAL HOUSING GUARANTEED LOAN DEMONSTRATION.

42 USC 1472 note.

(a) Establishment of Demonstration.—The Secretary of Agriculture (referred to in this section as the "Secretary") shall carry out a rural housing guaranteed loan demonstration program under which the Secretary shall, to the extent of amounts provided in appropriation Acts, provide guaranteed loans in accordance with section 502, section 517(d), and the last sentence of section 521(a)(1)(A), of the Housing Act of 1949.

State and local governments.

(b) Amount Available for Demonstration.—

(1) There shall be available for guaranteed loans under this section for any fiscal year in each State an amount equal to whichever of the following is lower:

(A) 10 percent of the total loan authority allocated under section 502 of the Housing Act of 1949 to the State for the fiscal year.

(B) The average, during the preceding 3 fiscal years, of the funds allocated to the State under section 502 of the Housing Act of 1949 that have not been utilized.

(2) Any amount made available under this subsection that is not used before the last 60 days of a fiscal year shall become available for assistance for low income families or persons under section 502 of the Housing Act of 1949.

(c) Eligibility for Loans.—Loans guaranteed pursuant to this section shall be made only to borrowers with moderate incomes that do not exceed the median income of the area, as determined by the Secretary, with adjustments for smaller and larger families.

(d) Reports to Congress.—The Secretary shall submit to the Congress—

(1) as soon as practicable after September 30, 1989, an interim report setting forth the findings and recommendations of the Secretary as a result of the demonstration; and

(2) as soon as practicable after September 30, 1991, a final report setting forth the findings and recommendations of the Secretary as a result of the demonstration.

(e) TERMINATION.—The Secretary may not provide any guaranteed loan under this section after September 30, 1991, except pursuant to a commitment entered into on or before such date.

SEC. 305. DEFINITION OF DOMESTIC FARM LABOR.

(a) INSURED LOAN PROGRAM.—Section 514(f)(3) of the Housing Act of 1949 is amended to read as follows: 42 USC 1484.

"(3) the term 'domestic farm labor' means any person (and the family of such person) who receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities or the handling of such commodities in the unprocessed stage, without respect to the source of employment, except that—

"(A) such person shall be a citizen of the United States or a person legally admitted for permanent residence;

"(B) such term includes any person (and the family of such person) who is retired or disabled, but who was domestic farm labor at the time of retirement or becoming disabled; and

"(C) in applying this paragraph with respect to vacant units in farm labor housing, the Secretary shall make units available for occupancy in the following order of priority:

"(i) to active farm laborers (and their families);

"(ii) to retired or disabled farm laborers (and their families) who were active in the local farm labor market at the time of retiring or becoming disabled; and

"(iii) to other retired or disabled farm laborers (and their families).".

(b) GRANT PROGRAM.—Section 516(g) of the Housing Act of 1949 is amended— 42 USC 1486.

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the term 'domestic farm labor' has the meaning given such term in section 514(f)(3).".

SEC. 306. CONFORMANCE WITH LOW-INCOME HOUSING TAX CREDIT ELIGIBILITY REQUIREMENTS.

Section 515(p) of the Housing Act of 1949 (as so redesignated by section 242 of this Act) is amended by adding at the end the following:

"(4) In projects financed under this section, units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986 shall not be available for occupancy by persons or families other than persons or families with incomes not in excess of the qualifying income applicable to such units pursuant to subparagraph (A) or (B) of section 42(g)(1) of such Code, except when the Secretary determines that the continued vacancy of units that have been unoccupied for at least 6 months threatens the financial viability of the project.".

SEC. 307. LIMITATION OF FEES ON RURAL RENTAL HOUSING LOANS.

Section 515 of the Housing Act of 1949 (as amended by section 263 of this Act) is further amended by adding at the end the following new subsection:

"(s) No fee other than a late fee may be imposed by or for the Secretary or any other Federal agency on or with respect to a loan made or insured under this section.".

SEC. 308. RURAL AREA CLASSIFICATION.

42 USC 1490.

(a) HOLD HARMLESS.—Section 520 of the Housing Act of 1949 is amended by striking "March 15, 1988" in the last sentence and inserting "September 30, 1989".

California.

(b) ELIGIBILITY OF RURAL AREA PROXIMATE TO URBAN AREA.—Section 520 of the Housing Act of 1949 is amended in the first sentence by inserting before "part of or associated with" the following: "(except in the case of Pajaro, in the State of California)".

SEC. 309. PROCEDURES FOR REDUCTION OF INTEREST CREDITS.

Loans.
42 USC 1490a.

Section 521(a)(1)(B) of the Housing Act of 1949 is amended by adding at the end the following new sentence: "In the case of assistance provided under this subparagraph with respect to a loan under section 502, the Secretary may not reduce, cancel, or refuse to renew the assistance due to an increase in the adjusted income of the borrower if the reduction, cancellation, or nonrenewal will cause the borrower to be unable to reasonably afford the resulting payments required under the loan.".

SEC. 310. RURAL HOUSING PRESERVATION GRANT PROGRAM.

42 USC 1490m.

Section 533(h) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

Regulations.

"(2) The Secretary shall, not later than the expiration of the 30-day period following the date of the enactment of the Housing and Community Development Act of 1987 issue regulations to carry out the program of grants under subsection (a)(2).".

SEC. 311. RURAL RENTAL REHABILITATION DEMONSTRATION.

42 USC 1490m note.

(a) ESTABLISHMENT OF DEMONSTRATION.—The Secretary of Housing and Urban Development (referred to in this section as the "Secretary") shall carry out a rural rental rehabilitation demonstration program in accordance with this section.

Grants.

(b) AVAILABILITY OF AMOUNTS.—For purposes of the demonstration program, any rental rehabilitation grant amount provided to a State under section 17 of the United States Housing Act of 1937 that is unutilized from any prior fiscal year shall be available for use in areas eligible for assistance under title V of the Housing Act of 1949.

(c) REPORT TO CONGRESS.—The Secretary shall submit to the Congress as soon as practicable after September 30, 1989, a report setting forth the findings and recommendations of the Secretary as a result of the demonstration program. The report shall include an evaluation of the following:

(1) The effectiveness of the program in meeting the need for the rehabilitation of rental housing in rural areas.

(2) The extent of participation by the owners of rental properties in the program.

(3) The cost of the program.

(d) TERMINATION.—The authority provided in this section shall terminate after September 30, 1989.

SEC. 312. STUDY OF MORTGAGE CREDIT IN RURAL AREAS.

Loans.

The Secretary of Housing and Urban Development shall conduct a study of the availability and use of funds (including mortgages and loans insured under title II of the National Housing Act, loans made or insured under title V of the Housing Act of 1949, and conventional mortgages and loans) for the purchase and improvement of residential real property in rural areas, particularly in communities that have populations of not more than 2,500 individuals. Not later than April 1, 1988, the Secretary shall submit to the Congress a detailed report setting forth the findings of the Secretary as a result of the study.

Reports.

SEC. 313. DEBT SETTLEMENT AUTHORITY OF SECRETARY.

Claims.
Contracts.
42 USC 1480.

Section 510(c) of the Housing Act of 1949 is amended to read as follows:

"(c) compromise, adjust, reduce, or charge-off claims, and adjust, modify, subordinate, or release the terms of security instruments, leases, contracts, and agreements entered into or administered by the Secretary under this title, as circumstances may require, including the release of borrowers or others obligated on a debt from personal liability with or without payment of any consideration at the time of the compromise, adjustment, reduction, or charge-off of any claim;".

SEC. 314. MANUFACTURED HOUSING.

Loans.

42 USC 1472.

Section 502(e) of the Housing Act of 1949 is amended by adding at the end the following:

"(3) A loan that may be made or insured under this section with respect to a manufactured home on a permanent foundation, or a manufactured home on a permanent foundation and a lot, shall be repayable over the same period as would be applicable under section 203(b) of the National Housing Act.".

SEC. 315. LOAN PACKAGING BY NONPROFIT ORGANIZATIONS.

Grants.

Section 501 of the Housing Act of 1949 (as amended by section 302 of this Act) is further amended by adding at the end the following new subsection:

"(i) For the purposes of this title, the term 'development cost' shall include the packaging of loan and grant applications and actions related thereto by public and private nonprofit organizations tax exempt under the Internal Revenue Code of 1986.".

SEC. 316. RURAL HOUSING TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 501(b)(3) of the Housing Act of 1949 is amended by striking "is a developmentally disabled individual as defined in section 102(7) of the Development Disabilities Services and Facilities Construction Act" and inserting the following: "has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7))".

(b) FARM LABOR HOUSING.—Section 514(f)(1) of the Housing Act of 1949 is amended by striking "and" at the end.

42 USC 1484.

(c) Housing for Elderly Families.—Section 515(p)(1) of the Housing Act of 1949 (as so redesignated by section 242 of this Act) is amended by striking "effective".

42 USC 1490a.

(d) Loans to Low- and Moderate-Income Families.—Section 521(a) of the Housing Act of 1949 is amended—

(1) in paragraph (1)(A), by striking ", except" and all that follows through "charges"; and

(2) in paragraph (2)(A), by striking "; or" and inserting ", or".

42 USC 1490b.

(e) Housing for Rural Trainees.—Section 522(a) of the Housing Act of 1949 is amended by striking the comma after "Health".

42 USC 1490f.

(f) Condominium Housing.—

(1) Section 526(a) of the Housing Act of 1949 is amended by striking "and" the first place it appears.

(2) Section 526(c) of the Housing Act of 1949 is amended by striking "and" the first place it appears.

(g) Housing Preservation Grants.—

42 USC 1490m.

(1) Section 533(e)(1)(B)(iii) of the Housing Act of 1949 is amended by inserting "to" before "refuse".

(2) Section 533(g) of the Housing Act of 1949 is amended by striking "persons of low income and very low-income" and inserting "low income families or persons and very low-income families or persons".

TITLE IV—MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET PROGRAMS

Subtitle A—FHA Mortgage Insurance Programs

SEC. 401. INSURANCE AUTHORITY FOR FHA.

(a) Repeals.—Each of the following provisions of law is repealed:

12 USC 1715h.

(1) Section 217 of the National Housing Act.

12 USC 1715*l*.

(2) The fifth sentence of section 221(f) of the National Housing Act.

12 USC 1715z-9.

(3) Section 244(d), and the last sentence of section 244(h), of the National Housing Act.

12 USC 1715z-10.

(4) The last sentence of section 245(a) of the National Housing Act.

12 USC 1748h-1.

(5) The second sentence of section 809(f) of the National Housing Act.

12 USC 1748h-2.

(6) The second sentence of section 810(k) of the National Housing Act.

12 USC 1749bb.

(7) The second sentence of section 1002(a) of the National Housing Act.

12 USC 1749aaa.

(8) The second sentence of section 1101(a) of the National Housing Act.

12 USC 1703.

(b) Amendment.—The first sentence of section 2(a) of the National Housing Act is amended by striking "and not later than March 15, 1988,".

(c) Extension of Section 235.—The last sentence of section 235(h)(1), section 235(m), and the last sentence of section 235(q)(1), of the National Housing Act are each amended by striking out "March 15, 1988" and inserting in lieu thereof "September 30, 1989". 12 USC 1715z.

(d) TERMINATION OF SECTION 235.— 12 USC 1715z note.

(1) IN GENERAL.—Effective on October 1, 1989, the program under section 235 of the National Housing Act shall terminate.

(2) SAVINGS PROVISION.—The provisions of paragraph (1) shall not affect—

(A) any mortgage insurance commitment issued; or

(B) any assistance pursuant to a reservation of funds made;

under section 235 of the National Housing Act prior to October 1, 1989.

SEC. 402. AMOUNT TO BE INSURED UNDER NATIONAL HOUSING ACT.

Section 531 of the National Housing Act is amended— 12 USC 1735f-9.

(1) by inserting "(a)" after "SEC. 531."; and

(2) by adding at the end thereof the following:

"(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and to the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of $100,000,000,000 during fiscal year 1988, and $104,000,000,000 during fiscal year 1989.".

SEC. 403. LIMITATION ON FEDERAL HOUSING ADMINISTRATION INSURANCE PREMIUMS.

Section 203(c) of the National Housing Act is amended by adding at the end the following new sentence: "In the case of any mortgage secured by a 1- to 4-family dwelling, the total premium charge shall not exceed an amount equal to 3.8 percent of the original principal obligation of the mortgage if the Secretary requires (1) a single premium charge to cover the total premium obligation of the insurance of the mortgage; or (2) a periodic premium charge over less than the term of the mortgage.". 12 USC 1709.

SEC. 404. INCREASE IN MAXIMUM MORTGAGE AMOUNT UNDER SINGLE FAMILY INSURANCE PROGRAM.

Section 203(b)(2)(A) of the National Housing Act is amended by striking "133⅓ per centum" and inserting "150 percent".

SEC. 405. CHANGE IN DEFINITION OF VETERAN.

The National Housing Act is amended—

(1) by inserting before the period at the end of the first undesignated paragraph of section 203(b)(3)(2) the following: ", except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) of title 38, United States Code"; and

(2) by inserting before the semicolon at the end of section 220(d)(3)(A)(i) the following: ", except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) of title 38, United States Code". 12 USC 1715k.

SEC. 406. LIMITATION ON USE OF SINGLE FAMILY MORTGAGE INSURANCE BY INVESTORS.

12 USC 1709.

(a) IN GENERAL.—Section 203 of the National Housing Act is amended by inserting the following new subsection before subsection (h):

"(g)(1) The Secretary may insure a mortgage under this title that is secured by a 1- to 4-family dwelling, or approve a substitute mortgagor with respect to any such mortgage, only if the mortgagor is to occupy the dwelling as his or her principal residence or as a secondary residence, as determined by the Secretary.

"(2) The occupancy requirement established in paragraph (1) shall apply only if the mortgage involves a principal obligation that exceeds, as appropriate, 75 percent of—

"(A) the appraised value of the dwelling;

"(B) the estimate of the Secretary of the replacement cost of the property;

"(C) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the value of the property before repair and rehabilitation; or

"(D) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property, and, in the case of a property refinanced under section 220(d)(3)(A), any existing indebtedness incurred in connection with improving, repairing, or rehabilitating the property.

"(3) The occupancy requirement established in paragraph (1) shall not apply to any mortgagor (or co-mortgagor, as appropriate) that is—

"(A) a public entity, as provided in section 214 or 247;

"(B) a private nonprofit or public entity, as provided in section 221(h) or 235(j);

"(C) an Indian tribe, as provided in section 248;

"(D) a serviceperson who is unable to meet such requirement because of his or her duty assignment, as provided in section 216 or subsection (b)(4) or (f) of section 222; or

"(E) a mortgagor or co-mortgagor under subsection (k).

"(4) For purposes of this subsection, the term 'substitute mortgagor' means a person who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assumes such liability and agrees to pay the mortgage debt.".

(b) CONFORMING AMENDMENTS.—

(1) Section 203(b)(2) of the National Housing Act is amended—

(A) in the first sentence, by striking "(whether" and all that follows through "purposes)"; and

(B) in the second sentence, by striking the following: "to be occupied as a principal residence of the owner".

(2) Section 203(b) of the National Housing Act is amended by striking paragraph (8).

(3) Section 203(h) of the National Housing Act is amended by striking "is the owner and occupant and".

(4) Section 203(i) of the National Housing Act is amended—

(A) by striking the first proviso; and

(B) by striking "further" the first place it appears.

(5) The first sentence of section 203(o)(2) of the National Housing Act is amended by striking "occupant".

(6) The first sentence of section 203(p)(2) of the National Housing Act is amended by striking "owner-occupant" and inserting "owner". 12 USC 1709.

(7) The fourth sentence of section 214 of the National Housing Act is amended by striking the following: "shall be the owner and occupant of the property or". 12 USC 1715d.

(8) Section 216 of the National Housing Act is amended— 12 USC 1715g.

(A) by striking "that the mortgagor be the occupant" and inserting "with respect to the occupancy of the mortgagor"; and

(B) by striking "occupy the property" each place it appears and inserting "meet such requirement".

(9) Section 220(d)(3)(A) of the National Housing Act is amended— 12 USC 1715k.

(A) by inserting "and" at the end of clause (i);

(B) by striking clauses (ii) and (iii);

(C) in clause (iv), by striking the following: "(except as provided in clause (iii))"; and

(D) by redesignating clause (iv) as clause (ii).

(10) Section 221(d)(2) of the National Housing Act is amended— 12 USC 1715*l*.

(A) by striking the colon at the end of subparagraph (A)(iv) and all that follows through "*Provided further,* That" the first place it appears, and inserting ", except that";

(B) by striking "*Provided,* That (i)" and all that follows through "(1) in" and inserting the following: "*Provided,* That (i)(1) in";

(C) by striking the penultimate proviso; and

(D) in the last proviso, by striking the following: ", if the mortgagor is the owner and an occupant of the property such" and inserting "the".

(11) Section 221(d)(6)(ii) of the National Housing Act is amended by striking the following: "is an owner-occupant of the property and".

(12) The first sentence of section 221(h)(6) of the National Housing Act is amended by striking "and occupied".

(13) Section 221(h)(8) of the National Housing Act is amended by striking the following: "if one of the units is to be occupied by the owner".

(14) Subsections (b)(4) and (f) of section 222 of the National Housing Act are amended by inserting "as a principal residence" after "occupies the property" each place it appears. 12 USC 1715m.

(15) Section 223(a) of the National Housing Act is amended by inserting after "this Act," the first place it appears the following: "other than the limitation in section 203(g),". 12 USC 1715n.

(16) The first sentence of section 223(e) of the National Housing Act is amended by inserting after "title XI," the following: "other than the limitation in section 203(g),".

(17) Section 234(c) of the National Housing Act is amended by striking the fourth sentence. 12 USC 1715y.

(18) Section 235(i)(3)(A) of the National Housing Act is amended by striking the following: "one of the units of which is to be occupied by the owner and". 12 USC 1715z.

(19) Section 235(j)(6) of the National Housing Act is amended by striking the following: "if one of the units is to be occupied by the owner".

12 USC 1709.

(c) REPEAL OF VACATION AND SEASONAL HOME INSURANCE PROGRAM.—Section 203 of the National Housing Act is amended by striking subsection (m).

12 USC 1709 note.

(d) APPLICABILITY.—The amendments made by this section shall apply only with respect to—

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program (24 CFR 200.163), if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, referred to in the amendment made by subsection (a), if the original mortgagor was subject to such amendment.

12 USC 1709 note.

(e) TRANSITION PROVISIONS.—Any mortgage insurance provided under title II of the National Housing Act, as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions specified in subsections (a) through (c), as such provisions existed immediately before such date.

SEC. 407. ACTIONS TO REDUCE LOSSES UNDER SINGLE FAMILY MORTGAGE INSURANCE PROGRAM.

12 USC 1709 note.

(a) IN GENERAL.—

(1) AMENDMENT TO SECTION 203.—Section 203 of the National Housing Act is amended by adding at the end the following new subsection:

"(r) The Secretary shall take appropriate actions to reduce losses under the mortgage insurance program carried out under this section. Such actions shall include—

"(1) an annual review by the Secretary of the rate of early serious defaults and claims, in accordance with section 533;

"(2) requiring reviews of the credit standing of each person seeking to assume a mortgage insured under this section (A) during the 12-month period following the date on which the mortgage is endorsed for insurance, or (B) during the 24-month period following the date on which the mortgage is endorsed for insurance in the case of an investor originated mortgage; and

"(3) in any case where a mortgage is assumed after the period specified in paragraph (2), requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability.

In any case where the homeowner does not request a release from liability, the purchaser and the homeowner shall have joint and several liability for any default for a period of 5 years following the date of the assumption. After the close of such 5-year period, only the purchaser shall be liable for any default on the mortgage unless the mortgage is in default at the time of the expiration of the 5-year period.".

12 USC 1709 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to mortgages endorsed for issuance on or after December 1, 1986.

(b) REPORTS BY MORTGAGEES.—Title V of the National Housing Act is amended by adding at the end thereof the following new section:

"DIRECTION TO THE SECRETARY TO REQUIRE MORTGAGEES WITH ABOVE NORMAL RATES OF EARLY, SERIOUS DEFAULTS AND CLAIMS TO SUBMIT REPORTS AND TAKE CORRECTIVE ACTION

"SEC. 533. (a) To reduce losses in connection with mortgage insurance programs under this Act, the Secretary shall review, at least once a year, the rate of early serious defaults and claims involving mortgagees approved under this Act. On the basis of this review, the Secretary shall notify each mortgagee which, as determined by the Secretary, had a rate of early serious defaults and claims during the preceding year which was higher than the normal rate for the geographic area or areas in which that mortgagee does business. In the notification, the Secretary shall require each mortgagee to submit a report, within a time determined by the Secretary, containing the mortgagee's (1) explanation for the above normal rate of early serious defaults and claims; (2) plan for corrective action, if applicable, both with regard to (A) mortgages in default; and (B) its mortgage-processing system in general; and (3) a timeframe within which this corrective action will be begun and completed. If the Secretary does not agree with this timeframe or plan, a mutually agreeable timeframe and plan will be determined. 12 USC 1735f-11.

"(b) Failure of the mortgagee to submit a report required under subsection (a) within the time determined by the Secretary or to commence or complete the plan for corrective action within the timeframe agreed upon by the Secretary may be cause for suspension of the mortgagee from participation in programs under this Act.".

SEC. 408. INSURANCE OF GRADUATED PAYMENT MORTGAGES.

(a) AUTHORITY TO INSURE REFINANCING.—Section 223(a)(7) of the National Housing Act is amended in the first proviso by inserting after "except that" the following: "(A) the principal amount of any such refinancing mortgage may equal the outstanding balance of an existing mortgage insured pursuant to section 245, if the amount of the monthly payment due under the refinancing mortgage is less than that due under the existing mortgage for the month in which the refinancing mortgage is executed; and (B)". 12 USC 1715n.

(b) TERMINATION OF AUTHORITY TO INSURE.—Section 245(b) of the National Housing Act is amended by adding at the end the following new sentence: "No loan or mortgage may be insured under this subsection after the date of the enactment of the Housing and Community Development Act of 1987, except pursuant to a commitment to insure entered into on or before such date.". 12 USC 1715z-10.

SEC. 409. REFINANCING MORTGAGE INSURANCE FOR HOSPITALS, NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.

(a) STATE CERTIFICATION REQUIREMENT.—Section 223(f)(4)(D) of the National Housing Act is amended to read as follows:

> "(D) the applicable requirements for certificates, studies, and statements of section 232 (for the existing nursing home, intermediate care facility, board and care home, or any combination thereof, proposed to be refinanced) or of section 242 (for the existing hospital proposed to be refinanced) have been met.".

(b) REFINANCING INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.—Section 223(f) of the National Housing Act is amended—

(1) in paragraph (1), by inserting after "existing hospital" the following: "(or existing nursing home, existing intermediate care facility, existing board and care home, or any combination thereof)"; and

(2) in paragraph (4) (other than in subparagraph (D)), by inserting after "existing hospital" each place it appears the following: "(or existing nursing home, existing intermediate care facility, existing board and care home, or any combination thereof)".

12 USC 1715n note.

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 410. MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.

12 USC 1715w.

(a) INSURANCE FOR PUBLIC NURSING HOMES.—Section 232(b)(1) of the National Housing Act is amended by inserting "public facility," before "proprietary".

(b) REQUIREMENT OF STATE APPROVAL.—Section 232(d)(4)(A) of the National Housing Act is amended by inserting at the end the following new sentences: "If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the home or facility or combined home and facility as required in clause (i) of the first sentence, the Secretary shall not insure any mortgage under this section unless (i) the State in which the home or facility or combined home and facility is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (I) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (II) assesses, on a marketwide basis, the impact of the proposed home or facility or combined home and facility on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the home, facility, or combined home and facility; (III) is addressed to and is acceptable to the Secretary in form and substance; and (IV) in the event the State does not prepare the study, is prepared by a financial consultant who is selected by the State or the applicant for mortgage insurance and is approved by the Secretary; and (ii) the State complies with the other provisions of this subparagraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence. In the case of a small intermediate care facility for the mentally retarded or developmentally disabled, or a board and care home housing less than 10 individuals, the State program agency or agencies responsible for licensing, certifying, financing, or monitoring the facility or home may, in lieu of the requirements of clause (i) of the third sentence, provide the Secretary with written support identifying the need for the facility or home.".

12 USC 1715w note.

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act.

SEC. 411. REQUIREMENT OF STATE APPROVAL FOR MORTGAGE INSURANCE FOR HOSPITALS.

(a) In General.—Section 242(d)(4) of the National Housing Act is amended by inserting at the end the following new sentences: "If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the hospital as set forth in clause (A) of the first sentence, the Secretary shall not insure any mortgage under this section unless (A) the State in which the hospital is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (i) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (ii) assesses, on a marketwide basis, the impact of the proposed hospital on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the hospital; (iii) is addressed to and is acceptable to the Secretary in form and substance; and (iv) in the event the State does not prepare the study, is prepared by a financial consultant selected by the State and approved by the Secretary; and (B) the State complies with the other provisions of this paragraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence.". 12 USC 1715z-7.

(b) Regulations.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment made by this section by not later than the expiration of the 90-day period following the date of the enactment of this Act. 12 USC 1715z-7 note.

SEC. 412. MORTGAGE INSURANCE FOR PUBLIC HOSPITALS.

(a) Elimination of Additional Collateral Requirements for Public Hospitals.—Section 242(a) of the National Housing Act is amended by adding at the end the following: "Such assistance shall be provided regardless of the amount of public financial or other support a hospital may receive, and the Secretary shall neither require additional security or collateral to guarantee such support, nor impose more stringent eligibility or other requirements on publicly owned or supported hospitals.".

(b) Credit for Existing Equipment and Improvements.—Section 242(d)(2) of the National Housing Act is amended by striking the matter preceding subparagraph (A) and inserting the following:

"(2) The mortgage shall involve a principal obligation in the amount requested by the mortgagor if such amount does not exceed 90 percent of the estimated replacement cost of the property or project including—".

(c) Continued Use of Letters of Credit.—Section 242(d) of the National Housing Act is amended by adding at the end the following new paragraph:

"(6) To the extent that a private nonprofit or public facility mortgagor is required by the Secretary to provide cash equity in excess of the amount of the mortgage to complete the project, the mortgagor shall be entitled, at the option of the mortgagee, to fund the excess with a letter of credit. In such event, mortgage proceeds may be advanced to the mortgagor prior to any demand being made on the letter of credit.".

12 USC 1715z-7. (d) IMMEDIATE PROCESSING OF APPLICATIONS FOR PUBLIC HOSPITALS.—Section 242(f) of the National Housing Act is amended by adding at the end the following: "The Secretary shall begin immediately to process applications of public facilities for mortgage insurance under this section in accordance with regulations, guidelines, and procedures applicable to facilities of private nonprofit corporations and associations.".

(e) REPORT ON INSURANCE UNDER SECTION 242.—The Comptroller General of the United States shall conduct a study of the long-term financial exposure of the Federal Government under the mortgage insurance program pursuant to section 242 of the National Housing Act. Not later than October 1, 1988, the Comptroller General of the United States shall transmit to the Congress a report setting forth the results of such study, including documentation of the long-term financial exposure determined in the course of such study and recommendations for such legislation as the Comptroller General deems appropriate.

SEC. 413. MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS AND INDIAN RESERVATIONS.

12 USC 1715z-12. (a) APPLICABILITY OF MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS.—Section 247(c)(1) of the National Housing Act is amended by inserting before the period at the end the following: "(or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian home lands, such lower percentage as may be established for such succession under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 5))".

(b) MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS AS OBLIGATIONS OF GENERAL INSURANCE FUND.—Section 247 of the National Housing Act is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 519. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

(c) MORTGAGE INSURANCE ON INDIAN RESERVATIONS AS OBLIGATIONS OF GENERAL INSURANCE FUND.—Section 248 of the National Housing Act is amended— 12 USC 1715z-13.

(1) in paragraphs (3) and (5) of subsection (f), by striking "insurance fund" each place it appears and inserting "General Insurance Fund";

(2) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively; and

(3) by inserting after subsection (e) the following new subsection:

"(f) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 519. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured.".

SEC. 414. CO-INSURANCE PROGRAM.

(a) REPEALER.—Section 244 of the National Housing Act is amended by striking subsection (c). 12 USC 1715z-9.

(b) CO-INSURANCE AMENDMENTS.—Section 244 of the National Housing Act is amended—

(1) in subsection (h), by striking "coinsurance" each place it appears and inserting "co-insurance"; and

(2) by adding at the end the following new subsection:

"(i) Any mortgagee which enters into a contract of co-insurance under this section shall have the authority to assign its interest in any note or mortgage subject to a contract of co-insurance to a warehouse bank or other financial institution which provides interim funding for a loan co-insured under this section, and to retain the co-insurance risk of such note or mortgage, upon such terms and conditions as the Secretary shall prescribe.". Contracts.

SEC. 415. INCREASE IN AUTHORITY TO INSURE ADJUSTABLE RATE SINGLE FAMILY MORTGAGES.

(a) IN GENERAL.—Section 251(c) of the National Housing Act is amended to read as follows: 12 USC 1715z-16.

"(c) The aggregate number of mortgages and loans insured under this section in any fiscal year may not exceed 30 percent of the aggregate number of mortgages and loans insured by the Secretary under this title during the preceding fiscal year.". Loans.

(b) CONFORMING AMENDMENTS.—

(1) Section 245(c) of the National Housing Act is amended in the last sentence by striking ", section 251,". 12 USC 1715z-10.

(2) Section 252(g) of the National Housing Act is amended— 12 USC 1715z-17.

(A) by striking the first comma and inserting "and"; and

(B) by striking ", and section 251".

SEC. 416. PENALTIES FOR EQUITY SKIMMING.

(a) PURCHASE OF DWELLING SUBJECT TO LOAN IN DEFAULT.—Section 912 of the Housing and Urban Development Act of 1970 is amended— 12 USC 1709-2.

(1) in paragraph (1), by inserting "(including condominiums and cooperatives)" after "dwellings";

(2) in paragraph (2), by inserting after "due" the following: ", regardless of whether the purchaser is obligated on the loan"; and

(3) in the matter following paragraph (3)—

(A) by striking "$5,000" and inserting "$250,000"; and

(B) by striking "three" and inserting "5".

(b) Use of Funds Derived From Property Subject to Loan in Default.—Title II of the National Housing Act is amended by adding at the end the following new section:

"EQUITY SKIMMING PENALTY

12 USC 1715z-19. "Sec. 254. Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of property that is security for a mortgage note that is insured, acquired, or held by the Secretary pursuant to section 203, 207, 213, 220, 221(d)(3), 221(d)(4), 223(f), 231, 232, 234, 236, 238(c), 241, 242, 244, 608, or 810, or title XI, or is made pursuant to section 202 of the Housing Act of 1959, willfully uses or authorizes the use of any part of the rents, assets, proceeds, income or other funds derived from property covered by such mortgage note during a period when the mortgage note is in default or the project is in a nonsurplus cash position as defined by the regulatory agreement covering such property, for any purpose other than to meet actual or necessary expenses that include expenses approved by the Secretary if such approval is required under the terms of the regulatory agreement, shall be fined not more than $250,000 or imprisoned not more than 5 years, or both.".

(c) Conforming Amendments.—Section 239 of the National Housing Act is amended— 12 USC 1715z-4.

(1) by striking "INSURED" in the section heading;

(2) by striking "(a)" after "Sec. 239."; and

(3) by striking subsection (b).

SEC. 417. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) In General.—Title II of the National Housing Act (as amended by section 416 of this Act) is further amended by adding at the end the following new section:

"DEMONSTRATION PROGRAM OF INSURANCE OF HOME EQUITY CONVERSION MORTGAGES FOR ELDERLY HOMEOWNERS

12 USC 1715z-20. "Sec. 255. (a) Purpose.—The purpose of this section is to authorize the Secretary to carry out a demonstration program of mortgage insurance designed—

"(1) to meet the special needs of elderly homeowners by reducing the effect of the economic hardship caused by the increasing costs of meeting health, housing, and subsistence needs at a time of reduced income, through the insurance of home equity conversion mortgages to permit the conversion of a portion of accumulated home equity into liquid assets;

"(2) to encourage and increase the involvement of mortgagees and participants in the mortgage markets in the making and servicing of home equity conversion mortgages for elderly homeowners; and

"(3) to require the evaluation of data to determine—

"(A) the extent of the need and demand among elderly homeowners for insured and uninsured home equity conversion mortgages;

"(B) the types of home equity conversion mortgages that best serve the needs and interests of elderly homeowners, the Federal Government, and lenders; and

"(C) the appropriate scope and nature of participation by the Secretary in connection with home equity conversion mortgages for elderly homeowners.

"(b) DEFINITIONS.—For purposes of this section:

"(1) The terms 'elderly homeowner' and 'homeowner' mean any homeowner who is, or whose spouse is, at least 62 years of age or such higher age as the Secretary may prescribe.

"(2) The terms 'mortgage', 'mortgagee', 'mortgagor', and 'State' have the meanings given such terms in section 201.

"(3) The term 'home equity conversion mortgage' means a first mortgage which provides for future payments to the homeowner based on accumulated equity and which a housing creditor (as defined in section 803(2) of the Garn-St Germain Institutions Act of 1982) is authorized to make (A) under any law of the United States (other than section 804 of such Act) or applicable agency regulations thereunder; (B) in accordance with section 804 of such Act, notwithstanding any State constitution, law, or regulation; or (C) under any State constitution, law, or regulation.

"(c) INSURANCE AUTHORITY.—The Secretary may, upon application by a mortgagee, insure any home equity conversion mortgage eligible for insurance under this section and, upon such terms and conditions as the Secretary may prescribe, make commitments for the insurance of such mortgages prior to the date of their execution or disbursement to the extent that the Secretary determines such mortgages—

"(1) have promise for improving the financial situation or otherwise meeting the special needs of elderly homeowners;

"(2) will include appropriate safeguards for mortgagors to offset the special risks of such mortgages; and

"(3) have a potential for acceptance in the mortgage market.

"(d) ELIGIBILITY REQUIREMENTS.—To be eligible for insurance under this section, a mortgage shall—

"(1) have been made to a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

"(2) have been executed by a mortgagor who—

"(A) qualifies as an elderly homeowner;

"(B) has received adequate counseling by a third party (other than the lender) as provided in subsection (f); and

"(C) meets any additional requirements prescribed by the Secretary;

"(3) be secured by a dwelling that is designed principally for a 1-family residence and is occupied by the mortgagor and that has a value not to exceed the maximum dollar amount established by the Secretary under section 203(b)(2) for a 1-family residence;

"(4) provide that prepayment, in whole or in part, may be made without penalty at any time during the period of the mortgage;

"(5) provide for a fixed or variable interest rate or future sharing between the mortgagor and the mortgagee oı the appreciation in the value of the property, as agreed upon by the mortgagor and the mortgagee;

"(6) contain provisions for satisfaction of the obligation satisfactory to the Secretary;

"(7) provide that the homeowner shall not be liable for any difference between the net amount of the remaining indebtedness of the homeowner under the mortgage and the amount recovered by the mortgagee from—

"(A) the foreclosure sale; or

"(B) the insurance benefits paid pursuant to subsection (i)(1)(C); and

Taxes.

"(8) contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserve, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may prescribe.

"(e) DISCLOSURES BY MORTGAGEE.—The Secretary shall require each mortgagee of a mortgage insured under this section to make available to the homeowner—

"(1) at the time of the loan application, a written list of the names and addresses of third-party information sources who are approved by the Secretary as responsible and able to provide the information required by subsection (f);

"(2) at least 10 days prior to loan closing, a statement explaining the homeowner's rights, obligations, and remedies with respect to temporary absences from the home, late payments, and payment default by the lender, all conditions requiring satisfaction of the loan obligation, and any other information that the Secretary may require; and

"(3) on an annual basis (but not later than January 31 of each year), a statement summarizing the total principal amount paid to the homeowner under the loan secured by the mortgage, the total amount of deferred interest added to the principal, and the outstanding loan balance at the end of the preceding year.

"(f) INFORMATION SERVICES FOR MORTGAGORS.—The Secretary shall provide or cause to be provided by entities other than the lender the information required in subsection (d)(2)(B). Such information shall be discussed with the mortgagor and shall include—

"(1) options other than a home equity conversion mortgage that are available to the homeowner, including other housing, social service, health, and financial options;

"(2) other home equity conversion options that are or may become available to the homeowner, such as sale-leaseback financing, deferred payment loans, and property tax deferral;

"(3) the financial implications of entering into a home equity conversion mortgage;

Taxes.

"(4) a disclosure that a home equity conversion mortgage may have tax consequences, affect eligibility for assistance under Federal and State programs, and have an impact on the estate and heirs of the homeowner; and

"(5) any other information that the Secretary may require.

Termination date.

"(g) LIMITATION ON INSURANCE AUTHORITY.—No mortgage may be insured under this section after September 30, 1991, except pursuant to a commitment to insure issued on or before such date. The total number of mortgages insured under this section may not exceed 2,500. In no case may the benefits of insurance under this section exceed the maximum dollar amount established under section 203(b)(2) for a 1-family residence.

"(h) ADMINISTRATIVE AUTHORITY.—The Secretary may—

"(1) enter into such contracts and agreements with Federal, State, and local agencies, public and private entities, and such other persons as the Secretary determines to be necessary or desirable to carry out the purposes of this section; and

"(2) make such investigations and studies of data, and publish and distribute such reports, as the Secretary determines to be appropriate.

Reports.

"(i) PROTECTION OF HOMEOWNER AND LENDER.—

"(1) Notwithstanding any other provision of law, and in order to further the purposes of the demonstration program authorized in this section, the Secretary shall take any action necessary—

"(A) to provide any mortgagor under this section with funds to which the mortgagor is entitled under the insured mortgage or ancillary contracts but that the mortgagor has not received because of the default of the party responsible for payment;

Contracts.

"(B) to obtain repayment of disbursements provided under subparagraph (A) from any source; and

"(C) to provide any mortgagee under this section with funds not to exceed the limitations in subsection (g) to which the mortgagee is entitled under the terms of the insured mortgage or ancillary contracts authorized in this section.

Contracts.

"(2) Actions under paragraph (1) may include—

"(A) disbursing funds to the mortgagor or mortgagee from the General Insurance Fund;

"(B) accepting an assignment of the insured mortgage notwithstanding that the mortgagor is not in default under its terms, and calculating the amount and making the payment of the insurance claim on such assigned mortgage;

"(C) requiring a subordinate mortgage from the mortgagor at any time in order to secure repayments of any funds advanced or to be advanced to the mortgagor;

"(D) requiring a subrogation to the Secretary of the rights of any parties to the transaction against any defaulting parties; and

"(E) imposing premium charges.

"(j) SAFEGUARD TO PREVENT DISPLACEMENT OF HOMEOWNER.—The Secretary may not insure a home equity conversion mortgage under this section unless such mortgage provides that the homeowner's obligation to satisfy the loan obligation is deferred until the homeowner's death, the sale of the home, or the occurrence of other events specified in regulations of the Secretary. For purposes of this subsection, the term 'homeowner' includes the spouse of a homeowner.

Loans.

"(k) REPORTS TO CONGRESS.—

"(1) The Secretary shall, not later than September 30, 1989, submit an interim report to Congress describing—

"(A) design and implementation of the demonstration;

"(B) number and types of reverse mortgages written to date;

"(C) profile of participant homeowner-borrowers, including incomes, home equity, and regional distribution; and

"(D) problems encountered in implementation, including impediments associated with State or Federal laws or regulations governing taxes, insurance, securities, public benefits, banking, and any other problems in implementation that the Secretary encounters.

Taxes.
Insurance.
Securities.
Banks and banking.

"(2) Not later than March 30, 1992, the Secretary shall submit to Congress a preliminary evaluation of the program authorized in this section. Such evaluation shall include an updated report on the matters referred to in paragraph (1) and shall in addition—

"(A) describe the types of mortgages appropriate for inclusion in such program;

"(B) describe any changes in the insurance programs under this title, or in other Federal regulatory provisions, determined to be appropriate;

Insurance.

"(C) describe any risk created under such mortgages to mortgagors and mortgagees or the insurance programs under this title, and whether the risk is adequately covered by the premiums under the insurance programs;

Aged persons.

"(D) evaluate whether such program has improved the financial situation or otherwise met the special needs of participating elderly homeowners;

"(E) evaluate whether such program has included appropriate safeguards for mortgagors to offset the special risks of such mortgages; and

"(F) evaluate whether home equity conversion mortgages have a potential for acceptance in the mortgage markets.

"(3) The preliminary evaluation shall incorporate comments and recommendations solicited by the Secretary from the Board of Governors of the Federal Reserve System, the Secretary of Health and Human Services, the Federal Council on Aging, Federal Home Loan Bank Board, the Comptroller of the Currency, and the National Credit Union Administration Board regarding any of the matters referred to in paragraph (1) or (2).

"(4) Following submission of the preliminary evaluation, the Secretary shall, on a biennial basis, submit to the Congress an updated report and evaluation covering the period since the most recent report under this subsection and shall include analysis of the repayment of the home equity conversion mortgages under this demonstration during such period.".

12 USC 1715z-20 note.

(b) REGULATIONS.—The Secretary of Housing and Urban Development shall—

(1) not later than 6 months after the date of enactment of this Act, consult with lenders, insurers, and organizations and individuals with expertise in home equity conversion in developing proposed regulations implementing section 254 of the National Housing Act; and

(2) not later than 9 months after the date of the enactment of this Act, issue proposed regulations implementing section 254 of the National Housing Act.

SEC. 418. ASSURANCE OF ADEQUATE PROCESSING OF APPLICATIONS FOR LOAN AND MORTGAGE INSURANCE.

Title V of the National Housing Act (as amended by section 407 of this Act) is amended by adding at the end the following new section:

"ASSURANCE OF ADEQUATE PROCESSING OF APPLICATIONS FOR LOAN AND MORTGAGE INSURANCE

12 USC 1735f-12.

"SEC. 534. In order to ensure the adequate processing of applications for insurance of loans and mortgages under this Act, the

Secretary shall maintain not less than one office in each State to carry out the provisions of this Act.".

SEC. 419. PROHIBITION OF LENDER REQUIREMENTS DISCOURAGING LOANS WITH LOWER PRINCIPAL AMOUNTS.

(a) Loan Amount of Original Loans.—Title V of the National Housing Act (as amended by sections 407 and 418 of this Act) is further amended by adding at the end the following new section:

"PROHIBITION OF REQUIREMENT OF MINIMUM PRINCIPAL LOAN AMOUNT

"Sec. 535. A mortgagee or lender may not require, as a condition of providing a loan insured under this Act or secured by a mortgage insured under this Act, that the principal amount of the loan exceed a minimum amount established by the mortgagee or lender.". 12 USC 1735f-13.

(b) Loan Amount of Refinancings.—Section 223(a)(7) of the National Housing Act (as amended by section 408 of this Act) is further amended by striking "; and (B)" and inserting the following: "; (B) a mortgagee may not require a minimum principal amount to be outstanding on the loan secured by the existing mortgage; and (C)". 12 USC 1715n.

(c) Study of Other Lending Practices.—During the 6-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study of the interest rates and discount points charged for mortgages and loans insured under the National Housing Act. The study shall be designed to identify any pattern or practice of charging higher interest rates or discount points for mortgages or loans with lower principal amounts than for mortgages or loans with the maximum principal amounts permitted for insurance under the National Housing Act. Reports. Not later than 3 months after the expiration of the 6-month period, the Secretary shall submit to the Congress a report setting forth the findings and recommendations of the Secretary.

SEC. 420. REPEAL OF REQUIREMENT TO PUBLISH PROTOTYPE HOUSING COSTS FOR 1- TO 4-FAMILY DWELLING UNITS.

The Housing and Community Development Act of 1977 is amended by striking section 904. 42 USC 3540.

SEC. 421. DOUBLE DAMAGES REMEDY FOR UNAUTHORIZED USE OF MULTIFAMILY HOUSING PROJECT ASSETS AND INCOME.

(a) Action to Recover Assets or Income.— 12 USC 1715z-4a.

(1) The Secretary of Housing and Urban Development (referred to in this section as the "Secretary") may request the Attorney General to bring an action in a United States district court to recover any assets or income used by any person in violation of (A) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under title II of the National Housing Act; or (B) any applicable regulation. For purposes of this section, a use of assets or income in violation of the regulatory agreement or any applicable regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the project and has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(2) For purposes of a mortgage insured or held by the Secretary under title II of the National Housing Act, the term "any person" shall mean any person or entity which owns a project, as identified in the regulatory agreement, including but not limited to any stockholder holding 25 percent or more interest of a corporation that owns the project; any beneficial owner under any business or trust; any officer, director, or partner of an entity owning the project; and any heir, assignee, successor in interest, or agent of any owner.

(b) INITIATION OF PROCEEDINGS AND TEMPORARY RELIEF.—The Attorney General, upon request of the Secretary, shall have the exclusive authority to authorize the initiation of proceedings under this section. Pending final resolution of any action under this section, the court may grant appropriate temporary or preliminary relief, including restraining orders, injunctions, and acceptance of satisfactory performance bonds, to protect the interests of the Secretary and to prevent use of assets or income in violation of the regulatory agreement and any applicable regulation and to prevent loss of value of the realty and personalty involved.

(c) AMOUNT RECOVERABLE.—In any judgment favorable to the United States entered under this section, the Attorney General may recover double the value of the assets and income of the project that the court determines to have been used in violation of the regulatory agreement or any applicable regulation, plus all costs relating to the action, including but not limited to reasonable attorney and auditing fees. Notwithstanding any other provision of law, the Secretary may apply the recovery, or any portion of the recovery, to the project or to the applicable insurance fund under the National Housing Act.

(d) TIME LIMITATION.—Notwithstanding any other statute of limitations, the Secretary may request the Attorney General to bring an action under this section at any time up to and including 6 years after the latest date that the Secretary discovers any use of project assets and income in violation of the regulatory agreement or any applicable regulation.

(e) CONTINUED AVAILABILITY OF OTHER REMEDIES.—The remedy provided by this section is in addition to any other remedies available to the Secretary or the United States.

SEC. 422. MISCELLANEOUS MORTGAGE INSURANCE PROVISIONS.

12 USC 1715y.

(a) MORTGAGE INSURANCE FOR CONDOMINIUMS.—Section 234(e)(3) of the National Housing Act is amended by inserting after "design;" the following: "except that each of the foregoing dollar amounts is increased to the amount established for a comparable unit in section 221(d)(3)(ii);".

12 USC 1709.

(b) MORTGAGE INSURANCE FOR CERTAIN PROPERTIES WITHIN AN INDIAN RESERVATION.—Section 203(q)(1) of the National Housing Act is amended by striking "Secretary may" and inserting "Secretary shall".

SEC. 423. CALCULATION OF MAXIMUM MORTGAGE AMOUNT UNDER SINGLE FAMILY INSURANCE PROGRAM.

Section 203(b)(2) of the National Housing Act is amended by inserting after the first sentence the following: "For purposes of the preceding sentence, the term 'area' means a county, or a metropolitan statistical area as established by the Office of Management and Budget, whichever results in the higher dollar amount.".

SEC. 424. APPROVAL OF INDIVIDUAL RESIDENTIAL WATER PURIFICATION OR TREATMENT UNITS.

12 USC 1701z-15.

(a) In General.—When the existing water supply does not meet the minimum property standards established by the Department of Housing and Urban Development and a permanent alternative acceptable water supply is not available, a continuous supply of water may be provided through the use of approved residential water treatment equipment or a water purification unit that provides bacterially and chemically safe drinking water.

(b) Approval Process.—A performance-based approval of the equipment or unit and the maintenance, monitoring, and replacement plan for such equipment or unit shall be certified by field offices of the Department of Housing and Urban Development based upon general standards recognized by the Department as modified for local or regional conditions. As a part of such approved plan, a separate monthly escrow account may be required to be established through the lender to cover the cost of the approved yearly maintenance and monitoring schedule and projected replacement of the equipment or unit.

SEC. 425. REGULATION OF RENTS IN INSURED PROJECTS.

12 USC 1715z-1c.

After December 1, 1987, the Secretary of Housing and Urban Development shall control rents and charges as they were controlled prior to April 19, 1983, for any multifamily housing project insured under the National Housing Act if—

(1) during the period of April 19, 1983, through December 1, 1987, the project owner and the Secretary have not executed, and the project owner has not filed a written request with the Secretary to enter into, an amendment to the regulatory agreement pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986, electing to deregulate rents or utilize an alternative formula for determining the maximum allowable rents pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986; and

(2)(A) the project was, as of December 1, 1987, receiving a housing assistance payment under a contract pursuant to section 8 of the United States Housing Act of 1937 (other than under the existing housing certificate program of section 8(b)(1) of such Act); or

(B) not less than 50 percent of the units in the project are occupied by lower income families (as defined in section 3(a)(2) of the United States Housing Act of 1937).

SEC. 426. MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS.

(a) Section 207 Limits.—Section 207(c)(3) of the National Housing Act is amended—

12 USC 1713.

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

(b) Section 213 Limits.—Section 213(b)(2) of the National Housing Act is amended—

12 USC 1715e.

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

12 USC 1715k.

(c) Section 220 Limits.—Section 220(d)(3)(B)(iii) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

12 USC 1715*l*.

(d) Section 221(d)(3) Limits.—Section 221(d)(3)(ii) of the National Housing Act is amended by striking out "$21,563"; "$24,862"; "$29,984"; "$38,379"; "$42,756"; "$22,692"; "$26,012"; "$31,631"; "$40,919"; and "$44,917" and inserting in lieu thereof "$28,032"; "$32,321"; "$38,979"; "$49,893"; "$55,583"; "$29,500"; "$33,816"; "$41,120"; "$53,195"; and "$58,392", respectively.

(e) Section 221(d)(4) Limits.—Section 221(d)(4)(ii) of the National Housing Act of 1934 is amended by striking out "$19,406"; "$22,028"; "$26,625"; "$33,420"; "$37,870"; "$20,962"; "$24,030"; "$29,220"; "$37,800"; and "$41,494" and inserting in lieu thereof "$25,228"; "$28,636"; "$34,613"; "$43,446"; "$49,231"; "$27,251"; "$31,239"; "$37,986"; "$49,140"; and "$53,942", respectively.

12 USC 1715v.

(f) Section 231 Limits.—Section 231(c)(2) of the National Housing Act is amended—

(1) by striking out "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846" and inserting in lieu thereof "$23,985", "$26,813", "$32,019", "$38,532", and "$45,300", respectively; and

(2) by striking out "$20,962", "$24,030", "$29,220", "$37,800", and "$41,494" and inserting in lieu thereof "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942", respectively.

12 USC 1715y.

(g) Section 234 Limits.—Section 234(e)(3) of the National Housing Act is amended—

(1) by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" and inserting in lieu thereof "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800", respectively; and

(2) by striking out "$22,500", "$25,200", "$30,900", "$38,700", and "$43,758" and inserting in lieu thereof "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885", respectively.

12 USC 1713, 1715e, 1715k, 1715*l*, 1715v, 1715y.

(h) Limits for Multifamily Projects in High-Cost Areas.—Section 207(c)(3), the second proviso of section 213(b)(2), the first proviso of section 220(d)(3)(B)(iii), section 221(d)(3)(ii), section 221(d)(4)(ii), section 231(c)(2), and section 234(e)(3) of the National Housing Act are each amended by striking "not to exceed 75 per centum" and all that follows through "involved) in such an area" and inserting the following: "not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved".

SEC. 427. OPERATING LOSS LOAN INSURANCE.

12 USC 1715n.

Section 223(d) of the National Housing Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking the first and second sentences and inserting the following:

"Notwithstanding any other provision of this Act, the Secretary is authorized to insure loans made to cover the operating losses of certain projects that have existing project mortgages insured by the Secretary. Insurance under this subsection shall be in the Secretary's discretion and upon such terms and conditions as the Secretary may prescribe, and shall be provided in accordance with the provisions of this subsection. For purposes of this subsection, the term 'operating loss' means the amount by which the sum of the taxes, interest on the mortgage debt, mortgage insurance premiums, hazard insurance premiums, and the expense of maintenance and operation of the project covered by the mortgage, exceeds the income of the project.

"(2) To be eligible for insurance pursuant to this paragraph—

"(A) the existing project mortgage (i) shall have been insured by the Secretary at any time before or after the date of enactment of the Housing and Community Development Act of 1987; and (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling;

"(B) the operating loss shall have occurred during the first 24 months after the date of completion of the project, as determined by the Secretary; and

"(C) the loan shall be in an amount not exceeding the operating loss.

"(3) To be eligible for insurance pursuant to this paragraph—

"(A) the existing project mortgage (i) shall have been insured by the Secretary at any time before or after the date of enactment of the Housing and Community Development Act of 1987; (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling; and (iii) shall not cover a subsidized project, as defined by the Secretary;

"(B) the loan shall be in an amount not exceeding 80 percent of the unreimbursed cash contributions made on or after March 18, 1987, by the project owner for the use of the project, during any period of consecutive months (not exceeding 24 months) in the first 10 years after the date of completion of the project, as determined by the Secretary, except that in no event may the amount of the loan exceed the operating loss during such period;

"(C) the loan shall be made within 10 years after the end of the period of consecutive months referred to in the preceding subparagraph; and

"(D) the project shall meet all applicable underwriting and other requirements of the Secretary at the time the loan is to be made.

"(4) Any loan insured pursuant to this subsection shall (A) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee; (B) be secured in such manner as the Secretary shall require; (C) be limited to a term not exceeding the unexpired term of the original mortgage; and (D) be insured under the same section as the original mortgage. The Secretary may provide insurance pursuant to paragraph (2) or (3), or pursuant to both such paragraphs, in connection with an existing project mortgage, except that the Secretary may not provide insurance pursuant to both such paragraphs in connection with the same period of months referred to in paragraphs (2)(B) and (3)(B)." ; and

(3) by inserting "(5)" before "A loan" at the beginning of the undesignated paragraph at the end.

SEC. 428. INTEREST CHARGES ON TEMPORARY MORTGAGE ASSISTANCE PAYMENTS AND ASSIGNMENT OR OTHER ASSISTANCE.

12 USC 1715u.

Section 230(a)(5) of the National Housing Act is amended by striking the third sentence and inserting the following: "The interest rate on payments made under this subsection shall be the rate established under section 1803(c) of title 38, United States Code. The interest rate to be charged shall be determined when the Secretary approves assistance under this subsection.".

SEC. 429. MORTGAGE INSURANCE TECHNICAL AMENDMENTS.

12 USC 1702.

(a) ADMINISTRATIVE PROVISIONS.—The second sentence of section 1 of the National Housing Act is amended by striking the last comma.

12 USC 1706d.

(b) APPLICABLITY.—Section 9 of the National Housing Act is amended by inserting the following section heading:

"APPLICABILITY".

12 USC 1709, 1715z-5.

(c) LOAN INSURANCE PROGRAMS.—Sections 203(k)(3)(B) and 241(b)(3) of the National Housing Act are amended—

(1) by striking "mortgagor" each place it appears and inserting "borrower"; and

(2) by striking "mortgagee" each place it appears and inserting "financial institution".

(d) MISCELLANEOUS HOUSING INSURANCE.—

12 USC 1715n.

(1) Section 223(a)(7) of the National Housing Act is amended—

(A) in the first proviso, by striking "a rate not in excess of the maximum rate prescribed under the applicable section or title of this Act" and inserting the following: "such rate as may be agreed upon by the mortgagor and the mortgagee";

(B) in the second proviso, by striking "maturity, a principal obligation, and an interest rate" and inserting the following: "maturity and a principal obligation"; and

(C) by inserting before the semicolon at the end the following: ", and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee".

(2) Section 223(d)(1) of the National Housing Act is amended by striking "bear interest (exclusive of premium charges for insurance) at not to exceed the per centum per annum currently permitted for mortgages insured under the section under which it is to be insured" and inserting the following: "bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee".

(e) INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES.—

12 USC 1715w.

(1) Section 232(b) of the National Housing Act is amended—

(A) by indenting as a separate paragraph (in the same manner as paragraph (1)) "(3) a nursing" and all that follows through "day; and";

(B) in such new paragraph (3)—

(i) by inserting "the term" after the paragraph designation; and

(ii) by striking "and" at the end;

(C) by redesignating the second paragraph (3) as paragraph (4); and

(D) by redesignating paragraph (4) as paragraph (5).

(2) Section 232(i)(2)(B) of the National Housing Act is amended to read as follows: 12 USC 1715w.

"(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;".

(f) MULTIFAMILY ASSISTANCE.—Section 236 of such Act is amended by striking out "(h)" in the last sentence of subsection (i)(1) and inserting in lieu thereof "(f)(4)". 12 USC 1715z-1.

(g) CO-INSURANCE.—

(1) Section 244(g) of the National Housing Act is amended— 12 USC 1715z-9.

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

(2) Section 244(h) of the National Housing Act is amended by striking "coinsurance" each place it appears and inserting "co-insurance".

(h) INSURANCE ON HAWAIIAN HOME LANDS.—Section 247(a)(2) of the National Housing Act is amended by striking "Mortgagor" and inserting "mortgagor". 12 USC 1715z-12.

(i) INSURANCE ON INDIAN RESERVATIONS.—Section 248 of the National Housing Act is amended— 12 USC 1715z-13.

(1) in subsection (a)(1), by striking "lands" and inserting "land";

(2) in subsection (a)(2), by striking "lands"; and

(3) in subsection (d), by striking "tribal or trust land" and inserting "trust or otherwise restricted land".

(j) SHARED APPRECIATION MORTGAGES.—Section 253 of the National Housing Act is amended— 12 USC 1715z-18.

(1) in subsection (b), by striking the fourth sentence and inserting the following: "For purposes of this section, the term 'net appreciated value' means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the actual project cost after completion, as approved by the Secretary.";

(2) in the first sentence of subsection (c), by striking "204" and inserting "207"; and

(3) in subsection (c), by striking the last sentence and inserting the following: "The term 'original principal face amount of the mortgage' as used in section 207 shall not include the mortgagee's share of net appreciated value.".

(k) DEFENSE HOUSING FOR IMPACTED AREAS.—The first sentence of section 810(h) of the National Housing Act is amended— 12 USC 1748h-2.

(1) by striking "(exclusive of premium charges for insurance) at not to exceed the rate applicable to mortgages insured under section 207" and inserting the following: "at such rate as may be agreed upon by the mortgagor and the mortgagee"; and

(2) by striking "not to exceed the rate applicable to mortgages insured under section 203" and inserting the following: "such rate as may be agreed upon by the mortgagor and the mortgagee".

SEC. 430. RELEASE OF POOL FUNDS.

State and local governments.
Contracts.
12 USC 1715z-1.

(a) SECTION 236.—Section 236 of the National Housing Act is amended by adding at the end thereof the following:

"(r) The Secretary shall, not later than 45 days after receipt of an application by the mortgagee, provide interest reduction and rental assistance payments for the benefit of projects assisted under this section whose mortgages were made by State or local housing finance agencies or State or local government agencies for a term equal to the remaining mortgage term to maturity on projects assisted under this section to the extent of—

"(1) unexpended balances of amounts of authority as set forth in certain letter agreements between the Department of Housing and Urban Development and such State or local housing finance agencies or State or local government agencies, and

"(2) existing allocation under section 236 contracts on projects whose mortgages were made by State or local housing finance agencies or State or local government agencies which are not being funded, to the extent of such excess allocation, for any purposes permitted under the provisions of this section, including without limitation rent supplement and rental assistance payment unit increases and mortgage increases for any eligible purpose under this section, including without limitation operating deficit loans.

An application shall be eligible for assistance under the previous sentence only if the mortgagee submits the application within 548 days after the effective date of this subsection, along with a certification of the mortgagee that amounts hereunder are to be utilized only for the purpose of either (A) reducing rents or rent increases to tenants, or (B) making repairs or otherwise increasing the economic viability of a related project. Unexpended balances referred to in the first sentence of this subsection which remain after disposition of all such applications is favorably concluded shall be rescinded. The calculation of the amount of assistance to be provided under an interest reduction contract pursuant to this subsection shall be made on the basis of an assumed mortgage term equal to the lesser of a 40-year amortization period or the term of that part of the mortgage which relates to the additional assistance provided under this subsection, even though the additional assistance may be provided for a shorter period. The authority conferred by this subsection to provide interest reduction and rental assistance payments shall be available only to the extent approved in appropriation Acts.".

(b) Rent Supplement Program.—Section 101 of the Housing and Urban Development Act of 1965 is amended by adding at the end thereof the following: 12 USC 1701s.

"(m) The Secretary shall, not later than 45 days after receipt of an application by the mortgagee, provide interest reduction and rental assistance payments for the benefit of projects assisted under this section whose mortgages were made by State or local housing finance agencies or State or local government agencies for a term equal to the remaining mortgage term to maturity on projects assisted under this section to the extent of—

"(1) unexpended balances of amounts of authority as set forth in certain letter agreements between the Department of Housing and Urban Development and such State or local housing finance agencies or State or local government agencies, and

"(2) existing allocation under section 236 contracts on projects whose mortgages were made by State or local housing finance agencies or State or local government agencies which are not being funded, to the extent of such excess allocation, for any purposes permitted under the provisions of this section.

An application shall be eligible for assistance under the previous sentence only if the mortgagee submits the application within 548 days after the effective date of this subsection, along with a certification of the mortgagee that amounts are to be utilized hereunder for the purpose of either (A) reducing rents or rent increases to tenants, or (B) making repairs or otherwise increasing the economic viability of a related project. Unexpended balances referred to in the first sentence of this subsection which remain after disposition of all such applications is favorably concluded shall be rescinded. The authority conferred by this subsection to provide interest reduction and rental assistance payments shall be available only to the extent approved in appropriation Acts.".

Subtitle B—Secondary Mortgage Market Programs

SEC. 441. LIMITATIONS ON CERTAIN SECONDARY MORTGAGE MARKET FEES.

(a) Federal National Mortgage Association.—Section 304 of the Federal National Mortgage Association Charter Act is amended by adding at the end the following new subsection: 12 USC 1719.

"(f) Except for fees paid pursuant to section 309(g), no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, trust certificate of beneficial interest, or other security by the corporation. No provision of this subsection shall affect the purchase of any obligation by the Secretary of the Treasury pursuant to subsection (c).".

(b) Federal Home Loan Mortgage Corporation.—Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end the following new subsection: 12 USC 1455.

"(i) Except for fees paid pursuant to section 303(c) or 306(c), no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, or other security by the Corporation. No provision of this subsection shall affect the purchase of any obligation by any Federal home loan bank pursuant to section 303(a).".

SEC. 442. FNMA CUMULATIVE VOTING.

Section 303(a) of the Federal National Mortgage Association Charter Act is amended by inserting after the first sentence the following new sentence: "The corporation may eliminate such rights of cumulative voting by a resolution adopted by its board of directors and approved by the holders of a majority of the shares of common stock voting in person or by proxy at the annual meeting, or other special meeting, at which such resolution is considered.". 12 USC 1718.

SEC. 443. PERMANENT AUTHORITY TO PURCHASE SECOND MORTGAGES ON SINGLE-FAMILY PROPERTIES.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—Section 302(b)(5)(A)(i) of the Federal National Mortgage Association Charter Act is amended by striking "through March 15, 1988,". 12 USC 1717.

(b) FEDERAL HOME LOAN MORTGAGE CORPORATION.—Section 305(a)(4)(A)(i) of the Federal Home Loan Mortgage Corporation Act is amended by striking "through March 15, 1988,". 12 USC 1454.

SEC. 444. PERIOD FOR APPROVAL OF ACTIONS OF FNMA.

12 USC 1723a. Section 309(i) of the Federal National Mortgage Association Charter Act is amended in the second sentence by inserting before the period at the end the following: ", but such 45-day period may not be extended for any other reason or for any period in addition to or other than such 15-day period".

SEC. 445. PROHIBITION OF LIMITATION ON FHLMC MORTGAGE OPERATIONS.

12 USC 1454. Section 305 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end the following new subsection:

"(c) The Board of Directors may not impose any annual limitation on the maximum aggregate principal amount of mortgages purchased by the Corporation.".

SEC. 446. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act is amended to read as follows: 12 USC 1721.

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $150,000,000,000 for fiscal year 1988, and $156,000,000,000 for fiscal year 1989.".

TITLE V—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

Disadvantaged persons.

SEC. 501. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—The second sentence of section 103 of the Housing and Community Development Act of 1974 is amended to read as follows: "There are authorized to be appropriated for purposes of assistance under sections 106 and 107 $3,000,000,000 for fiscal year 1988, and $3,000,000,000 for fiscal year 1989.". 42 USC 5303.

(b) DISCRETIONARY FUND.—

(1) The first sentence of section 107(a) of the Housing and Community Development Act of 1974 is amended to read as follows: "Of the total amount provided in appropriation Acts under section 103 for fiscal years 1988 and 1989, $60,000,000 42 USC 5307.

may be set aside in each year in a special discretionary fund for grants under subsection (b).".

(2) Section 107 of the Housing and Community Development Act of 1974 is amended—

42 USC 5307.

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following new subsection:

Grants.

"(c) Of the amount set aside for use under subsection (b) in any fiscal year, the Secretary shall, to the extent approved in appropriation Acts, make available not less than $3,000,000 in the form of grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management.".

(c) Urban Development Action Grants.—Section 119(a) of the Housing and Community Development Act of 1974 is amended by striking the second and last sentences and inserting the following new sentences: "There are authorized to be appropriated to carry out this section $225,000,000 for fiscal year 1988, and $225,000,000 for fiscal year 1989. Any amount appropriated under this subsection shall remain available until expended.".

42 USC 5318.

SEC. 502. TARGETING OF BENEFITS TO PERSONS OF LOW AND MODERATE INCOME.

(a) Primary Objective.—Section 101(c) of the Housing and Community Development Act of 1974 is amended in the second sentence by striking "51 percent" and inserting "60 percent".

42 USC 5301.

(b) Specific Objectives.—Section 101(c)(6) of the Housing and Community Development Act of 1974 is amended by striking "to attract persons of higher income".

(c) Certification.—Section 104(b)(3) of the Housing and Community Development Act of 1974 is amended by striking "51 percent" and inserting "60 percent".

42 USC 5304.

SEC. 503. CITY AND COUNTY CLASSIFICATIONS.

State and local governments.

(a) Metropolitan City.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended—

42 USC 5302.

(1) in the second sentence, by striking "March 15, 1988" and inserting "September 30, 1989";

(2) by striking out the third sentence and inserting in lieu thereof the following: "Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this title, if it elects to have its population included in an urban county under subsection (d). Notwithstanding the second sentence of this paragraph, a city may elect not to retain its classification as a metropolitan city for fiscal year 1988 or 1989."; and

(3) by adding at the end thereof the following new sentence: "Any city classified as a metropolitan city pursuant to the first or second sentence of this paragraph, and that no longer quali-

fies as a metropolitan city under such first or second sentence in a fiscal year beginning after fiscal year 1989, shall retain its classification as a metropolitan city for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (A) the amount of the grant to such city shall be 50 percent of the amount calculated under section 106(b); and (B) the remaining 50 percent shall be added to the amount allocated under section 106(d) to the State in which the city is located and the city shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 106(d) as increased by this sentence.".

(b) URBAN COUNTY.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended to read as follows:

42 USC 5302.

"(6)(A) The term 'urban county' means any county within a metropolitan area which—

"(i) is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government, and

"(ii) either—

"(I) has a population of 200,000 or more (excluding the population of metropolitan cities therein) and has a combined population of 100,000 or more (excluding the population of metropolitan cities therein) in such unincorporated areas and in its included units of general local government (and in the case of counties having a combined population of less than 200,000, the areas and units of general local government must include the areas and units of general local government which in the aggregate have the preponderance of the persons of low and moderate income who reside in the county) (a) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded, or (b) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities, or

"(II) has a population in excess of 100,000, a population density of at least 5,000 persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

"(B) In order to permit an orderly transition of each county losing its classification as an urban county by reason of a decrease in population, any county classified as or deemed to be an urban county under this paragraph for purposes of receiving assistance under any section of this title for fiscal year 1983 or subsequent years shall retain such qualification for purposes of receiving such assistance through September 30, 1989, or for such longer period covered by a cooperation agreement entered into during fiscal year 1984, except that the provisions of this subparagraph shall not apply with respect to any county losing its classification as an urban county by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or to not renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph.

"(C) Notwithstanding the combined population amount set forth in clause (ii) of subparagraph (A), a county shall also qualify as an urban county for purposes of assistance under section 106 if such county—

"(i) complies with all other requirements set forth in the first sentence;

"(ii) has, according to the most recent available decennial census data, a combined population between 190,000 and 199,999, inclusive (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county;

"(iii) had a population growth rate of not less than 15 percent during the most recent 10-year period measured by applicable censuses; and

"(iv) has submitted data satisfactory to the Secretary that it has a combined population of not less than 200,000 (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county.

"(D) Such term also includes a county that—

Water.

"(i) has a combined population in excess of 175,000, has more than 50 percent of the housing units of the area unsewered, and has an aquifer that was designated before March 1, 1987, a sole source aquifer by the Environmental Protection Agency;

"(ii) has taken steps, which include at least one public referendum, to consolidate substantial public services with an adjoining metropolitan city, and in the opinion of the Secretary, has consolidated these services with the city in an effort that is expected to result in the unification of the two governments within 6 years of the date of enactment of the Housing and Community Development Act of 1987; or

"(iii) had a population between 180,000 and 200,000 on October 1, 1987, was eligible for assistance under section 119 of the Housing and Community Development Act of 1974 in fiscal year 1986, and does not contain any metropolitan cities.

"(E) Any county classified as an urban county pursuant to subparagraph (A), (B), or (C) of this paragraph, and that no longer qualifies as an urban county under such subparagraph in a fiscal year beginning after fiscal year 1989, shall retain its classification as an urban county for such fiscal year and the succeeding fiscal year, except that in such succeeding fiscal year (i) the amount of the grant to such an urban county shall be 50 percent of the amount calculated under section 106(b); and (ii) the remaining 50 percent shall be added to the amount allocated under section 106(d) to the State in which the urban county is located and the urban county shall be eligible in such succeeding fiscal year to receive a distribution from the State allocation under section 106(d) as increased by this sentence.".

(c) Inclusion of Units of General Local Government in Urban Counties.—Section 102(d) of the Housing and Community Development Act of 1974 is amended by striking the last sentence.

42 USC 5302.

SEC. 504. ELIGIBLE ACTIVITIES.

(a) Eligible Activities.—Section 105(a)(15) of the Housing and Community Development Act of 1974 is amended by striking out "grants" both places it appears and inserting in lieu thereof "assistance".

42 USC 5305.

42 USC 5305.

(b) ENERGY USE STRATEGIES.—Section 105(a)(16) of such Act is amended to read as follows:

"(16) activities necessary to the development of energy use strategies related to a recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as—

"(A) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and

"(B) a statement of the actions the recipient will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;".

SEC. 505. STATEMENT OF ACTIVITIES AND REVIEW.

42 USC 5304.

Section 104(a)(1) of the Housing and Community Development Act of 1974 is amended by striking out the last sentence.

SEC. 506. ALLEVIATION OF LAKEFRONT FLOODING AND EROSION.

Section 104(b)(3) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "(A)" after "except that"; and

(2) by inserting before the semicolon at the end the following: "; and (B) a grantee that borders on the Great Lakes and that experiences significant adverse financial and physical effects due to lakefront erosion or flooding may include in the projected use of funds activities that are clearly designed to alleviate the threat posed, and rectify the damage caused, by such erosion or flooding if such activities will principally benefit persons of low and moderate income and the grantee certifies that such activities are necessary to meet other needs having a particular urgency".

SEC. 507. HOUSING ASSISTANCE PLANS.

(a) HOUSING PRESERVATION.—Section 104(c)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph: "(D) specifies activities that will be undertaken annually to minimize displacement and preserve or expand the availability of housing for persons of low and moderate income, such as the preservation of single room occupancy housing and the development by public and private nonprofit organizations of vacant properties that become available under in rem proceedings, and specifies separately the activities that will be undertaken for

persons of low income and the activities that will be undertaken for persons of moderate income.".

(b) TECHNICAL AMENDMENTS.—Section 104(c)(1) of the Housing and Community Development Act of 1974 is amended—

42 USC 5304.

(1) by striking "lower income persons" each place it appears and inserting "persons of low and moderate income"; and

(2) in subparagraph (C)(ii), by striking "low-income persons" and inserting "persons of low and moderate income".

SEC. 508. CITIZEN PARTICIPATION PLAN.

Grants.

Section 104(a) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(3) A grant under section 106 may be made only if the grantee certifies that it is following a detailed citizen participation plan which—

"(A) provides for and encourages citizen participation, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blight areas and of areas in which section 106 funds are proposed to be used, and in the case of a grantee described in section 106(a), provides for participation of residents in low and moderate income neighborhoods as defined by the local jurisdiction;

"(B) provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds, as required by regulations of the Secretary, and relating to the actual use of funds under this title;

"(C) provides for technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;

"(D) provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the development of needs, the review of proposed activities, and review of program performance, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for the handicapped;

"(E) provides for a timely written answer to written complaints and grievances, within 15 working days where practicable; and

"(F) identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

This paragraph may not be construed to restrict the responsibility or authority of the grantee for the development and execution of its community development program.".

SEC. 509. CONSERVING NEIGHBORHOODS AND HOUSING BY PROHIBITING DISPLACEMENT.

Grants.

(a) IN GENERAL.—Section 104 of the Housing and Community Development Act of 1974 is amended—

(1) by redesignating subsections (d) through (j) as subsections (e) through (k), respectively; and

(2) by inserting after subsection (c) the following new subsection:

Grants.

"(d)(1) A grant under section 106 or 119 may be made only if the grantee certifies that it is following a residential antidisplacement and relocation assistance plan. A grantee receiving a grant under section 106(a) or section 119 shall so certify to the Secretary. A grantee receiving a grant under section 106(d) shall so certify to the State.

"(2) The residential antidisplacement and relocation assistance plan shall in connection with a development project assisted under section 106 or 119—

"(A) in the event of such displacement, provide that—

"(i) governmental agencies or private developers shall provide within the same community comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low and moderate income dwelling units demolished or converted to a use other than for housing for low and moderate income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 8 of the United States Housing Act of 1937;

"(ii) such comparable replacement dwellings shall be designed to remain affordable to persons of low and moderate income for 10 years from the time of initial occupancy;

"(iii) relocation benefits shall be provided for all low or moderate income persons who occupied housing demolished or converted to a use other than for low or moderate income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and in the case of displaced persons of low and moderate income, provide either—

"(I) compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

"(II) if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under subclause (I) to permit the household to secure participation in a housing cooperative or mutual housing association;

"(iv) persons displaced shall be relocated into comparable replacement housing that is—

"(I) decent, safe, and sanitary;

"(II) adequate in size to accommodate the occupants;

"(III) functionally equivalent; and

"(IV) in an area not subject to unreasonably adverse environmental conditions;

"(B) provide that persons displaced shall have the right to elect, as an alternative to the benefits under this subsection, to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) if such persons determine that it is in their best interest to do so; and

Claims.

"(C) provide that where a claim for assistance under subparagraph (A)(iv) is denied by a grantee, the claimant may appeal to the Secretary in the case of a grant under section 106 or 119 or to the appropriate State official in the case of a grant under section 106(d), and that the decision of the Secretary or the State official shall be final unless a court determines the decision was arbitrary and capricious.

"(3) Paragraphs (2)(A)(i) and (2)(A)(ii) shall not apply in any case in which the Secretary finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low and moderate income persons. A determination under this paragraph is final and nonreviewable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1988.

42 USC 5304 note.

SEC. 510. LIMITED NEW CONSTRUCTION OF HOUSING UNDER COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

Section 105(a) of the Housing and Community Development Act of 1974 is amended—

42 USC 5305.

(1) by striking out "and" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(19) provision of assistance to facilitate substantial reconstruction of housing owned and occupied by low and moderate income persons (A) where the need for the reconstruction was not determinable until after rehabilitation under this section had already commenced, or (B) where the reconstruction is part of a neighborhood rehabilitation effort and the grantee (i) determines the housing is not suitable for rehabilitation, and (ii) demonstrates to the satisfaction of the Secretary that the cost of substantial reconstruction is significantly less than the cost of new construction and less than the fair market value of the property after substantial reconstruction.".

SEC. 511. AVAILABILITY OF COMMUNITY DEVELOPMENT BLOCK GRANTS FOR UNIFORM EMERGENCY TELEPHONE NUMBER SYSTEMS.

Section 105(c)(2) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end thereof the following new subparagraph:

"(B) The requirements of subparagraph (A) do not prevent the use of assistance under this title for the development, establishment, and operation for not to exceed 2 years after its establishment of a uniform emergency telephone number system if the Secretary determines that—

"(i) such system will contribute substantially to the safety of the residents of the area served by such system;

"(ii) not less than 51 percent of the use of the system will be by persons of low and moderate income; and

"(iii) other Federal funds received by the grantee are not available for the development, establishment, and operation of such system due to the insufficiency of the amount of such funds, the restrictions on the use of such funds, or the prior commitment of such funds for other purposes by the grantee.

The percentage of the cost of the development, establishment, and operation of such a system that may be paid from assistance under this title and that is considered to benefit low and moderate income persons is the percentage of the population to be served that is made up of persons of low and moderate income.".

SEC. 512. STATE CERTIFICATIONS FOR RECEIVING COMMUNITY DEVELOPMENT BLOCK GRANTS FOR NONENTITLEMENT AREAS.

42 USC 5306.

Section 106(d)(2) of the Housing and Community Development Act of 1974 is amended—

(1) in subparagraph (C), by striking "the Governor must certify that the State" and inserting "the State must certify that it"; and

(2) in subparagraph (D), by striking "the Governor of each State" and inserting "the State".

SEC. 513. ADMINISTRATIVE EXPENSES OF STATES DISTRIBUTING FUNDS TO NONENTITLEMENT AREAS.

Section 106(d)(3)(A) of the Housing and Community Development Act of 1974 is amended by striking "$102,000" and inserting "$100,000".

SEC. 514. COMMUNITY DEVELOPMENT BLOCK GRANT LOAN GUARANTEES.

42 USC 5308.

(a) Limitation on Commitments.—The last sentence of section 108(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "during fiscal year 1984"; and

(2) by striking "$225,000,000" and inserting "$150,000,000 during fiscal year 1988, and $153,000,000 during fiscal year 1989".

(b) Prohibition on Fees.—Section 108 of the Housing and Community Development Act of 1974 is amended by adding at the end the following new subsection:

"(m) No fee or charge may be imposed by the Secretary or any other Federal agency on or with respect to a guarantee made by the Secretary under this section after the date of the enactment of the Housing and Community Development Act of 1987.".

(c) Eligible Uses of Loan Guarantees.—Section 108(a) of the Housing and Community Development Act of 1974 is amended in the first sentence—

(1) by inserting "(1)" after "purposes of financing"; and

(2) by inserting before the period at the end the following: "; (2) housing rehabilitation; or (3) economic development activities permitted under paragraphs (14), (15), and (17) of section 105(a)".

SEC. 515. URBAN DEVELOPMENT ACTION GRANT SELECTION CRITERIA.

42 USC 5318.

(a) Project Quality Criteria.—Section 119(d)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting a dash before "(A)";

(2) by indenting subparagraphs (A) and (B) in the same manner as subparagraphs (C) and (D), as inserted by this subsection;

(3) in subparagraph (A), by striking out "as the primary criterion,";

(4) by striking out "and" at the end of subparagraph (B); and

(5) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraphs:

"(C) the following other criteria:

Employment and unemployment.

"(i) the extent to which the grant will stimulate economic recovery by leveraging private investment;

"(ii) the number of permanent jobs to be created and their relation to the amount of grant funds requested;

"(iii) the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed;

"(iv) the extent to which the project will retain jobs that will be lost without the provision of a grant under this section;

"(v) the extent to which the project will relieve the most pressing employment or residential needs of the applicant by—

"(I) reemploying workers in a skill that has recently suffered a sharp increase in unemployment locally;

"(II) retraining recently unemployed residents in new skills;

"(III) providing training to increase the local pool of skilled labor; or

"(IV) producing decent housing for low- and moderate-income persons in cases where such housing is in severe shortage in the area of the applicant, except that an application shall be considered to produce housing for low- and moderate-income persons under this clause only if such application proposes that (a) not less than 51 percent of all funds available for the project shall be used for dwelling units and related facilities; and (b) not less than 30 percent of all funds used for dwelling units and related facilities shall be used for dwelling units to be occupied by persons of low and moderate income, or not less than 20 percent of all dwelling units made available to occupancy using such funds shall be occupied by persons of low and moderate income, whichever results in the occupancy of more dwelling units by persons of low and moderate income;

"(vi) the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested;

State and local governments.

"(vii) the extent to which State or local Government funding or special economic incentives have been committed; and

"(viii) the extent to which the project will have a substantial impact on physical and economic development of the city or urban county, the proposed activities are likely to be accomplished in a timely fashion with the grant amount available, and the city or urban county has demonstrated performance in housing and community development programs; and

"(D) additional consideration for projects with the following characteristics:

"(i) projects to be located within a city or urban county which did not receive a preliminary grant approval under this section during the 12-month period preceding the date on which applications are required to be submitted for the grant competition involved; and

"(ii) twice the amount of the additional consideration provided under clause (i) for projects to be located in cities or urban counties which did not receive a preliminary grant approval during the 24-month period preceding the date on which applications under this section are required to be submitted for the grant competition involved.

If a city or urban county has submitted and has pending more than one application, the additional consideration provided by subparagraph (D) of the preceding sentence shall be available only to the project in such city or urban county which received the highest number of points under subparagraph (C) of such sentence.".

(b) SELECTION LIMITATIONS AND CRITERIA WEIGHT.—Section 119(d) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new paragraphs: 42 USC 5318.

"(3) The Secretary shall award points to each application as follows:

"(A) not more than 35 points on the basis of the criteria referred to in paragraph (1)(A);

"(B) not more than 35 points on the basis of the criteria referred to in paragraph (1)(B);

"(C) not more than 33 points on the basis of the criteria referred to in paragraph (1)(C); and

"(D)(i) 1 additional point on the basis of the criterion referred to in paragraph (1)(D)(i); or

"(ii) 2 additional points on the basis of the criterion referred to in paragraph (1)(D)(ii).

"(4) The Secretary shall distribute grant funds under this section so that to the extent practicable during each funding cycle—

"(A) 65 percent of the funds is first made available utilizing all of the criteria set forth in paragraph (1); and

"(B) 35 percent of the funds is then made available solely on the basis of the factors referred to in subparagraphs (C) and (D) of paragraph (1).

"(5)(A) Within 30 days of the start of each fiscal year, the Secretary shall announce the number of competitions for grants to be held in that fiscal year. The number of competitions shall be not less than two nor more than three.".

"(B) Each competition for grants described in any clause of subparagraph (A) shall be for an amount equal to the sum of—

"(i) approximately the amount of the funds available for such grants for the fiscal year divided by the number of competitions for those funds;

"(ii) any funds available for such grants in any previous competition that are not awarded; and

"(iii) any funds available for such grants in any previous competition that are recaptured.

"(6) In an application under this subsection, an urban county may use data relating to the criteria under paragraph (1) that reflect distress conditions of census tracts within a radius of 15 miles of the proposed project and within that urban county and in metropolitan cities within that urban county, except that if any data reflecting conditions in a metropolitan city with a population of 100,000 or more are included, then data reflecting conditions in any metropolitan city with a population of 75,000 or more may be used only with the consent of that metropolitan city.".

(c) USE OF REPAID GRANT FUNDS.—Section 119(f) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following: "In any case in which the project proposes the repayment to the applicant of the grant funds, such funds shall be made available by the applicant for economic development activities that are eligible activities under this section or section 104. The applicant shall annually provide the Secretary with a statement of the projected receipt and use of repaid grant funds during the next year together with a report acceptable to the Secretary on the use of such funds during the most recent preceding full fiscal year of the applicant.".

(d) NONDISCRIMINATION.—Section 119(r) of the Housing and Community Development Act of 1974 is amended to read as follows: 42 USC 5318.

"(r) In utilizing the discretion of the Secretary when providing assistance and applying selection criteria under this section, the Secretary may not discriminate against applications on the basis of (1) the type of activity involved, whether such activity is primarily housing, industrial, or commercial; or (2) the type of applicant, whether such applicant is a city or urban county.".

(e) REPORTS OF COMPTROLLER GENERAL.— 42 USC 5318 note.

(1)(A) Not later than the expiration of the 1-year period following the date of enactment of this Act and every 3 years thereafter, the Comptroller General of the United States shall prepare and submit to the Congress a comprehensive report evaluating the eligibility standards and selection criteria applicable under section 119 of the Housing and Community Development Act of 1974.

(B) Such report shall evaluate in detail the standards and criteria specified in such section that measure the level or comparative degree of economic distress of cities and urban counties and the effect of the grants awarded on the basis of such standards and criteria on stimulating the maximum economic development activity.

(C) Such report shall also evaluate in detail the extent to which the economic and social data utilized by the Secretary in awarding grants under such section is current and accurate, and shall compare the data used by the Secretary with other available data. The Comptroller General shall make recommendations to the Congress on whether or not other data should be collected by the Federal Government in order to fairly and accurately distribute grants under such section based on the level or comparative degree of economic distress. The Comptroller General shall also make recommendations on whether or not existing data should be collected more frequently in order to ensure that timely data is used to evaluate grant applications under such section.

(2) Not later than the expiration of the 3-month period following the date of the final competition for grants for fiscal year 1988 under section 119 of the Housing and Community Development Act of 1974, the Comptroller General of the United States shall prepare and submit to the Congress a comprehensive report describing the effect of the amendments made by this section on— Grants.

(A) the targeting of grant funds to cities and urban counties having the highest level or degree of economic distress;

(B) the distribution of grants funds among regions of the United States;

(C) the number and types of projects receiving grants;

(D) the per capita funding levels for each city, urban county, or identifiable community described in subsection (p) of such section 119, receiving assistance under such section 119; and

(E) the stimulation of the maximum economic development activity.

42 USC 5318 note.

Federal Register, publication.

(f) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section. Such regulations shall be published for comment in the Federal Register not later than 60 days after the date of enactment of this Act. The provisions of section 119(d)(1)(D), section 119(d)(3), and section 119(d)(4) of the Housing and Community Development Act of 1974, shall take effect on the date of enactment of this Act.

(g) APPLICABILITY.—

42 USC 5318 note.

(1) IN GENERAL.—The amendments made by this section shall be applicable to the making of urban development action grants that have not received the preliminary approval of the Secretary of Housing and Urban Development before the date on which final regulations issued by the Secretary under subsection (f) become effective. For the fiscal year in which the amendments made by this section become applicable, such amendments shall only apply with respect to the aggregate amount awarded for such grants on or after such effective date.

Effective date. 42 USC 5318.

(2) SUNSET OF URBAN COUNTY COMPETITION RULE.—Effective October 1, 1989, section 119(d)(6) of the Housing and Community Development Act of 1974 is repealed.

(h) LIMITATION ON GRANT AMOUNTS.—Section 119 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(s) For fiscal years 1988 and 1989, the maximum grant amount for any project under this section is $10,000,000.".

Hawaii.

(i) CONSIDERATION OF CERTAIN COUNTIES AS CITIES UNDER URBAN DEVELOPMENT ACTION GRANT PROGRAM.—Section 119(n)(1) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new sentence: "Such term also includes the counties of Kauai, Maui, and Hawaii in the State of Hawaii.".

SEC. 516. PROHIBITION ON USE OF URBAN DEVELOPMENT ACTION GRANTS FOR BUSINESS RELOCATIONS.

(a) IN GENERAL.—Section 119(h) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting after the subsection designation the following: "(1) SPECULATIVE PROJECTS.—";

(2) by adding at the end of paragraph (1) (as so redesignated by paragraph (1) of this subsection) the following new sentence: "The provisions of this paragraph shall apply only to projects that do not have identified intended occupants."; and

(3) by adding at the end the following new paragraphs:

"(2) PROJECTS WITH IDENTIFIED INTENDED OCCUPANTS.—No assistance may be provided or utilized under this section for any project with identified intended occupants that is likely to facilitate—

"(A) a relocation of any operation of an industrial or commercial plant or facility or other business establishment—

"(i) from any city, urban county, or identifiable community described in subsection (p), that is eligible for assistance under this section; and

"(ii) to the city, urban county, or identifiable community described in subsection (p), in which the project is located; or

"(B) an expansion of any such operation that results in a reduction of any such operation in any city, county, or community described in subparagraph (A)(i).

"(3) SIGNIFICANT AND ADVERSE EFFECT.—The restrictions established in paragraph (2) shall not apply if the Secretary determines that the relocation or expansion does not significantly and adversely affect the employment or economic base of the city, county, or community from which the relocation or expansion occurs.

"(4) APPEAL OF ADVERSE DETERMINATION.—Following notice of intent to withhold, deny, or cancel assistance under paragraph (1) or (2), the Secretary shall provide a period of not less than 90 days in which the applicant can appeal to the Secretary the withholding, denial, or cancellation of assistance. Notwithstanding any other provision of this section, nothing in this section or in any legislative history related to the enactment of this section may be construed to permit an inference or conclusion that the policy of the Congress in the urban development action grant program is to facilitate the relocation of businesses from one area to another.

"(5) ASSISTANCE FOR INDIVIDUALS ADVERSELY AFFECTED BY PROHIBITED RELOCATIONS.—

"(A) Any amount withdrawn by, recaptured by, or paid to the Secretary due to a violation (or a settlement of an alleged violation) of this subsection (or of any regulation issued or contractual provision entered into to carry out this subsection) by a project with identified intended occupants shall be made available by the Secretary as a grant to the city, county, or community described in subsection (p), from which the operation of an industrial or commercial plant or facility or other business establishment relocated or in which the operation was reduced.

Employment and unemployment.

"(B)(i) Any amount made available under this paragraph shall be used by the grantee to assist individuals who were employed by the operation involved prior to the relocation or reduction and whose employment or terms of employment were adversely affected by the relocation or reduction. The assistance shall include job training, job retraining, and job placement.

"(ii) If any amount made available to a grantee under this paragraph is more than is required to provide assistance under clause (i), the grantee shall use the excess amount to carry out community development activities eligible under section 105(a).

"(C)(i) The provisions of this paragraph shall be applicable to any amount withdrawn by, recaptured by, or paid to the Secretary under this section, including any amount withdrawn, recaptured, or paid before the effective date of this paragraph.

"(ii) Grants may be made under this paragraph only to the extent of amounts provided in appropriation Acts.

"(6) DEFINITION.—For purposes of this subsection, the term 'operation' includes any plant, equipment, facility, position, employment opportunity, production capacity, or product line.

"(7) REGULATIONS.—Not later than 60 days after the date of the enactment of the Housing and Community Development Act of 1987, the Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection. Such regulations shall include specific criteria to be used by the Secretary in determining whether there is a significant and adverse effect under paragraph (3).".

42 USC 5318 note.

(b) APPLICABILITY.—Except as otherwise provided in section 119(h)(5) of the Housing and Community Development Act of 1974 (as added by subsection (a)), the amendments made by this section shall be applicable to urban development action grants that have not received the preliminary approval of the Secretary of Housing and Urban Development before the date of the enactment of this Act.

SEC. 517. URBAN HOMESTEADING.

(a) EXTENSIONS.—

12 USC 1706e.

(1) Section 810(h)(1) of the Housing and Community Development Act of 1974 is amended by striking out "1984 and 1985" and inserting in lieu thereof "1988 and 1989".

(2) Section 810(i)(1) of such Act is amended by striking out "1984 and 1985" and inserting in lieu thereof "1988 and 1989".

(3) Section 810(j) of such Act is amended by striking out "December 31, 1985" and inserting in lieu thereof "December 1, 1987".

(b) STATE ADMINISTRATIVE EXPENSES.—

42 USC 5306.

(1) The second sentence of section 106(d)(3)(A) of the Housing and Community Development Act of 1974 is amended—

(A) by inserting immediately after "such expenses" the first time it appears the following: "and its administrative expenses under section 810 of this Act"; and

(B) by inserting immediately after "such expenses" the second time it appears the following: "under this title".

42 USC 5307.

(2) Section 107(b)(4) of such Act is amended by inserting before the first semicolon the following: "and section 810 of this Act".

(c) SELECTION PROCEDURE.—

12 USC 1706e.

(1) Section 810(b)(2) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(2) an equitable procedure for selecting recipients of homestead properties who have the capacity to make or cause to be made the repairs and improvements required under paragraph (3) of this subsection, which procedure shall—

"(A) give special priority to applicants who are 'lower income families' as defined in section 3(b)(2) of the United States Housing Act of 1937;

"(B) exclude applicants who are currently homeowners;

"(C) take into account the applicant's capacity to contribute a substantial amount of labor to the rehabilitation process, or to obtain assistance from private sources, community organizations, or other sources; and

"(D) include other reasonable selection criteria.".

(2) Section 810(b)(5) of such Act is amended by adding "and" after the semicolon.

(3) Section 810(b)(6) of such Act is amended by striking out "; and" and inserting in lieu thereof a period.

(4) Section 810(b)(7) of such Act is repealed.

(d) TRANSFER OF PROPERTY TO QUALIFIED COMMUNITY ORGANIZATIONS.—Section 810 of the Housing and Community Development Act of 1974 is amended—

(1) in subsection (a), by inserting "qualified community organization or" before "public agency designated";

(2) in subsection (b), by inserting "qualified community organization or" before "public agency designated";

(3) in subsection (b)(1), by inserting before the semicolon the following: "or in accordance with subsection (l) to qualified community organizations";

(4) in subsection (b)(3)(D), by inserting "qualified community organization or" before "public agency designated";

(5) in subsection (b)(5), by inserting "qualified community organization or" before "public agency designated";

(6) by redesignating subsection (k) as subsection (l); and

(7) by inserting after subsection (j) the following new subsection:

State and local governments. Real property.

"(k) A unit of general local government or a State, or a public agency designated by a unit of general local government or a State, may transfer any real property that it receives under subsection (a) or purchases under subsection (i) to a qualified community organization. Qualified community organizations shall be limited to organizations that—

"(1) are incorporated and controlled by a board of directors whose members receive no compensation of any kind for the performance of their duties;

"(2) are organized exclusively for charitable, educational, scientific purposes, or the promotion of social welfare, and qualify as exempt organizations under paragraph (3) or (4) of section 501(c) of the Internal Revenue Code of 1986; and

"(3) agree to assist the applicable State or unit of general local government with the selection of homesteaders, the selection, inspection, and rehabilitation of the properties, and to perform such other functions as may be agreed between the State or unit of general local government and the qualified nonprofit organization, including the acceptance of title to property from the relevant Federal agency and the direct conveyance of the property to the homesteaders subject to the terms and conditions specified in this section.".

(e) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 810(l) of the Housing and Community Development Act of 1974 (as so redesignated by subsection (d) of this section) is amended to read as follows: "To reimburse the housing loan funds for properties transferred pursuant to this section, and to carry out subsections (c), (g), (h), and (i), there are authorized to be appropriated $12,000,000 for fiscal year 1988, and $13,000,000 for fiscal year 1989.".

SEC. 518. REHABILITATION LOANS.

(a) EXTENSION OF LOAN AUTHORITY.—Section 312(h) of the Housing Act of 1964 is amended by striking "March 15, 1988" and inserting "September 30, 1989".

42 USC 1452b.

(b) PROHIBITION OF CERTAIN FEES.—Section 312(g) of the Housing Act of 1964 is amended by adding at the end the following new sentence: "No risk premium or loan fee may be imposed by or for the Secretary or any other Federal agency on or with respect to a loan made under this section after the date of the enactment of the Housing and Community Development Act of 1987.".

(c) PROHIBITION OF LOAN SALES.—Section 312 of the Housing Act of 1964 is amended by adding at the end the following new subsection:

"(l) The Secretary may not sell any loan made under this section.".

SEC. 519. LOAN CANCELLATION.

The Secretary of Housing and Urban Development shall cancel the indebtedness represented by loan number 070024914 under section 312 of the Housing Act of 1964. The obligor on such loan is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection therewith. This section shall be effective only to such extent or in such amounts as may be approved in appropriation Acts.

SEC. 520. NEIGHBORHOOD REINVESTMENT CORPORATION.

42 USC 8103.

(a) COMPOSITION OF BOARD.—Section 604 of the Neighborhood Reinvestment Corporation Act is amended—

(1) by inserting before the semicolon in subsection (a)(1) the following: "or a member of the Federal Home Loan Bank Board to be designated by the Chairman";

(2) by striking out subsection (a)(3) and inserting in lieu thereof the following: "(3) the Chairman of the Board of Governors of the Federal Reserve System, or a member of the Board of Governors of the Federal Reserve System to be designated by the Chairman;";

(3) by inserting before the semicolon in subsection (a)(4) the following: "or the appointive member of the Board of Directors of the Federal Deposit Insurance Corporation if so designated by the Chairman"; and

(4) by striking out "Administrator" in subsection (a)(6) and inserting in lieu thereof the word "Chairman"; and by inserting after "Administration" the following: "or a member of the Board of the National Credit Union Administration to be designated by the Chairman.".

42 USC 8107.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended to read as follows:

"(a) There are authorized to be appropriated to the corporation to carry out this title $19,000,000 for fiscal year 1988, and $19,000,000 for fiscal year 1989.".

SEC. 521. NEIGHBORHOOD DEVELOPMENT DEMONSTRATION PROGRAM.

42 USC 5318 note.

Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 is amended to read as follows:

"(g) There are authorized to be appropriated to carry out this section $2,000,000 for fiscal year 1988, and $2,000,000 for fiscal year 1989.".

SEC. 522. PARK CENTRAL NEW COMMUNITY PROJECT.

12 USC 1439.

(a) HOUSING ASSISTANCE.—Section 213 of the Housing and Community Development Act of 1974 is amended by adding at the end the following new subsection:

Contracts.

"(e) From budget authority made available in appropriation Acts for fiscal year 1988, the Secretary shall enter into an annual contributions contract for a term of 180 months to obligate sufficient funds to provide assistance payments pursuant to section 8(b)(1) of the United States Housing Act of 1937 on behalf of 500 lower income families from budget authority made available for fiscal year 1988, so long as such families occupy properties in the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town In Town Project. If a lower income family receiving assistance payments pursuant to this subsection ceases to qualify for assistance payments pursuant to the provisions of section 8 of such Act or of this subsection during the 180-month term of the annual contributions contract, assistance payments shall be made on behalf of another lower income family who occupies a unit identified in the previous sentence.".

(b) COMMUNITY DEVELOPMENT ASSISTANCE.—Section 107(a) of the Housing and Community Development Act of 1974 is amended by adding at the end the following new sentence: "Of the amount set aside for grants under subsection (b) for fiscal year 1988, $5,000,000 shall be made available by the Secretary for purposes of grants under subsection (b)(1) for the Park Central New Community Project.". 42 USC 5307.

SEC. 523. COMMUNITY DEVELOPMENT PROJECTS LABOR STANDARDS.

Section 110 of the Housing and Community Development Act of 1974 is amended by striking "is designed for residential use of eight or more families" and insert "contains not less than 8 units". 42 USC 5310.

SEC. 524. URBAN PLANNING.

Section 702 of the Housing Act of 1954 is amended— 40 USC 462.

(1) by striking subsections (c) and (h); and

(2) by striking subsection (g) and inserting the following: "(g) Effective upon the date of the enactment of the Housing and Community Development Act of 1987, and in accordance with such accounting and other procedures as the Secretary may prescribe, each advance made by the Secretary under this section that has any principal amount outstanding shall be forgiven. The terms and conditions of any contract, or any amendment to a contract, for such advance with respect to any promise to repay the advance shall be canceled.". Contracts.

SEC. 525. COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS.

Section 123(e)(3) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking "Act" and inserting "section". 42 USC 5318 note.

Subtitle B—Flood and Crime Insurance Programs

SEC. 541. EXTENSION OF FLOOD INSURANCE PROGRAM.

(a) GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 is amended by striking "March 15, 1988" and inserting "September 30, 1989". 42 USC 4026.

(b) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking "March 15, 1988" and inserting "September 30, 1989". 42 USC 4056.

(c) ESTABLISHMENT OF FLOOD-RISK ZONES.—Section 1360(a)(2) of the National Flood Insurance Act of 1968 is amended by striking "March 15, 1988" and inserting "September 30, 1989". 42 USC 4101.

(d) LIMITATION ON PREMIUMS.—The premium rates charged for flood insurance under any program established pursuant to the National Flood Insurance Act of 1968 may not be increased during 42 USC 4015 note.

the period beginning on the date of the enactment of this Act and ending on September 30, 1989, by more than a prorated annual rate of 10 percent.

SEC. 542. EXTENSION OF CRIME INSURANCE PROGRAM.

12 USC 1749bbb.

(a) GENERAL AUTHORITY.—Section 1201(b)(1) of the National Housing Act is amended by striking "March 15, 1988" in the matter preceding subparagraph (A) and inserting "September 30, 1989".

(b) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1)(A) of the National Housing Act is amended by striking "September 30, 1986" and inserting "September 30, 1990".

Termination date.
12 USC 1749bbb-10c.

(c) LIMITATION ON PREMIUMS.—The premium rates charged for crime insurance under any program established pursuant to part C of title XII of the National Housing Act may not be increased during the period beginning on the date of the enactment of this Act and ending on September 30, 1989, by more than a prorated annual rate of 5 percent.

SEC. 543. STUDIES UNDER NATIONAL FLOOD INSURANCE PROGRAM.

42 USC 4127.

Section 1376(c) of the National Flood Insurance Act of 1968 is amended to read as follows:

"(c) There are authorized to be appropriated for studies under this title $37,000,000 for fiscal year 1988, and $37,000,000 for fiscal year 1989. Any amount appropriated under this subsection shall remain available until expended.".

Contracts.

SEC. 544. SCHEDULE FOR PAYMENT OF FLOOD INSURANCE FOR STRUCTURES ON LAND SUBJECT TO IMMINENT COLLAPSE OR SUBSIDENCE.

42 USC 4013.

(a) IN GENERAL.—Section 1306 of the National Flood Insurance Act of 1968 is amended by adding at the end the following new subsection:

"(c)(1) If any structure covered by a contract for flood insurance under this title and located on land that is along the shore of a lake or other body of water is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels, the Director shall (following final determination by the Director that the claim is in compliance with regulations developed pursuant to paragraph (6)(A)) pay amounts under such flood insurance contract for proper demolition or relocation as follows:

"(A) For proper demolition—

"(i) Following final determination by the Director, 40 percent of the value of the structure; and

"(ii) Following demolition of the structure (including any septic containment system) prior to collapse, the remaining 60 percent of the value of the structure and 10 percent of the value of the structure, or the actual cost of demolition, whichever amount is less.

"(B) For proper relocation (including removal of any septic containment system) if the owner chooses to relocate the structure—

"(i) following final determination by the Director, prior to collapse, up to 40 percent of the value of the structure;

"(ii) the total payment under this subparagraph shall not exceed the actual cost of relocation.

"(2) If any structure subject to a final determination under paragraph (1) collapses or subsides before the owner demolishes or relocates the structure and the Director determines that the owner has failed to take reasonable and prudent action to demolish or relocate the structure, the Director shall not pay more than the amount provided in subparagraph (A)(i) with respect to the structure.

"(3) For purposes of paying flood insurance pursuant to this subsection, the value of a structure shall be whichever of the following is lowest:

"(A) The fair market value of a comparable structure that is not subject to imminent collapse or subsidence.

"(B) The price paid for the structure and any improvement to the structure, as adjusted for inflation in accordance with an index determined by the Director to be appropriate.

"(C) The value of the structure under the flood insurance contract issued pursuant to this title.

"(4)(A) The provisions of this subsection shall apply to contracts for flood insurance under this title that are in effect on, or entered into after, the date of the enactment of the Housing and Community Development Act of 1987.

"(B) The provisions of this subsection shall not apply to any structure not subject to a contract for flood insurance under this title on the date of a certification under paragraph (1).

"(C) The provisions of this subsection shall not apply to any structure unless the structure is covered by a contract for flood insurance under this title—

"(i) on or before June 1, 1988;

"(ii) for a period of 2 years prior to certification under paragraph (1); or

"(iii) for the term of ownership if less than 2 years.

New York.

"(D) The provisions of this subsection shall not apply to any structure located in the area west of the groin field on the barrier island from Moriches Inlet to Shinnecock Inlet on the southern shore of Long Island of Suffolk County, New York.

"(5) For any parcel of land on which a structure is subject to a final determination under paragraph (1), no subsequent flood insurance coverage under this title or assistance under the Disaster Relief Act of 1974 (except emergency assistance essential to save lives and protect property, public health and safety) shall be available for—

"(A) any structure consisting of one to four dwelling units which is constructed or relocated at a point seaward of the 30-year erosion setback; or

"(B) any other structure which is constructed or relocated at a point seaward of the 60-year erosion setback.

Regulations.

"(6)(A) The Director shall promulgate regulations and guidelines to implement the provisions of this subsection.

"(B) Prior to issuance of regulations regarding the State and local certifications pursuant to paragraph (1), all provisions of this subsection shall apply to any structure which is determined by the Director—

"(i) to otherwise meet the requirements of this subsection; and

"(ii) to have been condemned by a State or local authority and to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels.

"(7) No payments under this subsection may be made after September 30, 1989, except pursuant to a commitment made on or before such date.".

42 USC 4013 note.

(b) Effective Date.—The amendment made by this section shall become effective on the date of the enactment of this Act.

SEC. 545. FLOOD AND CRIME INSURANCE TECHNICAL AMENDMENTS.

12 USC 1749bbb.

(a) Crime Insurance Program Authority.—Section 1201(b) of the National Housing Act is amended—

(1) by striking paragraphs (2) and (3);

(2) by striking "(b)(1)" and inserting "(b)"; and

(3) by redesignating subparagraphs (A) through (C) as paragraphs (1) through (3), respectively.

12 USC 1749bbb-8.

(b) Reinsurance Agreements.—Section 1222(c) of the National Housing Act is amended by striking "section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a))," and inserting "section 1341(a) of title 31, United States Code,".

12 USC 1749bbb-13.

(c) National Insurance Development Fund.—Section 1243(d) of the National Housing Act is amended by striking "by law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847-849))" and inserting "by sections 9103 and 9104 of title 31, United States Code,".

42 USC 4017.

(d) National Flood Insurance Fund.—Section 1310(e) of the National Flood Insurance Act of 1968 is amended by inserting a comma after "Code".

42 USC 4029.

(e) Flood Insurance in Colorado River Floodway.—The National Flood Insurance Act of 1968 is amended by inserting the following section heading for section 1322: "COLORADO RIVER FLOODWAY".

42 USC 2414.

(f) FEMA Treasury Borrowings.—The third sentence of section 15(e) of the Federal Flood Insurance Act of 1956 is amended by inserting a comma after "Code".

Subtitle C—Miscellaneous Programs

Grants.
Contracts.
State and local governments.
42 USC 3616 note.

SEC. 561. FAIR HOUSING INITIATIVES PROGRAM.

(a) In General.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") may make grants to, or (to the extent of amounts provided in appropriation Acts) enter into contracts or cooperative agreements with, State or local governments or their agencies, public or private nonprofit organizations or institutions, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to develop, implement, carry out, or coordinate—

Discrimination, prohibition.

(1) programs or activities designed to obtain enforcement of the rights granted by title VIII of the Act of April 11, 1968 (commonly referred to as the Civil Rights Act of 1968), or by State or local laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to the rights and remedies provided in such title VIII, through such appropriate judicial or administrative proceedings (including informal methods of conference, conciliation, and persuasion) as are available therefor; and

(2) education and outreach programs designed to inform the public concerning rights and obligations under the laws referred to in paragraph (1).

Education.

(b) PROGRAM ADMINISTRATION.—

(1) Not less than 30 days before providing a grant or entering into any contract or cooperative agreement to carry out activities authorized by this section, the Secretary shall submit notification of such proposed grant, contract, or cooperative agreement (including a description of the geographical distribution of such contracts) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a quarterly report that summarizes the activities funded under this section and describes the geographical distribution of grants, contracts, or cooperative agreements funded under this section.

Reports.

(c) REGULATIONS.—

(1) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

(2) The Secretary shall, for use during the demonstration authorized in this section, establish guidelines for testing activities funded under the private enforcement initiative of the fair housing initiatives program. The purpose of such guidelines shall be to ensure that investigations in support of fair housing enforcement efforts described in subsection (a)(1) shall develop credible and objective evidence of discriminatory housing practices. Such guidelines shall apply only to activities funded under this section, shall not be construed to limit or otherwise restrict the use of facts secured through testing not funded under this section in any legal proceeding under Federal fair housing laws, and shall not be used to restrict individuals or entities, including those participating in the fair housing initiatives program, from pursuing any right or remedy guaranteed by Federal law. Not later than 6 months after the end of the demonstration period authorized in this section, the Secretary shall submit to Congress the evaluation of the Secretary of the effectiveness of such guidelines in achieving the purposes of this section.

Discrimination, prohibition.

(3) Such regulations shall include provisions governing applications for assistance under this section, and shall require each such application to contain—

(A) a description of the assisted activities proposed to be undertaken by the applicant, together with the estimated costs and schedule for completion of such activities;

(B) a description of the experience of the applicant in formulating or carrying out programs to prevent or eliminate discriminatory housing practices;

(C) available information, including studies made by or available to the applicant, indicating the nature and extent of discriminatory housing practices occurring in the general location where the applicant proposes to conduct its assisted activities, and the relationship of such activities to such practices;

(D) an estimate of such other public or private resources as may be available to assist the proposed activities;

(E) a description of proposed procedures to be used by the applicant for monitoring conduct and evaluating results of the proposed activities; and

(F) any additional information required by the Secretary.

(4) Regulations issued under this subsection shall not become effective prior to the expiration of 90 days after the Secretary transmits such regulations, in the form such regulations are intended to be published, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(5) The Secretary shall not obligate or expend any amount under this section before the effective date of the regulations required under this subsection.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, $5,000,000 for fiscal year 1988, and $5,000,000 for fiscal year 1989, of which not more than $3,000,000 in each year shall be for the private enforcement initiative demonstration. Any amount appropriated under this section shall remain available until expended.

(e) Sunset.—The demonstration period authorized in this section shall end on September 30, 1989.

42 USC 3608a.

SEC. 562. COLLECTION OF CERTAIN DATA.

(a) In General.—To assess the extent of compliance with Federal fair housing requirements (including the requirements established under title VI of Public Law 88-352 and title VIII of Public Law 90-284), the Secretary of Housing and Urban Development and the Secretary of Agriculture shall each collect, not less than annually, data on the racial and ethnic characteristics of persons eligible for, assisted, or otherwise benefiting under each community development, housing assistance, and mortgage and loan insurance and guarantee program administered by such Secretary. Such data shall be collected on a building by building basis if the Secretary involved determines such collection to be appropriate.

(b) Reports to Congress.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each include in the annual report of such Secretary to the Congress a summary and evaluation of the data collected by such Secretary under subsection (a) during the preceding year.

SEC. 563. REGULATORY AUTHORITY.

(a) Department of Housing and Urban Development.—Section 7(o) of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new paragraph:

42 USC 3535.

"(7) The Secretary shall include with each rule or regulation required to be transmitted to the Committees under this subsection a detailed summary of all changes required by the Office of Management and Budget that prohibit, modify, postpone, or disapprove such rule or regulation in whole or part.".

(b) Farmers Home Administration.—Section 534 of the Housing Act of 1949 is amended by adding at the end thereof the following new subsection:

42 USC 1490n.

"(d) The Secretary shall include with each rule or regulation required to be transmitted to the Committees under this section a detailed summary of all changes required by the Office of Management and Budget that prohibit, modify, postpone, or disapprove such rule or regulation in whole or part.".

SEC. 564. RESEARCH AND DEVELOPMENT.

12 USC 1701z-1.

Section 501 of the Housing and Urban Development Act of 1970 is amended by striking the second and third sentences and inserting the following: "There are authorized to be appropriated to carry out this title $17,000,000 for fiscal year 1988, and $18,000,000 for fiscal year 1989.".

SEC. 565. HOME MORTGAGE DISCLOSURE.

(a) Applicability to Mortgage Banking Affiliates.—

(1) Section 303(2) of the Home Mortgage Disclosure Act of 1975 is amended—

12 USC 2802.

(A) by striking "or" the first place it appears; and

(B) by inserting before the semicolon at the end the following: ", mortgage banking subsidiary of a bank holding company or savings and loan holding company, or savings and loan service corporation that originates or purchases mortgage loans".

12 USC 2803.

(2) Section 304 of the Home Mortgage Disclosure Act of 1975 is amended by adding at the end the following new subsection:

"(g) The requirements of subsections (a) and (b) shall not apply with respect to mortgage loans that are—

"(1) made by any mortgage banking subsidiary of a bank holding company or savings and loan holding company or by any savings and loan service corporation that originates or purchases mortgage loans; and

"(2) approved by the Secretary for insurance under title I or II of the National Housing Act.".

12 USC 2810.

(3) The first sentence of section 311 of the Home Mortgage Disclosure Act of 1975 is amended by inserting after "306(b)" the following: "(and for each mortgagee making mortgage loans exempted under section 304(g))".

Effective date.
12 USC 2802 note.

(4) The amendments made by this subsection shall be applicable to calendar years beginning after December 31, 1986.

12 USC 2811.

(b) Permanent Extension of General Authority.—The Home Mortgage Disclosure Act of 1975 is amended by striking section 312.

SEC. 566. LEAD-BASED PAINT POISONING PREVENTION.

Safety.

42 USC 4822.

(a) Detection and Abatement Procedures.—Section 302 of the Lead-Based Paint Poisoning Prevention Act is amended—

(1) by inserting after the section designation the following: "(a) General Requirements.—";

(2) in the second sentence, by striking "housing constructed prior to 1950" and inserting the following: "housing constructed or substantially rehabilitated prior to 1978";

Children and youth.

(3) in clause (1) of the second sentence, by striking "paint which may contain lead and to which children may be exposed" and inserting the following: "accessible intact, intact, and nonintact interior and exterior painted surfaces that may contain lead in any such housing in which any child who is less than 7 years of age resides or is expected to reside";

(4) in clause (2) of the second sentence, by inserting after "notification" the following: "(using a brochure developed after consultation with the National Institute of Building Sciences)";

(5) by striking the third sentence; and

(6) by adding at the end the following new subsections:

"(b) Measurement Criteria.—The procedures established by the Secretary under this section for the detection and abatement of lead-based paint poisoning hazards in any housing, including housing assisted under section 8 of the United States Housing Act of 1937—

"(1) shall be based upon criteria that measure the condition of the housing; and

"(2) shall not be based upon criteria that measure the health of the residents of the housing.

"(c) Inspection Requirements.—The Secretary shall require the inspection of all intact and nonintact interior and exterior painted surfaces of housing subject to this section for lead-based paint using an approved x-ray fluorescence analyzer or comparable approved sampling or testing technique. A qualified inspector shall certify in writing the precise results of the inspection. If the results equal or exceed a level of 1.0 milligrams per centimeter squared, the results shall be provided to any potential purchaser or tenant of the housing. The Secretary shall periodically review and reduce the level below 1.0 milligram per centimeter squared to the extent that reliable technology makes feasible the detection of a lower level and medical evidence supports the imposition of a lower level. The requirements of this subsection shall apply as provided in subsection (d).

"(d) Abatement Required.—

"(1) Public housing.—In the case of public housing assisted under section 9 of the United States Housing Act of 1937, the Secretary shall require the inspection described in subsection (c) for—

"(A) each vacant dwelling prior to rerenting;

"(B) a random sample of all occupied dwellings; and

"(C) each dwelling in any housing in which there is a dwelling determined under subparagraph (A) or (B) to have lead-based paint hazards.

The Secretary shall require the inspection of all housing subject to this paragraph prior to the expiration of 5 years from the date of the publication of final regulations pursuant to this subsection. The Secretary shall prioritize, within such 5-year period, inspections on the basis of vacancy, age of housing, or projected modernization or rehabilitation. The Secretary shall require abatement to eliminate the lead-based paint poisoning hazards in housing in which the test results equal or exceed the standard established by or under subsection (c). Final inspection and certification after abatement shall be made by a qualified inspector.

"(2) HUD-owned properties.—

"(A) Abatement demonstration program.—In carrying out the requirements of this subsection with respect to single-family and multifamily properties owned by the Department of Housing and Urban Development, the Secretary shall utilize a sufficient variety of abatement methods in a sufficient number of areas and circumstances to demonstrate their relative cost-effectiveness and their applicability to various types of housing.

"(B) Report.—Not later than 18 months after the effective date of the regulations issued to carry out this subsection, the Secretary shall transmit to the Congress the findings and recommendations of the Secretary as a result of the demonstration program, including any recommendations of the Secretary for legislation to revise the requirements of this subsection. In preparing such report, the Secretary shall examine—

"(i) the most reliable technology available for detecting lead-based paint;

"(ii) the most efficient and cost-effective methods for abatement;

"(iii) safety considerations in testing;

"(iv) the overall accuracy and reliability of laboratory testing of physical samples, x-ray fluorescence machines, and other available testing procedures;

"(v) availability of qualified samplers and testers; and

"(vi) an estimate of the amount, characteristics, and regional distribution of housing in the United States that contains lead-based paint hazards at differing levels of contamination.

"(3) REPORT REQUIRED.—Not later than 9 months after completion of the demonstration required by paragraph (2), the Secretary shall, based on the demonstration, prepare and transmit to the Congress, a comprehensive and workable plan, including any recommendations for changes in legislation, for the prompt and cost effective inspection and abatement of privately owned single family and multifamily housing, including housing assisted under section 8 of the United States Housing Act of 1937. After the expiration of the 9-month period referred to in the preceding sentence, the Secretary may not obligate or expend any funds or otherwise carry out activities related to any other policy development and research project until the report is transmitted.

"(e) EXCEPTIONS.—The provisions of this section shall not apply to—

"(1) housing for the elderly or handicapped, except for any dwelling in such housing in which any child who is less than 7 years of age resides or is expected to reside;

"(2) any project for which an application for insurance is submitted under section 231, 232, 241, or 242 of the National Housing Act; or

"(3) any 0-bedroom dwelling.

"(f) FUNDING.—The Secretary shall carry out the provisions of this section utilizing available Federal funding sources. The Secretary shall use funds available for comprehensive improvement assistance under section 14 of the United States Housing Act of 1937 to carry out this section in public housing.".

(b) REGULATIONS.—

42 USC 4822 note.

(1) PROPOSED REGULATIONS.—Not later than the expiration of the 60-day period following the date of the enactment of this Act, the Secretary of Housing and Urban Development shall publish proposed regulations to carry out the amendments made by this section.

(2) FINAL REGULATIONS.—The Secretary shall publish final regulations to carry out the amendments made by this section, which shall become effective not later than the expiration of the 120-day period following the date of the enactment of this Act.

(3) REQUIRED CONSULTATIONS.—Before issuing proposed regulations under this subsection, the Secretary shall consult with—

(A) the National Institute of Building Sciences and the National Bureau of Standards with respect to the most cost-effective methods of detecting and abating lead-based paint poisoning hazards; and

(B) public housing agencies to develop a cost-efficient plan for detecting and abating lead-based paint poisoning hazards in dwelling assisted under section 8 of the United States Housing Act of 1937 and dwellings in public housing assisted under such Act.

42 USC 1437a note.

SEC. 567. MEDIAN AREA INCOME.

For purposes of calculating the median income for any area that is not within a metropolitan statistical area (as established by the Office of Management and Budget) for programs under title I of the Housing and Community Development Act of 1974, the United States Housing Act of 1937, the National Housing Act, or title V of the Housing Act of 1949, the Secretary of Housing and Urban Development or the Secretary of Agriculture (as appropriate) shall use whichever of the following is higher:

(1) the median income of the county in which the area is located; or

(2) the median income of the entire nonmetropolitan area of the State.

Energy.

SEC. 568. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.

42 USC 5403.

Section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974 is amended by adding at the end the following new subsection:

"(i)(1) The Federal manufactured home construction and safety standards established by the Secretary under this section shall include preemptive energy conservation standards in accordance with this subsection.

"(2) The energy conservation standards established under this subsection shall be cost-effective energy conservation performance standards designed to ensure the lowest total of construction and operating costs.

"(3) The energy conservation standards established under this subsection shall take into consideration the design and factory construction techniques of manufactured homes and shall provide for alternative practices that result in net estimated energy consumption equal to or less than the specified standards.".

SEC. 569. NULLIFICATION OF RIGHT OF REDEMPTION OF SINGLE-FAMILY MORTGAGORS.

12 USC 1710.

Section 204 of the National Housing Act is amended by adding at the end the following new subsection:

"(l)(1) Whenever the Secretary or a contract mortgagee (pursuant to its contract with the Secretary) forecloses on a Secretary-held single family mortgage in any Federal or State court or pursuant to a power of sale in a mortgage, the purchaser at the foreclosure sale shall be entitled to receive a conveyance of title to, and possession of, the property, subject to the interests senior to the interests of the Secretary or the contract mortgagee, as the case may be. Notwithstanding any State law to the contrary, there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale in connection with a Secretary-held single family mortgage. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

"(2) The following actions shall be taken in order to verify title in the purchaser at the foreclosure sale:

"(A) In the case of a judicial foreclosure in any Federal or State court, there shall be included in the petition and in the judgment of foreclosure a statement that the foreclosure is in accordance with this subsection and that there is no right of redemption in the mortgagor or any other person.

"(B) In the case of a foreclosure pursuant to a power of sale provision in the mortgage, the statement required in subparagraph (A) shall be included in the advertisement of the sale and either in the recitals of the deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale or in an affidavit or addendum to the deed.

"(3) For purposes of this subsection:

"(A) The term 'contract mortgagee' means a person or entity under a contract with the Secretary that provides for the assignment of a single-family mortgage from the Secretary to the person or entity for the purpose of pursuing foreclosure.

"(B) the term 'mortgage' means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal, or mixed, or any interest in property, including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation.

"(C) The term 'Secretary-held single family mortgage' means a single-family mortgage held by the Secretary or by a contract mortgagee at the time of initiation of foreclosure that—

"(i) was formerly insured by the Secretary under any section of this title; or

"(ii) was taken by the Secretary as a purchase money mortgage in connection with the sale or other transfer of Secretary-owned property under any section of this title.

"(D) The term 'single-family mortgage' means a mortgage that covers property on which is located a 1-to-4 family residence.".

SEC. 570. MISCELLANEOUS PROGRAMS TECHNICAL AMENDMENTS.

(a) HUD ADMINISTRATIVE PROVISIONS.—

(1) Section 502(a) of the Housing Act of 1948 is amended by striking the fourth sentence. 12 USC 1701c.

(2) Section 502(b) of the Housing Act of 1948 is amended— 42 USC 1404a.

(A) by striking "United States Housing Authority" each place it appears and inserting "Secretary of Housing and Urban Development"; and

(B) by striking "the Authority" each place it appears and inserting "the Secretary of Housing and Urban Development".

12 USC 1701c. (3) Section 502(c)(2) of the Housing Act of 1948 is amended by adding "and" at the end.

12 USC 1701o. (b) ANNUAL REPORT OF SECRETARY.—Section 802 of the Housing Act of 1954 is amended by inserting the following section heading:

"ANNUAL REPORT OF SECRETARY".

42 USC 6832. (c) ENERGY CONSERVATION IN NEW BUILDINGS.—Section 303(11) of the Energy Conservation Standards for New Buildings Act of 1976 is amended by striking "Secretary of Housing and Urban Development" and inserting "Secretary of Energy".

42 USC 6862. (d) WEATHERIZATION ASSISTANCE.—Section 412(9)(G) of the Energy Conservation in Existing Buildings Act of 1976 is amended by striking the first comma after "determine".

12 USC 3604, 3607, 3613. (e) SOLAR ENERGY AND ENERGY CONSERVATION BANK.—Sections 506(f)(1), 509(b)(2)(E), 509(c), 515(b)(1)(A)(iii), 515(b)(1)(B), 515(b)(1)(C)(ii), 515(b)(1)(D), and 515(b)(2) of the Solar Energy and Energy Conservation Bank Act are amended—

(1) by striking "section 38" each place it appears and inserting "section 23";

(2) by striking "section 44C" each place it appears and inserting "section 38"; and

(3) by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(f) NATIONAL INSTITUTE OF BUILDING SCIENCES.—

12 USC 1701j-2. (1) Section 809(g)(4) of the Housing and Community Development Act of 1974 is amended by striking "and its" and inserting "of its".

(2) Section 809(h) of the Housing and Community Development Act of 1974 is amended by striking "preceeding" in the last sentence and inserting "preceding".

12 USC 2607. (g) REAL ESTATE SETTLEMENT PROCEDURES.—Section 8(c)(5) of the Real Estate Settlement Procedures Act of 1974 is amended by striking "clause 4(B)" and inserting "clause (4)(B)".

12 USC 2803. (h) HOME MORTGAGE DISCLOSURE.—Section 304(a)(1) of the Home Mortgage Disclosure Act of 1975 is amended by striking "at at" and inserting "at".

(i) STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—

42 USC 11382. (1) Section 422(1) of the Stewart B. McKinney Homeless Assistance Act is amended by inserting "governmental entity," after "urban county,".

42 USC 11391. (2) Section 431(1) of such Act is amended by inserting "governmental entity," after "urban county,".

12 USC 1735e-1.

SEC. 571. USE OF AMERICAN MATERIALS AND PRODUCTS.

In the administration of housing assistance programs, the Secretary of Housing and Urban Development shall encourage the use of materials and products mined and produced in the United States.

SEC. 572. STUDY OF VOLUNTARY STANDARDS FOR MODULAR HOMES.

Reports. (a) IN GENERAL.—In order to facilitate the construction and delivery of housing, the National Institute of Building Sciences shall prepare and submit to the Congress not later than 6 months after the date of the enactment of this Act a report describing feasible alternative systems for implementing one or more voluntary preemptive national codes for modular housing, including the method for inspecting the structures to ensure compliance with the selected code or set of codes. Such codes may be national model codes and shall provide for periodic upgrading through recognized model code development procedures and the development of modular housing standards for construction, design, and performance that ensure quality, durability, and safety and are in accordance with life-cycle cost-effective energy conservation standards established by the Secretary of Housing and Urban Development and designed to ensure the lowest total construction and operating costs over the estimated life of such housing.

(b) DEFINITION.—For purposes of this section, the term "modular housing" means factory-built single-family and multifamily housing (including closed wall panelized housing) not subject to the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974.

(c) GRANT.—From amounts appropriated pursuant to section 501 of the Housing and Urban Development Act of 1970, the Secretary of Housing and Urban Development shall make a grant to the National Institute of Building Sciences in an amount not to exceed $50,000 to cover the cost of the report under this section.

TITLE VI—NEHEMIAH HOUSING OPPORTUNITY GRANTS

SEC. 601. STATEMENT OF PURPOSE.

12 USC 1715*l* note.

It is the purpose of this title—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to undertake a concentrated effort to rebuild the depressed areas of the cities of the United States and to create sound and attractive neighborhoods; and

(3) to increase the employment of neighborhood residents.

SEC. 602. DEFINITIONS.

12 USC 1715*l* note.

For purposes of this title:

(1) The term "Fund" means the Nehemiah Housing Opportunity Fund established in section 609(a).

(2) The term "home" means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(3) The term "lower income families" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(4) The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(5) The term "nonprofit organization" means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana

Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(8) The term "substantial rehabilitation" means—

(A) rehabilitation involving costs in excess of 60 percent of the maximum sale price of a home assisted under this title in the market area in which it is located; or

(B) the rehabilitation of a vacant, uninhabitable structure.

(9) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

12 USC 1715*l* note.

SEC. 603. ASSISTANCE TO NONPROFIT ORGANIZATIONS.

(a) In General.—The Secretary may provide assistance to nonprofit organizations to carry out Nehemiah housing opportunity programs in accordance with the provisions of this title. Such assistance shall be made in the form of grants.

(b) Applications.—Applications for assistance under this title shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

Loans.
12 USC 1715*l* note.

SEC. 604. USE OF ASSISTANCE.

(a) In General.—Any nonprofit organization receiving assistance under this title shall use such assistance to provide loans to families purchasing homes constructed or substantially rehabilitated in accordance with a Nehemiah housing opportunity program approved under this title.

(b) Specific Requirements.—Each loan made to a family under this section shall—

(1) be secured by a second mortgage held by the Secretary on the property involved;

(2) be in an amount not exceeding $15,000;

(3) bear no interest; and

(4) be repayable to the Secretary upon the sale, lease, or other transfer of such property.

12 USC 1715*l* note.

SEC. 605. PROGRAM REQUIREMENTS.

(a) In General.—Assistance provided under this title may be used only in connection with a Nehemiah housing opportunity program of construction or substantial rehabilitation of homes.

(b) Family Need.—Each family purchasing a home under this title shall—

(1) have a family income on the date of such purchase that is not more than whichever of the following is higher:

(A) the median income for a family of 4 persons in the metropolitan statistical area involved, except that if and to the extent that the unit of general local government demonstrates to the Secretary that such action is necessary to achieve or maintain neighborhood stability, not to exceed 15 percent of the families in a project at any time during development or occupancy may have incomes up to 115 percent of such median income; or

(B) the national median income for a family of 4 persons; and

(2) not have owned a home during the 3-year period preceding such purchase.

(c) Downpayment.—

(1) Each family purchasing a home under this title shall make a downpayment of not less than 10 percent of the sale price of such home unless—

(A) the nonprofit organization determines a higher downpayment to be appropriate; or

(B) the first mortgage on the home is held by a State or unit of general local government under a home loan program of the State or unit of general local government, and the program provides for a lower downpayment.

State and local governments.

(2) Any downpayment made under this subsection shall accrue interest from the date on which such downpayment is made through the date of settlement, at a rate not less than the passbook rate. Such interest shall be paid by the nonprofit organization involved to the family purchasing the home for which such downpayment was made.

(d) Leasing Prohibition.—No family purchasing a home under this title may lease such home.

SEC. 606. TERMS AND CONDITIONS OF ASSISTANCE.

State and local governments.
12 USC 1715*l* note.

(a) Local Consultation.—No proposed Nehemiah housing opportunity program may be approved by the Secretary under this title unless the nonprofit organization involved demonstrates to the satisfaction of the Secretary that—

(1) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(2) it has the approval of each unit of general local government in which such program is to be located.

(b) Program Schedule.—Each nonprofit organization applying for assistance under this title shall submit to the Secretary an estimated schedule for completion of its proposed Nehemiah housing opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(c) Minimum Participation.—No nonprofit organization receiving assistance under this title may commence any construction or substantial rehabilitation (except with respect to homes to be constructed or substantially rehabilitated for the purpose of display) until not less than 25 percent of the homes to be constructed or substantially rehabilitated are contracted for sale to purchasers who intend to live in such homes and the required downpayments are made.

(d) Financial Feasibility.—The Secretary may not provide any assistance under this title to any nonprofit organization unless such nonprofit organization demonstrates the financial feasibility of its proposed Nehemiah housing opportunity program, including the availability of non-Federal public and private funds.

(e) Home Quality and Location.—A Nehemiah housing opportunity program may be approved under this title only if it provides that—

(1) the number of homes to be constructed or substantially rehabilitated under such program will not be less than whichever of the following is less:

(A) the greater of (i) 50 homes; or (ii) 0.25 percent of the number of existing dwelling units in the unit of general local government that provides the most assistance to such program; or

(B) 250 homes;

except that the Secretary may waive the requirements of this paragraph for any unit of general local government if the Governor of the State or the unit of general local government requests such waiver and certifies with supporting documentation that such requirements will prevent the State or the unit of general local government from being able to use such program effectively;

(2) each home constructed or substantially rehabilitated under such program will comply with—

(A)(i) applicable local building code standards;

(ii) in any case in which there is not an applicable local building code, a nationally recognized model building code mutually agreed upon by the sponsoring nonprofit organization and the Secretary; or

(iii) in the case of a manufactured home, the standards prescribed pursuant to title VI of the Housing and Community Development Act of 1974 and the installation, structural, and site requirements that would apply under title II of the National Housing Act; and

Energy.

(B) the energy performance requirements established under section 526 of the National Housing Act or, in the case of manufactured housing, the energy conservation requirements prescribed in accordance with section 203(b) of the National Housing Act;

(3) all homes constructed or substantially rehabilitated under such program will be located in census tracts, or identifiable neighborhoods within census tracts, in which the median family income is not more than 80 percent of the median family income of the area in which such program is to be located, as such median family income and area are determined for purposes of assistance under section 8 of the United States Housing Act of 1937;

(4) all homes constructed or substantially rehabilitated under such program will be concentrated in a single neighborhood and located on contiguous parcels of land, except that homes may be constructed or substantially rehabilitated in up to 4 identifiable neighborhoods that each consist of contiguous parcels of land if—

(A) the unit of general local government in which the project is located certifies that land cannot be made available in a single neighborhood for a program of the size required by paragraph (1);

(B) the nonprofit organization submits evidence satisfactory to the Secretary that construction or substantial rehabilitation in more than 1 identifiable neighborhood will result in cost reductions through economies of scale comparable to the cost reductions achieved by other programs eligible for assistance under this title; and

(C) the nonprofit organization submits evidence satisfactory to the Secretary that the program, by itself or together with improvement efforts that are or will be undertaken in the identifiable neighborhoods by the unit of general local government or private entities, will result in a substantial improvement in the overall quality and long-term viability of the neighborhoods; and

Contracts.

(5) sales contracts entered into under such program will contain provisions requiring repayment of any loan made under

this title upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

SEC. 607. PROGRAM SELECTION CRITERIA.

12 USC 1715l note.

(a) In General.—In selecting Nehemiah housing opportunity programs for assistance under this title from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(1) non-Federal public or private entities will contribute land necessary to make each program feasible;

(2) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of homes constructed or substantially rehabilitated under each program;

(3) each program will produce the greatest number of units for the least amount of assistance provided under this title, taking into consideration the cost differences among different market areas;

(4) each program is located in a neighborhood of severe physical and economic blight (and, in determining the degree of physical blight, the Secretary shall consider the condition of the housing, other buildings, and infrastructure, in the neighborhood of the proposed program);

(5) each program uses construction methods that will reduce the cost per square foot below the average construction cost in the market area involved; and

(6) each program provides for the involvement of local residents in the planning, and construction or substantial rehabilitation, of homes.

(b) Exception.—To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in paragraph (1) or (2) of subsection (a), the Secretary shall not consider such form of contribution in evaluating such program.

SEC. 608. DISTRIBUTION OF ASSISTANCE TO NONPROFIT ORGANIZATIONS.

12 USC 1715l note.

(a) Reservation of Amounts.—Following the selection of any Nehemiah housing opportunity program for assistance under this title, the Secretary shall reserve sufficient amounts in the Nehemiah Housing Opportunity Fund for such assistance.

(b) Distribution of Assistance.—Following the sale of any home constructed or substantially rehabilitated under a Nehemiah housing opportunity program selected for assistance under this title, the Secretary shall provide to the sponsoring nonprofit organization an amount equal to the amount of the loan made to the family purchasing such home. Such amount shall be provided not more than 30 days after the sale of such home.

(c) Maximum Assistance.—The assistance provided to any nonprofit organization under this title may not exceed $15,000 per home.

12 USC 1715l note.

SEC. 609. NEHEMIAH HOUSING OPPORTUNITY FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the Nehemiah Housing Opportunity Fund. The Fund shall be available to the Secretary, to the extent approved in appropriation Acts, for purposes of providing assistance under section 603.

(b) ASSETS.—The Fund shall consist of—

(1) any amount appropriated under section 612;

(2) any amount received by the Secretary under section 604(b)(4); and

(3) any amount received by the Secretary under subsection (c).

(c) ADMINISTRATION.—Any amount in the Fund determined by the Secretary to be in excess of the amount currently required to carry out the provisions of this title shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

12 USC 1715l note.

SEC. 610. REPORT.

Not later than March 1, 1990, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the activities carried out under this title. Such report shall include—

(1) an analysis of the characteristics of the families assisted under this title, including family size, number of children, family income, sources of family income, race, age, and sex;

(2) an analysis of the market value of homes purchased under this title;

(3) an analysis of the non-Federal public and private financial or other contributions made to reduce the cost of homes constructed or substantially rehabilitated under each program;

(4) an analysis of the sales prices of homes under this title;

(5) an analysis of the amounts of the grants made to programs under this title; and

(6) any recommendations of the Secretary for modifications in the program established by this title in order to ensure the effective implementation of such program.

12 USC 1715l note.

SEC. 611. REGULATIONS.

Not later than July 1, 1988, the Secretary shall issue final regulations to carry out the provisions of this title. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

12 USC 1715l note.

SEC. 612. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $25,000,000 for fiscal year 1988 and $100,000,000 for fiscal year 1989. Any amount appropriated under this section shall be deposited in the Nehemiah Housing Opportunity Fund, and shall remain available until expended.

12 USC 1715l note.

SEC. 613. SUNSET.

No assistance may be provided under this title after September 30, 1989, except pursuant to a commitment made on or before such date.

TITLE VII—ENTERPRISE ZONE DEVELOPMENT

SEC. 701. DESIGNATION OF ENTERPRISE ZONES.

State and local governments.
42 USC 11501.

(a) Designation of Zones.—

(1) Definition.—For purposes of this section, the term "enterprise zone" means any area that—

(A) is nominated by one or more local governments and the State or States in which it is located for designation as an enterprise zone (in this section referred to as a "nominated area"); and

(B) the Secretary of Housing and Urban Development designates as an enterprise zone, after consultation with—

(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury, the Director of the Office of Management and Budget, and the Administrator of the Small Business Administration; and

(ii) in the case of an area on an Indian reservation, the Secretary of the Interior.

(2) Number of designations.—

(A) In general.—The Secretary of Housing and Urban Development may designate not more than 100 nominated areas as enterprise zones.

(B) Minimum designation in rural areas.—Of the areas designated under clause (i), not less than ⅓ shall be areas that—

(i) are within a local government jurisdiction or jurisdictions with a population of less than 50,000 (as determined under the most recent census data available);

(ii) are outside of a metropolitan statistical area (as designated by the Director of the Office of Management and Budget); or

(iii) that are determined by the Secretary, after consultation with the Secretary of Commerce, to be rural areas.

(3) Areas designated based solely on degree of poverty.—

(A) In general.—Except as provided in subparagraph (B), the Secretary shall designate the nominated areas with the highest average ranking with respect to the criteria set forth in subparagraphs (C), (D), and (E) of subsection (c)(3). For purposes of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area that exceeds such criterion by the greatest amount given the highest ranking.

(B) Exception where inadequate course of action, etc.—An area shall not be designated under subparagraph (A) if the Secretary determines that the course of action with respect to such area is inadequate.

(C) Separate application to rural and other areas.—Subparagraph (A) shall be applied separately with respect to areas described in paragraph (2)(B) and to other areas.

(4) Limitation on designations.—

(A) Publication of regulations.—Before designating any area as an enterprise zone, the Secretary shall prescribe by regulation not later than 4 months following the date of the enactment of this Act, after consultation with the officials described in paragraph (1)(B)—

(i) the procedures for nominating an area under paragraph (1)(A);

(ii) the parameters relating to the size and population characteristics of an enterprise zone; and

(iii) the manner in which nominated areas will be evaluated based on the criteria specified in subsection (d).

(B) Time limitations.—The Secretary shall designate nominated areas as enterprise zones only during the 24-month period beginning on the 1st day of the 1st month following the month in which the effective date of the regulations described in subparagraph (A) occurs.

(C) Procedural rules.—The Secretary shall not make any designation under paragraph (1) unless—

(i) the local governments and the State in which the nominated area is located have the authority—

(I) to nominate such area for designation as an enterprise zone;

(II) to make the State and local commitments under subsection (d); and

(III) to provide assurances satisfactory to the Secretary that such commitments will be fulfilled;

Regulations.

(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary shall by regulation prescribe;

(iii) the Secretary determines that any information furnished is reasonably accurate; and

(iv) the State and local governments certify that no portion of the area nominated is already included in an enterprise zone or in an area otherwise nominated to be an enterprise zone.

(5) Nomination process for Indian reservations.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

(b) Period for Which Designation Is in Effect.—

(1) In general.—Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

(A) December 31 of the 24th calendar year following the calendar year in which such date occurs;

(B) the termination date designated by the State and local governments as provided for in their nomination pursuant to subsection (a)(4)(C)(ii); or

(C) the date the Secretary revokes such designation under paragraph (2).

(2) Revocation of designation.—The Secretary, after consultation with the officials described in subsection (a)(1)(B) and a hearing on the record involving officials of the State or local government involved, may revoke the designation of an area if the Secretary determines that the local government or the State in which it is located is not complying substantially with the State and local commitments pursuant to subsection (d).

(c) AREA AND ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of the local government;

(B) the boundary of the area is continuous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000 if any portion of such area (other than a rural area described in subsection (a)(2)(B)(i)) is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000 in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that—

(A) the area is one of pervasive poverty, unemployment, and general distress;

(B) the area is located wholly within the jurisdiction of a local government that is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this Act;

(C) the unemployment rate, as determined by the appropriate available data, was not less than 1.5 times the national unemployment rate for that period;

(D) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the equivalent county division as defined by the Bureau of the Census for the purpose of defining poverty areas) within the area was not less than 20 percent for the period to which such data relate; and

(E) the area meets at least one of the following criteria:

(i) Not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

(ii) The population of the area decreased by 20 percent or more between 1970 and 1980 (as determined from the most recent census available).

(4) ELIGIBILITY REQUIREMENTS FOR RURAL AREAS.—For purposes of paragraph (1), a nominated area that is a rural area described in subsection (a)(2)(B) meets the requirements of paragraph (3) if the State and local governments in which it is located certify, and the Secretary, after such review of support-

ing data as he deems appropriate, accepts such certification, that the area meets—

(A) the criteria set forth in subparagraphs (A) and (B) of paragraph (3); and

(B) not less than one of the criteria set forth in the other subparagraphs of paragraph (3).

(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

(1) IN GENERAL.—No nominated area shall be designated as an enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is an enterprise zone, such governments will follow a specified course of action designated to reduce the various burdens borne by employers or employees in such area. A course of action shall not be treated as meeting the requirements of this paragraph unless the course of action include provisions described in not less than 4 of the subparagraphs of paragraph (2).

(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any program administered by the Secretary of Housing and Urban Development or of any program administered by the Secretary of Agriculture under title V of the Housing Act of 1949, and may include, but is not limited to—

(A) a reduction of tax rates or fees applying within the enterprise zone;

(B) an increase in the level of public services, or in the efficiency of the delivery of public services, within the enterprise zone;

(C) actions to reduce, remove, simplify, or streamline paperwork requirements within the enterprise zone;

Employment and unemployment.

(D) involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area;

Minorities.

(E) the giving of special preference to contractors owned and operated by members of any minority; and

Gifts and property.

(F) the gift (or sale at below fair market value) of surplus land in the enterprise zone to neighborhood organizations agreeing to operate a business on the land.

(3) RECOGNITION OF PAST EFFORTS.—In evaluating courses of action agreed to by any State or local government, the Secretary shall take into account the past efforts of such State or local government in reducing the various burdens borne by employers and employees in the area involved.

(4) PROHIBITION OF ASSISTANCE FOR BUSINESS RELOCATIONS.—

(A) IN GENERAL.—The course of action implemented under paragraph (1) may not include any action to assist—

(i) any establishment relocating from one area to another area; or

Contracts.

(ii) any subcontractor whose purpose is to divest, or whose economic success is dependent upon divesting, any other contractor or subcontractor of any contract customarily performed by such other contractor or subcontractor.

(B) EXCEPTION.—The limitations established in subparagraph (A) shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if the Secretary—

(i) finds that the establishment of the new branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where the existing business entity conducts business operations; and

(ii) has no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

(e) DEFINITIONS.—For purposes of this section:

(1) GOVERNMENT.—If more than one government seeks to nominate an area as an enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

(2) LOCAL GOVERNMENT.—The term "local government" means—

(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State;

(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary; and

(C) the District of Columbia.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(4) STATE.—The term "State" includes Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other possession of the United States.

SEC. 702. EVALUATION AND REPORTING REQUIREMENTS.

42 USC 11502.

Not later than the close of the 4th calendar year after the year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each 4th calendar year thereafter, the Secretary shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this title.

SEC. 703. INTERACTION WITH OTHER FEDERAL PROGRAMS.

42 USC 11503.

(a) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of an enterprise zone under section 701 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (42 U.S.C. 4601 et seq.)); or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(b) ENTERPRISE ZONES TREATED AS LABOR SURPLUS AREAS.—Any area that is designated as an enterprise zone under section 701 shall be treated for all purposes under Federal law as a labor surplus area.

42 USC 11504.

SEC. 704. WAIVER OR MODIFICATION OF HOUSING AND COMMUNITY DEVELOPMENT RULES IN ENTERPRISE ZONES.

(a) IN GENERAL.—Upon the written request of the governments that designated and approved an area that has been designated as an enterprise zone under section 701, the Secretary of Housing and Urban Development (or, with respect to any rule issued under title V of the Housing Act of 1949, the Secretary of Agriculture) may, in order to further the job creation, community development, or economic revitalization objectives of the zone, waive or modify all or part of any rule that the Secretary has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within the zone.

Discrimination, prohibition.

(b) LIMITATION.—No provision of this section may be construed to authorize the Secretary to waive or modify any rule adopted to carry out a statute or Executive order that prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

(c) SUBMISSION OF REQUESTS.—A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the enterprise zone. If a request is made to the Secretary of Agriculture, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

(d) CONSIDERATION OF REQUESTS.—In considering a request, the Secretary shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area that would be affected by the change. The Secretary shall approve the request whenever the Secretary finds, in the discretion of the Secretary, that the public interest that the proposed change would serve in furthering such job creation, community development or economic revitalization outweighs the public interest that continuation of the rule unchanged would serve in furthering such underlying purposes. The Secretary shall not approve any request to waive or modify a rule if that waiver or modification would—

(1) directly violate a statutory requirement; or

Health and medical care. Safety.

(2) be likely to present a significant risk to the public health, including environmental health or safety.

(e) NOTICE OF DISAPPROVAL.—If a request is disapproved, the Secretary shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

(f) PERIOD FOR DETERMINATION.—The Secretary shall discharge the responsibilities of the Secretary under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

(g) APPLICABLE PROCEDURES.—A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of title 5, United States Code. To facilitate reaching a decision on any requested waiver or modification, the Secretary may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The Secretary shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

Federal Register, publication.

(h) EFFECT OF SUBSEQUENT AMENDMENT OF RULES.—In the event that the Secretary proposes to amend a rule for which a waiver or modification under this section is in effect, the Secretary shall not change the waiver or modification to impose additional requirements unless the Secretary determines, consistent with standards contained in subsection (d), that such action is necessary.

(i) EXPIRATION OF WAIVERS AND MODIFICATIONS.—No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the enterprise zone designation remains in effect for the area in which the waiver or modification applies.

(j) DEFINITIONS.—For purposes of this section:

(1) RULE.—The term "rule" means—

(A) any rule as defined in section 551(4) of title 5, United States Code; or

(B) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of such title 5.

(2) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development or, with respect to any rule issued under title V of the Housing Act of 1949, the Secretary of Agriculture.

SEC. 705. COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act is amended by adding at the end the following new subsection:

42 USC 3532.

"(d) The Secretary shall—

"(1) promote the coordination of all programs under the jurisdiction of the Secretary that are carried on within an enterprise zone designated pursuant to section 701 of the Housing and Community Development Act of 1987;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation of forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.".

Reports.

Grants.
42 USC 11505.

SEC. 706. COORDINATION WITH CDBG AND UDAG PROGRAMS.

It is the policy of the Congress that amounts provided under the community development block grant and urban development action grant programs under title I of the Housing and Community Development Act of 1974 shall not be reduced in any fiscal year in which the provisions of this title are in effect.

Approved February 5, 1988.

LEGISLATIVE HISTORY—S. 825 (H.R. 4):

HOUSE REPORTS: No. 100-122 and Pt. 2 accompanying H.R. 4 (Comm. on Banking, Finance and Urban Affairs) and No. 100-426 (Comm. of Conference).

SENATE REPORTS: No. 100-21 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 133 (1987):

Mar. 30, 31, considered and passed Senate.
June 10, 11, H.R. 4 considered and passed House.
June 17, S. 825 considered and passed House, amended.
Nov. 9, House agreed to conference report.
Dec. 21, Senate concurred in House amendments with amendment. House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Feb. 5, Presidential remarks.

○